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Say What? Translating Courtroom Colloquies for Youth

By Rosa Peralta

It is no secret that when youth end up in court, they are often confused and uncertain about the purpose of the proceedings and what’s expected of them when they leave. Why? In spite of the fact that judges and other court professionals try hard to make sure youth know what’s expected of them, much of the language used in court is technical and difficult for nonlawyers to understand.

There is a problem with the use of this technical language in youth courts. The legalese that lawyers and judges use in court goes right over kids’ heads. Does this complicated loquacious act leave them informed of the court process? Do they know what transpired in court? Do they leave the courtroom with a sense of what it is that they are expected to do once they walk out?

Attorneys and judicial officers are hard pressed to assess the unique communication needs of each youth, given the typical time constraints of court and the expertise needed to “diagnose” the challenges a youth might be experiencing.

Recent Supreme Court decisions (Roper, Graham, and Miller) have taken significant steps forward by recognizing the fundamental differences between youthful offenders and adults. In these cases, the Supreme Court considers the unique status of children and their neurophysiological and psychological brain development. The brain development research underpinning these decisions has shown unequivocally that the brain is less developed during adolescence than was previously assumed and that the courts should take this development into account in trying juveniles. Organizations like the National Juvenile Defender Center have dedicated hundreds of continuing legal education hours to ensure that attorneys representing youth in offender proceedings are well trained and informed of the issues underlying the Supreme Court findings in these cases. The large and growing body of research identifying and assessing the health and developmental needs of youth in the juvenile-justice system has informed strategies for prevention and intervention at many stages of a juvenile proceeding. However, given all that we have discovered about adolescent brain development, there is little if any information available about how courts can improve communication with young people.

Any young person coming to juvenile court faces a daunting set of obstacles to understanding, making decisions, and acting on their rights and responsibilities in court. Age, experience, and varying degrees of child development will affect how any youth understands and processes information provided to him or her throughout the proceedings. Yet, youth appearing in juvenile court are more likely to have additional challenges understanding and acting on information in court. A study conducted by J.L. Shufelt and J. Cocozza, Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study (2006), found that 65 to 70 percent of youth involved with the juvenile-justice system have at least one diagnosable mental-health disorder and that over 60 percent of youth met criteria for three or more diagnoses. Research has found that the spoken language competency of youth in the juvenile-justice system falls in the bottom 1 percent of the population at large. See M. LaVigne & G.J. Van Rybroek, “Breakdown in the Language Zone: The Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why It Matters,” 15 U.C. Davis J. Juv. L. & Pol’y 37 (2011). The high prevalence of language and linguistic delays among youth involved in the
juvenile-justice system, mental-health issues, trauma, and other adverse childhood experiences affect how youth hear, process, and retain information. The jargon, abstract language, and complex terminology frequently used in the courtroom can be impossible to navigate even for an adult with average intelligence and no mental-health issues or learning disabilities.

**Why Language Matters**
The traditional courtroom dynamics make it difficult for youth to speak up when they do not understand a question or term. Judges may expect and be accustomed to youth responding in agreement to questions like the following: Do you understand that you are waiving your rights? Do you understand that you must follow all the conditions of my order or face additional consequences? Have you had sufficient time to review this plea with your attorney? Youth may not know that answering “no” to a judge is an option.

Juvenile offenders are customarily required to comply with a lengthy list of rules imposed by a judge or juvenile probation counselor. Noncompliance with these rules represents a substantial part of juvenile offender dockets and may be punished by serious sanctions, including detention. Failures to comply, even those of a technical nature that result from lack of understanding, may be seen by a judge or probation counselor as willful failures and become aggravating factors at review or disposition hearings that push offenders deeper into the juvenile-justice or adult-court system.

**TeamChild**—a nonprofit law office based in Washington State—recognized this problem and developed interventions to help youth understand more of what goes on when they appear in court. With the support of Models for Change, a national juvenile-justice reform initiative funded by the John D. and Catherine T. MacArthur Foundation, TeamChild worked with the Washington State Juvenile Indigent Defense Action Network (JIDAN) to create a tool—the judicial colloquies—to train judges and other court practitioners on the use of developmentally appropriate language in court proceedings. We believe that this is a step toward ensuring that youth are meaningfully engaged and understand the court process.

The Washington JIDAN Colloquies Project Team identified two points in a juvenile-court proceeding where understanding the court’s instructions is critical to a youth’s success: conditions of release given at first appearance and conditions of supervision given at disposition (sentencing).

In Washington State, the conditions of release are explained to youth at the first appearance in court. This is a point in the proceedings where youth may be experiencing court for their first time. If youth do not understand their conditions of release, they may unintentionally violate them, which may result in detention time and harsher consequences if there is an adjudication requiring a disposition. Conditions of supervision are conveyed to youth at their disposition hearing. Violating conditions of supervision could result in up to 30 days in detention.

**Making the Case**
We took it as a given that judges and others in the courtroom had tried hard to explain to youth what they needed to know. What was going wrong? To help us figure that out, we assembled focus groups with youth—10 middle school students and 14 high school students became our advisers. Most of the youth in the groups had experience with the juvenile-justice system and therefore had previously been exposed to the language in the forms used in court. Despite this,
the youth confirmed that in general, they didn’t understand the language used in the pre-adjudication release and probation orders, which provides the framework for what judges say to the juvenile offenders.

In fact, we learned that some commonly used words and phrases, which we thought were perfectly clear, were confusing to the youth. For example, when we talked with the kids about “appearing in court as required,” a number of them (even older high school students) thought we were referring to the way they were supposed to look when they came to court: hair combed, modestly dressed. We explained what it really meant, and finally one young man said, “Why don’t you just say, ‘You have to come to court when you’re told to’?” That was a “Duh!” moment for the adults in the room.

The team identified two pilot sites to conduct surveys to determine the baseline understanding of youth attending these hearings. A researcher sat in on each hearing and logged in the conditions explained by the judge. Another researcher surveyed youth as they left the courtroom. The results of those interviews were startling. The youth were interviewed minutes after the hearings, and most of them were confused and mistaken about what the judge had stated and ordered just moments before. Overall, the youth surveyed recalled only a third of the conditions that were ordered. Seventeen-year-olds, even those who had previous juvenile-court experience, were only slightly more likely than 14-year-olds to understand the judge’s orders. Most of the youth who were detained after the initial appearance did not know why they were not released.

Youth were also confused about the roles of others in the courtroom. For example, one quarter of the youth surveyed were not sure who the prosecutor was or believed that no prosecutor was present during the hearing even though a prosecutor was at every hearing. Thirty percent of the youth stated that they did not have an attorney represent them during the first appearance hearing. This was startling given that 100 percent of the youth interviewed had a court-appointed attorney present with them during the hearings.

The Colloquies Project Team also evaluated the written orders that were provided to youth at these proceedings. Standard court orders, which underscore a judge’s oral communication in court, are laden with technical, legal terminology and concepts. For example, Washington’s Order on Adjudication and Disposition (WPF JU 07.0800) is the template for juvenile plea forms and is commonly used by juvenile court judges as a guide in speaking to juveniles during plea hearings. It is written at a 12.9 grade reading level, using the Flesch-Kincaid reading grade level test, and has a very low readability score (i.e., difficult to read and best understood by university graduates) as measured on the Flesch Reading Ease test. Both metrics indicate the form’s vocabulary is not only well above the average reading level of youth involved in the juvenile-justice system but also above the level of most adult defendants in the criminal justice system.

With the work and advice of experts in hand, both adult and juvenile, we drafted colloquies that we hoped would be helpful in bridging the gap between what lawyers and judges say in court and what kids need to better understand.

**Talking Results**
The pilot sites implemented and used the colloquies and the accompanying forms for three months before the team returned to repeat the youth survey and court observations to see if they had an impact on how much youth understood about their court proceedings. We were
astonished by the remarkable increase in comprehension of the court directives and of the court proceedings overall. The team found that the colloquies, written at a sixth-grade level, remarkably improved the youths’ understanding of the conditions set by the court. In one court, the youth interviewed reported understanding 90 percent of the conditions of release and probation ordered by the judge. This is a 128 percent change in the level of understanding compared with the level of understanding prior to the introduction of the colloquies.

The dramatic increase in understanding and retention suggests an improvement in the court’s communication with youth. TeamChild found that overall these colloquies and accompanying documents can help court personnel be more effective in communicating with youth because the colloquies integrate current adolescent cognitive-development research relating to the ways in which children communicate and process critical information. Contact with the court system can be intimidating for adults and even more so for youth. Understanding the process and expectations can decrease the inherent anxiety associated with the risk of incarceration and other unknown consequences. Thanks to an increased level of understanding of the court process for youth and their families, youth may experience higher levels of compliance and lower rates of detention, which could ultimately prevent further penetration into the juvenile-court system. These outcomes not only include societal and familial benefits but may also result in significantly lower costs of adjudication.

To help judges, probation officers, attorneys, and others implement the colloquies—or tailor their own—we developed a new guide, called the “Washington Judicial Colloquies Project: A Guide for Improving Communication and Understanding in Court.” We hope you will download it now and share it with your colleagues. For more context and explanation, I urge you to listen to a webinar I gave on the judicial colloquies for the National Juvenile Justice Network.

**Keywords:** litigation, children’s rights, colloquies, language, juvenile-justice system, cognitive development, mental health, Flesch Reading Ease test

*Rosa Peralta* was the research associate at TeamChild in Seattle, Washington. She will soon take a position as the director of research for the National Legal Aid and Defender Association.
Improving Police-Youth Interactions

By Cristina Dacchille and Lisa Thurau

The officers were riveted to a video showing a youth’s brain light up in response to photographs of an adult expressing surprise. The parts of the brain lighting up in the juvenile participants were in a completely different location than the parts lighting up in adults.

The youth in the video reported that they saw anger and distrust—not surprise—in the photographs of adults’ faces. Dr. Jeff Bostic, an adolescent psychiatrist leading the first day of the Strategies for Youth training, which focuses on teen brains, said, “You see, it’s like we’re talking French to kids and they’re talking Japanese. We’ve got a problem being heard because their brains are wired differently at this age.”

This is the kind of information Strategies for Youth provides officers. And it’s about time.

- Functional MRIs and CAT brain scans offer definitive evidence that teen brains perceive, process, and therefore respond differently than the brains of adults.
- In four juvenile decisions since 2005, the U.S. Supreme Court has taken judicial notice of these scientific discoveries.
- The National Academies Press issued a report by the National Research Council concluding that meaningful juvenile-justice reform must be premised on a developmental approach.

Police are effectively first responders to the vast majority of issues involving youth in communities across America. So why aren’t we equipping police with best practices for working with youth? Why isn’t information about what makes teens push limits, defy authority, and misjudge when to turn left into oncoming traffic included in police recruit academy curriculum? Why isn’t it available for in-service trainings?

Training First Responders to Work with Youth

Lisa Thurau founded Strategies for Youth to address this very issue. While at the Juvenile Justice Center at Suffolk Law School in Boston, Lisa joined with Jack O’Connor of Peabody & Arnold, who provided pro bono assistance, to bring a civil-rights suit against a Boston transit police department that daily dealt with 40,000 youth going to and from school each morning. Transit officers were consistently arresting and detaining teenagers for minor infractions. One youth, for example, was arrested and detained for hours, without access to a parent, for laughing at an officer when a pigeon relieved itself on the officer’s shoe. Three other teens were arrested for malicious destruction of public property after rollerblading in an unused cement “park” in a subway station. Thurau argued that these behaviors, while certainly immature and impolite, failed to rise to the level of criminal activity.
After the lawsuit was settled, Thurau approached the Massachusetts Bay Transit Authority (MBTA) Transit Police of Boston and broached the idea of becoming allies and letting Strategies for Youth train police officers on how to work effectively with teens. According to former MBTA Police Chief Joseph Carter, the training helped MBTA police achieve “a drop in the number of confrontations with our officers, a vast increase of support from the community for our work, and a reduction in the number of arrests.” In fact, the number of MBTA arrests dropped 80 percent from 1999 to 2009 and continues to decrease steadily—with no increase in crime; indeed, the MBTA has become known in the metropolitan Boston region for its expertise with youth.

Thurau’s success with the MBTA prompted her to found Strategies for Youth, Inc. (SFY), a national advocacy and training organization. Thurau’s goal was to promote juvenile-justice reform prior to arraignment, by training police officers on how to focus more on relationship building and asserting their inherent authority rather than simply arresting the kids. Trainings focused on redirecting officer’s responses more toward alternatives to arrest.

Throughout the country, police frequently find themselves caught between the dwindling social safety net and a justice system that often lacks the will, resources, and flexibility to best meet youths’ needs. Police who deal with the nation’s children and youth, often in extreme situations—domestic violence, child abuse and neglect, as witnesses to community violence, as victims and as victimizers—do not receive the training to help the youth with whom they work. Remarkably, SFY has yet to encounter officers who have been trained to recognize and respond to youth suffering from trauma.

Too often, officers have one tool—arrest—for situations that typically could be resolved with an approach that digs deeper and that builds on officers’ inherent authority, instead of that of the juvenile-justice system.

This combination of factors has led to several disturbing trends:

- First, police are increasingly arresting youth for minor offenses; since 1985, there has been a 109 percent increase in the number of juvenile arrests for public disorder offenses.
- Second, police are more likely to use force with youth, particularly youth of color; although 16- to 19-year-olds represent only 7.5 percent of police contacts, they make up 30 percent of contacts involving force, with police initiating the use of force in 80 percent of those incidents. Black youth have a police contact rate of 1 in 10, but a use of force rate of 1 in 4.
- Third, youth are more likely to be held in detention facilities, with the use of detention for arrested youth increasing by 140 percent between 1995 and 2005. This is particularly disturbing given the many studies that document abuse of youth in detention facilities and the absence of appropriate psychiatric and medical care, both of which reduce the likelihood of rehabilitation.
Children’s Rights Litigation  
Spring 2013, Vol. 15 No. 3

These troubling statistics call attention to the need for a better approach to police-youth interactions. Although public defenders and civil-rights attorneys across the country do the necessary work of correcting injustices in individual cases, it is simply not sufficient to address the underlying problem.

**A National Solution: Strategies for Youth**

SFY is a national advocacy and training organization dedicated to improving police-youth interactions and reducing the disproportionate number of minority youth who come in contact with the juvenile-justice system. SFY’s mission is to promote a youth-development approach among law-enforcement officers and to expand age-appropriate interventions for youth, while equipping both officers and youth with the tools they need to interact positively. SFY advocates for reduced reliance on the juvenile-justice system for minor offenses, and it is the only national organization that approaches this issue both from a juvenile-justice and from a youth-development perspective.

SFY believes that adults who are developmentally competent have more effective interactions with youth. “Developmental competence” refers to the understanding that children’s and adolescents’ perceptions and behaviors are influenced by biological and psychological factors related to their developmental stage. Developmental competence is based on the premise that specific, sequential stages of neurological and psychological development are universal. Children’s and adolescents’ responses differ from those of adults because of fundamental neurobiological factors and related developmental stages of maturation.

A person who is developmentally competent recognizes that how children and youth perceive, process, and respond to situations is a function of their developmental stage and, secondarily, their culture and life experience. Developmentally competent adults align their expectations, responses, and interactions—as well as those of institutions and organizations—to the developmental stage of the children and youth they serve.

To become developmentally competent, an individual must:

- Understand that children, adolescents, and adults interpret and respond differently to situations, social cues, interpersonal interactions, and the inherent power of adults, making children and adolescents more vulnerable to external pressures and more compliant with authority.
- Apply this knowledge to enhance and improve interactions with children and youth.
- Calibrate institutional responses to the developmental stage of the children and youth served.

To accomplish its mission of improving police-youth interactions, SFY engages in three core activities: (1) educating the law-enforcement community with multidisciplinary training in cutting-edge, effective youth interaction strategies aimed at expanding policing tactics beyond arrest; (2) educating youth and their communities about how to engage and interact effectively
with police officers to promote public safety and youths’ best interests; and (3) developing resources and tools to promote a youth development approach with law enforcement officers and police department practices.

**Educating Law Enforcement**

Fear of youth fueled by negative depictions in the media, combined with wide-scale reductions in social services, have effectively transformed police into first responders on issues involving youth in many communities across America. As the influence of police in all aspects of youths’ lives—at home, in school, in the mall, and on the street—has increased, so has the need for law-enforcement officers to understand the workings of the teen brain. Despite the greater presence of police in the lives of young people, police-academy training does not typically provide instruction in essential strategies for working with them. Indeed, SFY’s recently published report, *If Not Now, When?* (Feb. 5, 2013), which analyzes the level of skills and information provided to law enforcement in the academy, indicates that the central focus is on the juvenile code—not communication skills or best practices for redirecting youth behavior.

Although the International Association of Chiefs of Police recommends specialized training in juvenile development, there is no national curriculum for such training. Similarly, the National Association of School Resource Officers, the largest training organization for school resource officers, does not provide education in child or youth development, psychology, or best practices for promoting good interactions and better behavior from youth.

In response to this gap in law-enforcement education, SFY has developed *Policing the Teen Brain*, a training based on cutting-edge psychiatric practice and neurological research. Through interactive discussions with adolescent-development experts and psychiatrists, and with community youth who serve as “teaching assistants,” officers learn how to assert authority using alternative techniques to increase teen compliance and de-escalate and defuse volatile situations. They learn evidence-based strategies for working with teens: how to calm them, help them focus, and encourage them to rethink their typically headstrong assertions and behaviors. Particularly critical is developing the ability to “read” youths’ mental stability. This training has implications for a variety of subgroups, most especially school resource officers; SFY has adapted the training to include *Policing the Teen Brain in Schools* and *Policing Youth Chronically Exposed to Trauma & Violence*.

SFY’s training of law-enforcement provides officers an in-depth examination of how the changes occurring in teens’ brains can help to explain many of their hard-to-police behaviors. The training helps further officers’ understanding of the functioning of the normal teenage brain and their knowledge about why adolescents behave differently than adults. They learn how mental-health conditions, such as depression, oppositional defiance disorder, post-traumatic stress disorder, and attention-deficit/hyperactivity disorder, affect teen behavior. The training also teaches officers to understand how race and socioeconomic status may play a role in police and youth interactions. Finally, officers learn to employ a range of evidence-based approaches to
integrate research findings, best practices, and innovations to improve relationships and promote respect and trust between police and youth.

_Policing the Teen Brain_ ensures that officers are able to better serve youth and develop connections to community-based programming that make arrest a matter of last resort. Officers who have been trained by SFY routinely comment on how useful it is for preventing crime, intervening with youth, and promoting a “smart on crime” approach that elicits cooperation instead of antagonism between youth and police.

**Educating Youth**

At a recent SFY training event, a police sergeant role-played an interrogation with a teenage participant. The officer asked the youth if he understood his _Miranda_ rights. The participant responded, “Of course, I know my rights. I have the right to say anything I want.” Unfortunately, this teen’s confusion of his free speech rights under the First Amendment and his right against self-incrimination under _Miranda_ is not uncommon. Indeed, juveniles’ lack of comprehension of the most basic terms routinely used by stakeholders in the juvenile justice system has been documented repeatedly.

Many young people hear incorrect, inaccurate, and inconsistent messages from television. In their communities, they see differential treatment of people by legal authorities as a function of race and class. They are cynical, influenced by older siblings and peers who believe the best defense for interactions with authority is to challenge it, which most adults, especially police, find offensive. Schools, once the source of such information in civics classes, do not address these issues, or they emphasize legal rights rather than behaviors that can avoid escalation of interactions.

Unfortunately, young people’s lack of understanding has come at exactly the time that criminalization of youth appears to be on the rise. State and criminal justice policies promote this criminalization and the use of adult approaches with youth. Since the early 1990s, this “adultifying” trend has been reflected in an increased number of police in schools, with more than 17,000 officers presently assigned to public schools, and harsher statutes, including transfer of youth to adult courts, jails, and prisons.

For these reasons, SFY developed the _Juvenile Justice Jeopardy_, an interactive outreach program that engages youth in conversations about the juvenile-justice system and the potential consequences of their actions. This scenario-based game offers youth advocates and other stakeholders a structured framework for conveying consistent information about juvenile law and youth’s interactions with law enforcement. The game teaches youth how to navigate interactions with police and their peers. It helps youth understand the real implications of their interactions with police and their peers, as well as the long- and short-term ramifications of arrest and court involvement on their future educational and employment opportunities.
The game, played on interactive software, aims to ensure that police and youth maintain a positive relationship and that young people stay out of the juvenile-justice system and on the path to success. *Juvenile Justice Jeopardy* has already had a significant impact on over 5,000 young people in public schools and after-school programs, as well as those in detention or incarcerated in cities and towns throughout the country.

**Resource Development**

When a juvenile is arrested, whether for a simple assault or an attempted murder, the information from the arrest is the beginning of a juvenile’s second identity, a life in a system of databanks. This system, tucked behind the scenes of juvenile-justice institutions, drops blocks in the path of juveniles as surely as a door in a maze. It blocks passage into employment, educational opportunities, and access to public benefits, including the right to stay in public housing for youth and their families. It can block passage to citizenship for a youth—and for the youth’s siblings and parents simply through guilt by association. It can bar entry into the military and its education opportunities.

And yet, youth are the last to know how entry into the juvenile-justice system robs them of second chances. They are not routinely informed of these collateral consequences—which often dwarf the impact of the offense for which youth are charged—by judges, by defense attorneys, or probation officers.

As a result, and at the suggestion of then-Sergeant (now Deputy Chief) Kenny Green, who was shocked to learn the extent of these collateral consequences, SFY developed the *Think About It First!* card. *Think About It First!* cards educate youth about the potential consequences of arrest and involvement in the juvenile-justice system. The cards provide youth with a summary of laws in their state regarding distribution of juvenile arrest and court records.

The cards are an important tool for communities, equipping youth with knowledge that could prevent them from entering the juvenile-justice system. As Sgt. Green noted, many youth are unaware of the devastating collateral consequences of arrest and court involvement: potential loss of public housing, exclusion from the military and other employment opportunities, suspension or expulsion from school, and so forth. *Think About It First!* cards are an easy, nonconfrontational way for community leaders, parents, educators, and others to warn youth about these consequences and to make sure they enter the world with all the knowledge they need to stay safe and out of the system.

Massachusetts officers began using the card as an icebreaker during interactions with youth. And when youth were at risk of arrest, the officers reviewed the potential loss of opportunity, thus making the officer’s decision to give youth a second chance more meaningful. “It’s a real wake-up moment for some kids,” explained Sgt. Green. “It helps them connect the dots between their behavior and the consequences.” In non-incident contexts, the cards provide officers a way of opening a conversation with youth. SFY has found that once youth are given these business-card-size tools, they often keep them for a very long time and refer to them often. Community
advocates report that these cards are sometimes used by youth to help justify refusal to engage in certain behaviors with their peers; “I can’t risk Mom’s housing. . . .” or “I want to get into the military; I don’t want to risk it.”

Today, the card has been replicated in Indiana, Minnesota, Wisconsin, and California. The array of organizations requesting the card includes probation officers, school resource officers, school guidance counselors, after school programs, and youth workers.

Get Involved
SFY staff travel to cities and towns across the country to provide training to police and youth. Each training is specifically tailored to the laws and needs of the community in which it is being presented. To request a training, to learn more about SFY, or to make a donation, please visit our website at www.strategiesforyouth.org.

Keywords: litigation, children’s rights, juvenile justice, police training, school resource officers, Strategies for Youth, criminalization, Transit Police of Boston

Cristina Dacchille is a staff attorney and Lisa Thurau is founder and executive director with Strategies for Youth, Inc. in Cambridge, Massachusetts.
How Do We Make Schools Safer?

By Natalie Chap and Liz Sullivan

In the wake of the tragic shooting at Sandy Hook Elementary School, communities, advocates, and policymakers across the country are proposing and already implementing different ways to address gun violence in our society—such as passing new gun-control measures and improving mental-health services in our communities. As a part of these efforts, the question has been raised, how do we make schools safer? Our nation’s top researchers on school safety, as well as the youth, parents, educators, and advocates who experience and work to improve school safety every day, are clear that the most effective way of creating a safe school community is by improving the sense of connectedness and communication between students, school staff, families, and communities. See Interdisciplinary Group on Preventing School and Community Violence, December 2012 Connecticut School Shooting Position Statement (Dec. 19, 2012); Dignity in Schools Campaign, Statement on Sandy Hook Elementary (Dec. 21, 2012). Evidence-based practices, like positive behavior supports, social and emotional learning, and restorative practices, all help to improve trust and connectedness and have been shown to reduce disruption and violence in schools, while improving educational outcomes. See Dignity in Schools Campaign, Fact Sheet: Creating Positive School Discipline.

Yet, in recent months, some groups have called for arming more police officers or other staff in schools, and state legislatures and local school boards are introducing laws and policies that will increase the number of school resource officers (SROs) and other law enforcement personnel, along with the use of zero-tolerance practices. See Dignity in Schools Campaign, “Coalition Says Armed Police in Schools Wrong Answer for Stopping Gun Violence” (Jan. 11, 2013). Although police officers and metal detectors may create the appearance of safety for some, research studies and experiences have shown that these policing tactics, instead, have a serious detrimental impact on school communities. The American Psychological Association and others have found that these practices do not improve student behavior and that they drag down academic achievement, breed distrust in the school community, and result in the criminalization of youth—particularly youth of color—for minor misbehavior, like “disrespect.” Am. Psychol. Ass’n Zero Tolerance Task Force, “Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations,” 63 Am. Psychologist 852 (Dec. 2008).

Since the 1990s, schools around the country have already invested heavily in security measures, such as metal detectors, armed police officers, and SROs, along with zero-tolerance discipline policies that employ suspensions and expulsions. These punitive and excessive policies have increased the time students spend out of school and increased arrests and referrals to the justice system, contributing to increased racial disparity in school exclusion and educational outcomes. Each year, according to the Department of Education, over 3 million students are suspended and over 100,000 are expelled, double the suspension rate of the 1970s. See Dignity in Schools Campaign, Pathways to Pushout. Black students are more than three times as likely to be suspended than white students and are more likely to be punished more severely for minor misbehaviors. See Dignity in Schools Campaign, Who’s Getting Pushed Out? These practices
undermine the trust and supportive relationships between students and adults in a school
building, and divert much needed resources away from funding counselors, social workers, and
mental-health professionals in schools.

In response to these ineffective and harmful policies, communities across the country have been
pushing back against zero-tolerance discipline policies and over-policing in our schools. The
national Dignity in Schools Campaign (DSC), a coalition of over 60 organizations from 20
states, was formed to advocate against the policies and practices that push young people out of
school and to demand positive approaches to school climate and discipline that keep students in
school and ensure their human right to education and to be treated with dignity.

Just a few months before the Sandy Hook shooting, in August 2012, the DSC released A Model
articulates a vision for our schools based on the best practices, research, and experiences of
communities, educators, experts, and advocates around the country. It is also based on a human-
rights framework for schools that recognizes that the goal of education must be to support all
children and young people in reaching their full potential. Based on that vision, the Model Code
provides a set of recommended policies that schools, districts, and states can adopt to stem the
tide pushing students out of school and end the school-to-prison pipeline. The Model Code can
be used as a tool for communities and advocates to push back against the calls for more police in
schools in the wake of Sandy Hook, and to support other local efforts to change school policy
and practice. Below is a summary of the Model Code and examples of how advocates and
communities can use it to support positive change.

The Vision Behind the Model Code
The recommended language captured in the Model Code reflects a unique combination of
research and best practices identified by students, parents, educators, and advocates across the
country who have been fighting for truly safe and successful school environments, and working
to change education policy in their local communities. The first draft of the Model Code,
circulated for comment in 2009, was developed by members of the Model Code Working Group
from the DSC, the Children’s Rights Litigation Committee (CRLC) of the American Bar
Association Section of Litigation, and various other individuals and organizations that
contributed to the project. Members of the Model Code Working Group reviewed drafts of the
code on monthly calls, and they gathered input at DSC meetings and at a summit organized by
the CRLC. In 2011, the DSC launched a community-engagement process to gather input from
eight states around the country—California, Florida, Georgia, Illinois, Louisiana, Mississippi,
New York, and Pennsylvania—bringing together students, parents, and educators to review the
draft of the Model Code and provide comments and input.

The result of this multiyear effort is a Model Code that articulates the problem as “school
pushout” and frames the solution within a holistic human-rights vision for education and dignity.
“School pushout” refers to the policies and practices that prevent or discourage young people from remaining on track to complete their education. It is fueled by many factors including unwelcoming school environments, low expectations for students, zero-tolerance discipline policies and practices, school policing and other punitive disciplinary measures, lack of adequate resources and support for teachers, high-stakes testing, and narrow curricula. Many school systems use a top-down approach that often results in policies and practices that fail to address all of the needs of school communities. Youth, parents, and educators are often shut out of important educational decisions. Youth of color, English-language learners, students with disabilities, low-income families, and other marginalized communities are disproportionately impacted by these policies and practices, resulting in increasing numbers of these youth being pushed out of school and into poverty, unemployment, and, often, prison.

The solution, framed through a human-rights approach, envisions an educational system where schools adapt to meet the academic, social, and emotional needs of every student, where students, parents, teachers, and other members of the school community participate in decisions affecting education, where all students are treated with dignity and attend school free from discrimination of any kind, and where communities play a central role in monitoring education policies and practices to continuously improve educational outcomes for students. In adopting a human-rights approach to education, we aim to respect the rights and needs of the individuals who study in, work in, and support our schools.

In developing the Model Code, communities looked to principles and standards for education set out in human-rights documents, like the Universal Declaration of Human Rights and the Convention on the Rights of the Child. These documents are grounded in the history of struggles to end oppression, combat racism, and achieve civil rights—struggles that we still face in our school system. The human-rights vision that emerged from these struggles can help shape a positive message for combating school pushout that shifts practices away from punishing and excluding children to creating policies that protect human rights and meet students’ needs.

A Summary of the Model Code
The Model Code is organized into five chapters: (1) Education, (2) Participation, (3) Dignity, (4) Freedom from Discrimination, and (5) Data, Monitoring and Accountability. Chapter 3, on dignity, is the centerpiece of the code and is focused on transforming our school systems’ approach to discipline to end the exclusion and criminalization of youth and create safe and supportive learning environments. Earlier chapters on education and participation outline broader principles and standards for high-quality education and community participation that lay the groundwork for positive school climates and discipline. The later chapters on discrimination and on monitoring and accountability describe recommended policies and practices for addressing the disproportionate impact of punitive discipline, ensuring quality data collection and monitoring implementation.

The Model Code presents policy recommendations in concrete, prescriptive language that is in the form of procedures, criteria, and standards, and that is practical and meaningful to states,
districts, schools, educators, students, parents, and advocates. The sections of the Model Code are designed so that anyone can identify individual topic areas and choose to use the recommended language in efforts to change local policies and practices (even if it is just one case at a time), while taking into account the diverse needs and characteristics of individual communities.

Included in the Model Code are areas of law and policy that break new ground. These innovative recommendations— such as in the areas of the right to counsel, the right to specific procedures and protections in school suspension and expulsion hearings, clear guidelines on the role of law enforcement, substance abuse prevention in schools, and the right to participation of all stakeholders—are set forth as recommended language to advance the code’s overall goal of protecting children’s human right to education.

The Model Code also provides detailed implementation guidelines for school-wide discipline models that have been studied and demonstrated to work, such as Restorative Practices and School-Wide Positive Behavior Interventions and Supports (SWPBIS). These approaches give teachers and students the tools to build positive school environments and to prevent and respond to conflict in ways that address students’ social, emotional, and academic needs. When implemented, these interventions can reduce suspensions by up to 50 percent, improve school climate, increase teacher effectiveness, and support better educational outcomes for all students. See Dignity in Schools Campaign, Fact Sheet: Creating Positive School Discipline.

A Tool for Change
The Dignity in Schools Campaign is working to support communities, educators, advocates, and policymakers around the country in using the Model Code as a tool for change. For advocacy work, anyone can compare the recommended language in the Model Code to current policies and practices in their states and districts and use the code to craft policy and programming demands. Educators and administrators can use the code to examine their own classroom and school-wide practices and implement new approaches to discipline and climate. District and state policymakers can use the code to help shape language for laws and regulations, as well as guidelines for how to implement and monitor policies. Child advocates and service providers can use the code to think of new solutions to some of the constant challenges they face; negotiate or make specific requests to courts, school districts, or other third parties on behalf of their clients; and empower the youth and families they serve.

Members of the DSC around the country are already using the Model Code in their work. In Los Angeles, members of the DSC-Los Angeles Chapter, including Community Asset Development Re-defining Education (CADRE), Labor/Community Strategy Center, Public Counsel Law Center, and Youth Justice Coalition, are holding workshops on the Model Code in neighborhoods across Los Angeles and surrounding cities. They are engaging parents, students, educators, social service providers, advocates, and school district officials in conversations about the Model Code to reduce suspensions and policing and to improve implementation of district-wide positive discipline approaches, like SWPBIS. In Sacramento, Restorative Schools Vision
Project is integrating the Model Code into its teacher trainings, community workshops, and education advocacy on restorative practices and social emotional learning. Members of the Mississippi Delta Catalyst Roundtable developed their own state-level Model Student and Parent Handbook and are now working with communities throughout the Mississippi Delta to align local student handbooks to both the state model they developed and the DSC Model Code. In Louisiana, Families and Friends of Louisiana’s Incarcerated Children is sharing the Model Code with state legislators and local district officials to support ongoing campaigns to reform state and local codes of conduct.

Advocates around the country, attorneys, even prosecutors, can turn to the code for guidance, research, and examples of programs that decrease recidivism and that focus on community-based alternatives to incarceration, suspension, expulsion, and other forms of punishment. The code serves as a resource for anyone who seeks to better or change their policies, programs, or representation.

**Model Code as a Response to Calls for Increased Police Presence**

In the aftermath of Sandy Hook, as many local communities are pushing back against calls for more police in schools, the Model Code sets out recommended language for policies that would reduce the presence of police and place clear limits on their role in schools.

You can find recommended language on school policing in section 3.2 of the code, Avoiding Criminalization in School Discipline. Highlights from that section include recommended language for how states and districts can accomplish the following:

Take steps to reduce their reliance on SROs, police, and security officers, including:

- Shifting resources to replace SROs and police with community intervention workers, counselors, social workers, psychologists, and other support staff.
- Requiring that SROs assigned to schools are not employed, trained, or supervised by police departments, but instead employed and supervised by the local educational agency (for example, the school board or department of education).
- Ensuring that districts are implementing other interventions and programs, such as SWPBIS and restorative practices that aim to address root causes of student behaviors and provide needed services.

Adopt clear and consistent rules of governance that recognize the school principal as the primary authority responsible for school safety and limit the role of law enforcement in schools, including:

- Articulating the types of incidents that will be considered school discipline issues to be handled by school personnel and not by SROs, police, security officers, or other law enforcement, including disorderly conduct; trespassing; profanity; insubordination/defiance; verbal abuse and/or harassment; vandalism and/or graffiti;
failure to follow school uniform rules; possession of a prohibited item that does not violate the law (for example, cell phones); being late, cutting class, absenteeism, or truancy; fighting that does not involve a weapon; and other minor behaviors.

Place clear limits on arrests or searches of students, including provisions that state that:

- Students shall be arrested at school only when there is a finding of probable cause that a student has committed or is attempting to commit a serious crime—not a school-discipline matter.
- An SRO or police officer shall not conduct an arrest without first consulting the principal, and that school officials shall immediately contact the students’ parents or guardians when a student is arrested.

Put transparency and accountability mechanisms in place for the role of law enforcement in schools, including:

- Creating a clear, transparent, and independent civilian complaint process for students, parents, guardians, families, teachers, and administrators to file complaints against any SRO or other law-enforcement personnel in schools.

Require quality training of any SROs and other law-enforcement who come into contact with schools, including:

- Ensuring decisions on training are developed with students, parents or guardians, teachers, school administrators, and other stakeholders.
- Requiring every SRO and police officer to receive at least 60 hours of training before being assigned to schools and at least 10 hours of annual professional development in such topics as bias-based and sexual harassment; child and adolescent development and psychology; conflict resolution and peer mediation; working with youth with disabilities; cultural competencies; the impacts of arrest, court, detention, incarceration, and deportation on life chances; effective strategies for building safe schools without relying on suppression; and restorative practices and other programs being used in the district.

Collect data on interactions with police and SROs, including arrests, referrals to courts, and other categories listed in the Model Code, and disaggregate the data by age, race and ethnicity, gender, income, and other categories listed in the Model Code.

**What Can You Do?**

Here is how you can get involved:

- **Join an upcoming webinar on the Model Code.** In 2012, the DSC held the first in a series of webinars on the Model Code attended by advocates, parents, students, school personnel, school district officials, and representatives of the federal Department of
Education. You can download the slides from the first two webinars at http://www.dignityinschools.org/webinars-model-code-education-dignity, which include an overall introduction to the Model Code and a review of the section on school exclusion and due process, including the right to counsel. Contact info@dignityinschools.org for more information on upcoming webinars in 2013 on school policing, data and monitoring, restorative practices, school-wide positive behavior supports, and guidelines for alternative schools.

- **Host a Model Code training or presentation in your community.** The DSC can help you organize a training or presentation on the Model Code for policymakers, school staff, students, parents, or advocates. The DSC has developed a Community Toolkit, which contains resources that anyone can use to support changes to their school and district policies, such as interactive activities for comparing your Student Code of Conduct to the Model Code, and links to resources to help in getting the Model Code implemented. Contact info@dignityinschools.org for more information.

- **Provide your input to improve the Model Code.** The Model Code is a living document that we will work to continuously update and improve. You can help us! Share your tips, experiences, and ideas—what you have seen that works and does not work—so that it can be part of the Model Code and the materials we are putting together to support it. Contact info@dignityinschools.org and join a Model Code Working Group call.

- **Get involved locally and partner with others in your community.** Find out what is going on in your state and at your local level and get involved. Go ahead and reach out to different stakeholders to see how you can work together and support the work of parents, youth, educators, and communities to change school environments. You may think that you do not have much to offer, but you may be surprised how your research, relationship building, advocacy, Freedom of Information Act, speaking, or testifying skills may be extremely helpful when shared with others. You may find it highly rewarding in many ways to center part of your work (whether paid or pro bono) around a specific geographic or school community. If you want more information on how to do this and where to start, please contact Cathy Krebs at cathy.krebs@americanbar.org or the DSC at info@dignityinschools.org.

- **Download the Model Code and use it in your practice.** You can easily access the full code and the executive summary at www.dignityinschools.org/our-work/model-school-code. Keep it on your desktop or on your phone and search for specific issues, practices, recommendations, resources, and research, whenever you need it, whether it is when you are advocating at a sentencing hearing for a young person or representing a school district on a matter.

- **Lend your voice to current advocacy efforts:**

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Sign the pledge for the Solutions Not Suspensions Initiative, a call for a moratorium on out-of-school suspensions at www.stopsuspensions.org.

Sign on as an ally to the Youth of Color Statement on Gun Violence in America at www.facebook.com/youcantbuildpeacewithapiece.

Download the issue brief “Police in Schools Are Not the Answer to the Newtown Shooting” (Jan. 2013).

Consider joining the Dignity in Schools Campaign as a member or endorser. Visit http://www.dignityinschools.org/become-member-dignity-schools-campaign-today and sign up for the DSC e-news list at http://www.dignityinschools.org/content/sign-e-news.

About the Dignity in Schools Campaign
The Dignity in Schools Campaign (DSC) challenges the systemic problem of pushout in our nation’s schools and advocates for the human right of every young person to a quality education and to be treated with dignity. The DSC started over five years ago when local grassroots and advocacy groups fighting to end school pushout came together to share information and strategies and build a common framework for dignity and human rights in our schools. The DSC has now grown into a multi-stakeholder coalition made up of youth, parents, educators, grassroots groups, and policy and legal advocacy groups, which strives to ensure that those most affected by the education system and school pushout are at the center of our work and leadership structures. The DSC’s membership is structured to create a space for all both to contribute to the work and to benefit from the collective advancements of the coalition and local successes of its members.

Keywords: litigation, children’s rights, Model Code, school pushout, criminalization, juvenile justice, school resource officers, zero tolerance, Dignity in Schools Campaign

Natalie Chap is coordinator of the Dignity in Schools Campaign and Liz Sullivan is a member of the Dignity in School Campaign Coordinating Committee and director of the Human Right to Education Program at the National Economic and Social Rights Initiative in New York, New York.
Beyond the Courtroom: Part II
By Michael R. Smalz, Robert M. Murphy, and Jane L. Habegger

This article is the second in a two-part series. Part I ran in the Winter 2013 issue of Children's Rights Litigation.

To get things done in the legislature, you have to have a good relationship with a legislator. Legislators are people, and people like to do business with and help those they know and like. A legislator is more likely to listen to what someone has to say if the legislator knows the person and, more particularly, is more likely to help that person than someone the legislator does not know. So you should get to know your legislator.

The first step in getting to know your legislator is to find out who your legislator is. You can find a list of legislators from all 50 states on the website State and Local Government on the Net. This website will in turn link you to each state’s legislative websites. There you can find the name of the legislator in your district, contact information, and a list of the committees on which the legislator serves, and you can read the legislator’s biography. Almost all state websites also have bill-tracking software that you can use to follow legislation.

Bear in mind there are two different kinds of legislators: senators and representatives (except in Nebraska, which is unicameral). The main difference is that senators represent larger districts and run every four years, while representatives represent somewhat smaller districts and are up for reelection every two years. Consequently, representatives are more accessible because they’re always running for reelection, and in most states their districts are smaller.

Once you have identified your legislator, you should try to have a face-to-face meeting. You can initiate contact by simply placing a phone call to meet at the legislator’s local office. Because 17 percent of all legislators went to law school, the odds are good that you will find your legislator at his or her law office in his or her hometown. If not, then you may need to do some more networking. Oftentimes a nonprofit board member will have a personal relationship with the legislator, and you can ask that person to make an introduction for you. If you do not have a contact, look through the legislator’s list of campaign donors or reelection committee members. With any luck, you will find someone whom you know and who can get you in to see the legislator. Your local or state bar association may be another resource. Ask a staff member who works with the legislative issues to assist you in making contact with your legislator.

Another way is to attend a public event where the legislator will be present. Check the newspaper or ask the local chamber of commerce for community events to see where the legislator may be. If you do meet the legislator at a social occasion, you should probably not do much more than introduce yourself, shake hands, and mention that you would like to speak with the legislator when he or she has the time to discuss important legislation to protect the best interests of children. (Human trafficking is likely to be a hot issue in most state capitols this year, so you can use that as a starting point to talk about almost anything promoting children’s rights.)
Then you can follow up with a phone call to the legislator’s office to set up an appointment and mention that you saw the legislator and he said to call the office to make an appointment.

If you cannot meet with the legislator you can almost always meet with the legislator’s aide or staff person, or with a legislative committee attorney or analyst. A meeting with a legislator’s aide or a staffer who has the ear of the chair of the committee your bill has been assigned to is an invaluable resource because the committee members rely heavily on professional staff for information. Other sources to check are former legislators who often have good relationships with sitting legislators and are usually happy to make introductions for you.

If nothing else, you can make a “cold call” to the legislator. Unlike contacting a judge, contacting a legislator is not subject to ethical rules against ex parte contact. Some legislators have their home phone numbers listed in the phone book, and you can call them directly at home. Be very prepared if you try this. Oftentimes the legislator will personally answer the phone. Legislators are used to receiving a lot of “nut calls” on their home phones. (You may wonder why they simply do not have an unlisted number. Those who publicly list their numbers sincerely believe that personal accessibility is important). Your phone call may be answered by the legislator or a spouse or one of his or her children. One of the authors of this article, whose father was a state senator for 18 years, has a large amount of personal experience screening these home telephone calls and advises against calling the legislator’s personal cell number even if someone gives you that number. Such calls can be very annoying, and you should be careful about calling. Whatever you do, do not abuse these calling privileges.

In preparation for your meeting, you should research your legislator. Check the website for the legislator’s biography. Do a Google search. Find out what the legislator has done recently. You’ll find all kinds of information concerning hobbies and other outside activities. Review the legislator’s campaign literature. In Washington State, each legislator has a website with his or her state capitol and local district office address and phone number, a list of committees the legislator serves on, bills he or she has sponsored, a photo, and biography—a wealth of useful information.

When you do meet with your legislator, you should have your talking points prepared. Know what bill you wish to speak about, why the bill is important to the state, and why it is important to the legislator’s district. The legislator will probably listen attentively until you finish your presentation. Do not take too much of the legislator’s time; you should be prepared to make your point within 5 to 10 minutes. Be sure you have a fact sheet of some kind containing your contact information to leave with the legislator.

Meeting with a Legislator During the Legislative Session
This can be difficult but not impossible. Legislators are extremely busy and often will have several paid lobbyists camped out in their reception area waiting to see them. Do not be intimidated by the fact that you are not a professional lobbyist. When you arrive at the office, be sure to mention that you are a constituent. Some legislators have a standing policy of giving
priority to meeting with constituents over meeting with lobbyists. Sometimes it is good to have
another person along when you meet with the legislator. Never take a crowd—a group of two or
three total persons is ideal. Unless the legislator is president pro tem of the Senate or Speaker of
the House, he or she probably has a small office without much room anyway.

When you meet with your legislator, be absolutely open and honest. It is similar to speaking in
court, and as you would never mislead or misstate facts to a judge, you should not do so with
your legislator. You need to be remembered as a trustworthy reliable source.

If you are successful in working with your legislator, send a thank-you letter for helping on
legislation. If your organization has an annual event, arrange for complimentary tickets or buy
tickets for the legislator and his or her spouse to attend. Also consider honoring the legislator
with an award such as “legislator of the year.”

**Testifying at a Legislative Committee Hearing**

Legislative hearings are conducted fairly informally. They are not judicial proceedings. Anyone
can testify. You do not need formal training. However, preparation is key in order to be effective.

**Before the committee hearing.** Generally, if you are testifying on a bill or issues and represent
only yourself, you will not be required to register as a lobbyist. In the state of Washington, the
Public Disclosure Commission provides the requirements for who needs to register as a lobbyist.

**Prepare your remarks.** Time is limited in the committee hearing, so be brief and direct. You
usually do not have to provide written testimony, but the better practice is to provide written
testimony or some written statement to accompany your oral testimony. Lengthy testimony
should not be read at committee hearings. Committee staff will distribute copies of written
testimony to members of the committee if you bring a sufficient number—one for each member
and several for the committee staff. When you testify, you should summarize your written
testimony. Do not read it.

**Avoid duplication.** If other persons will be offering similar testimony at the hearing, try to
coordinate your testimony and avoid duplication. Well-organized, succinct testimony is the most
effective.

**At the committee hearing.**

- Be punctual. Oftentimes there is only one public hearing at which
testimony is taken on a particular bill in Washington State.
- Locate the sign-up sheet near the entrance of the hearing room and write
your name, address, and whether you favor or oppose the bill.
- Check to see if copies of proposed amendments or substitute bills are
available.
- Give your written materials to the committee staff for distribution to
members.
Conduct of the committee hearing. Be present at the beginning of the hearing. The committee chair may depart from the order of bills shown on the agenda, so you cannot count on your bill going last, even if it appears last on the agenda. The chair will open the hearing on a particular bill. Generally, opening remarks will be made by the bill’s sponsor, if the sponsor is present, and the committee staff will summarize the bill for members. Sometimes, however, the chair will ask for testimony from proponents and opponents immediately.

Most committee hearings are limited to two hours and may have a number of bills pending. The chair will attempt to provide each person an opportunity to testify. It may be necessary, however, to restrict testimony so that everyone is given an opportunity to express his or her opinions. You may be called to testify with others to save time.

Your testimony.

- Begin by introducing yourself to the chair and committee members and stating your purpose. For example, “Mr. or Madam Chair and members of the committee, I am Jane Nakamura from Olympia. I am here representing myself. I support this bill because. . . .”
- In your opening remarks, state whether you are representing other citizens or a separate group.
- Be brief, and be sure your remarks are clear. Avoid being too technical, and do not repeat previously made remarks.
- Be prepared for questions and comments from committee members. Don’t answer a question if you are not sure of the answer. Tell the members you will send a written answer to the committee later, and then follow through.
- Restrict yourself to your testimony. Clapping, cheering, and booing are not allowed in a committee hearing.
- Speak from your experience.
- If applicable, speak from your clients’ experience.
- Present only accurate facts or data, and never make up any facts or stories.

After the committee hearing. After one or more committee hearings, bills are voted on during the executive session of the committee hearing. Sometimes these are combined on the same agenda with the public hearing. No public testimony is taken during executive session. Listen carefully to hear if any amendments are offered and whether they are adopted or not. Also listen to hear if any of the members voting against the bill ask for a minority report. A vote against the bill does not automatically mean that a minority report is filed.

In Washington State, to be viable, all bills must be adopted not only by a majority of the policy committee members but also by the “Rules Committee” before reaching the floor and all members of the Senate or House of Representatives. Some bills may have to pass through the Ways and Means Committee in addition to the policy committee if the fiscal impact is significant. As you can see, there are a number of steps in the legislative process!
**Grassroots Lobbying and Coalitions**

Some “special interest” groups have more political clout than other groups. Advocates for children and poor people generally have fewer resources and less political influence than business associations, industry trade groups, large corporations, or large mass-membership organizations. Therefore, advocates for children and advocates for low-income people often work together in broader coalitions of low-income advocates, social-service providers, nonprofit agencies, churches, and community organizations. These groups and organizations in turn try to mobilize their members, supporters, and allies to support or oppose key legislation.

For example, in Ohio, advocates for low-income consumers, the elderly, and rural residents joined with the Communication Workers union to oppose a telephone deregulation bill that weakens consumer protections and authorizes the major telephone carriers in the state to terminate basic landline local phone service for Ohio consumers. The new coalition has staged two well-publicized press conferences, generated op-ed columns and newsletter articles, drafted talking points, conducted polling, met with newspaper editorial boards, provided extensive testimony on the legislation, and bombarded legislators with phone calls and letters. Each of the coalition’s member groups has contributed its own perspective and expertise concerning various aspects and harmful effects of the legislation.

Although the two biggest coalition members—the American Association of Retired Persons and the Communication Workers—have the ability to generate massive phone calls and letters to legislators—other coalition members such as legal aid attorneys and community organizations have provided much of the relevant research, information, and testimony used to generate the negative grassroots responses. The combined efforts of the coalition members have at least temporarily stalled passage of this anti-consumer legislation.

Moreover, coalitions may evolve and grow over time. A major example in Ohio is the recent enactment of a so-called differential response law in Ohio. Under a “differential response” approach in child-welfare cases, Children Services agencies screen and access reports of child abuse and neglect and assign those cases to one of two tracks—an “alternative response” track focused on providing voluntary services to at-risk families and the traditional “investigative” approach leading to the filing of a child abuse and neglect complaint in juvenile court. Low- to moderate-risk cases are normally assigned to the “alternative response” track, and higher-risk cases are assigned to the “investigative track.”

The genesis of “differential response” in Ohio lies with an Ohio Supreme Court subcommittee that was considering possible improvements to the way the state’s child-welfare system handles child abuse, neglect, and dependency cases. The subcommittee developed a pilot project and laid the groundwork for implementing “differential response” statewide in Ohio by engaging with a wide range of stakeholder groups including juvenile court judges, prosecutors, defense attorneys, legal aid programs, Children Services agencies, county commissioners, educators, medical providers, and mental health agencies. Members of the subcommittee—themselves representing various stakeholders in the child welfare system—met with associations of judges, attorneys, and
other stakeholders; conducted numerous focus groups; and organized a series of stakeholder meetings with key legislators. As a result, by the time legislation was introduced implementing “differential response” statewide, the key stakeholder groups were either on board supporting the legislation or had decided to take a neutral position.

Working with coalitions can be frustrating and time-consuming, and not all coalitions are effective or successful. Effective coalitions usually follow rules similar to the ones given below:

1. **Have a clear purpose.** More formal coalitions also usually have a title, such as the “Ohioans Protecting Consumer Freedom” coalition that formed to oppose the Ohio telephone deregulation bill.
2. **Lay down the ground rules.** Having officers may be helpful. There should be regular scheduled meetings or an agreement as to who can call meetings, organize conference calls, or call press conferences. More formal coalitions may also set forth ground rules as to how meetings will be conducted.
3. **Communicate.** Maintain regular communication among members of the coalition through listservers, email updates, mailings, and shared documents. Meetings, teleconferences, webinars, and newsletters can also be used to share information, ideas, and strategies.
4. **Set realistic goals.** Don’t set goals or expectations too high. In addition, try to set an immediate goal such as persuading certain influential legislators to take a favorable position or obtaining certain concessions from the bill’s proponents.
5. **Share the work.** Everybody in the coalition should do something. At the same time, coalitions should respect the time and resources of their members and should not demand too great a commitment of time or resources from individual members.
6. **Be diverse.** Different interest groups may have different, but compatible, concerns and reasons for supporting or opposing certain legislation. They may also have different areas of expertise and sources of information. A coalition is a loose legislative network, not a rigid, top-down organization.

Some coalitions are larger and more formal than other coalitions. However, even smaller and more informal coalitions should strive to follow these rules when possible.

**Best Practices**
Advocates for Ohio’s Future is a very broad-based coalition that works to maintain vital services—health, human services, and early child care and education—at a level that maintains people’s basic needs and protects the state’s most vulnerable populations. The organization has developed a summary of helpful lobbying dos and don’ts that stress the importance of having positive discussions with legislators and building a foundation for future support even though you may not win a legislator’s support for your immediate issue.
Do . . .

- know the legislator’s name and district
- get to know the legislator’s staff, keeping them informed
- know the name, number, and status of your bill
- dress appropriately and maintain courtesy
- shake hands and maintain eye contact
- make an appointment if possible
- expect the legislator to be friendly
- expect the legislator to be busy and frequently interrupted
- commend the legislator for actions you approve
- inform the legislator of other interest groups that support your bill
- meet individual legislators in groups of no more than two or three
- present your views firmly and without apology
- present clear, concise, focused arguments that support your bill
- end your contact with legislators on a positive note and thank them for their time
- send any requested or follow-up information after the visit
- share results of the meeting with your allies
- ask questions when in doubt

Do not . . .

- allow the legislator to move the discussion away from your issue
- be drawn into a discussion of other issues
- take a threatening, condescending, or confrontational tone with legislators
- surprise or embarrass a legislator
- misrepresent any information about your bill or support for it
- threaten to defeat legislators in future elections
- be drawn into ideological (or theological) arguments
- overwhelm the legislator with lengthy materials
- answer questions if you do not have sufficient information
- give a knee-jerk response to negative, unfriendly comments

Conclusion

Many children’s rights lawyers limit their advocacy to the courtroom and administrative agencies. They represent children in child-welfare and domestic-relations cases, serve as guardians ad litem, serve on bar association committees, and sometimes bring impact litigation to effect systemic changes. However, some goals can be achieved, or can be achieved more effectively, only through legislation. Legislative advocacy can be an important tool for expanding children’s rights and ensuring adequate funding for vital youth programs and services. Lawyers can make an important contribution to effective legislative advocacy for children’s rights by providing research and information, communicating with legislators, and advising nonprofit agencies and grassroots coalitions.
Keywords: litigation, children’s rights, legislative advocacy, coalition, lobbying, legislation, bill, public hearing, testifying, grassroots

Michael R. Smalz is a senior staff attorney with the Ohio Poverty Law Center. Robert M. Murphy is an administrative law judge with the Washington State Office of Administrative Hearings. Jane L. Habegger is assistant deputy chief administrative law judge with the Washington State Office of Administrative Hearings.
NEWS & DEVELOPMENTS

National Juvenile Defense Standards Released

The National Juvenile Defender Center, with the support of the John D. and Catherine T. MacArthur Foundation through the Models for Change initiative, has released National Juvenile Defense Standards which were promulgated to provide guidance, support, and direction to juvenile-defense attorneys and other juvenile-court stakeholders. The standards are national in scope and are meant to be used in concert with controlling constitutional, state, and local laws, rules, policies, and procedures in order to have full force and effect.

Keywords: litigation, children’s rights, standards, National Juvenile Defender Center, juvenile-defense attorneys

—Marlene Sallo, web editor, Children’s Rights Litigation Committee

Examining Costs of Exclusionary Discipline in Washington

Washington State’s Team Child, together with Washington Appleseed, has released Reclaiming Students: the Educational and Economic Costs of Exclusionary Discipline in Washington State. The report focuses on the impact of state laws, state regulations, and school district policies and practices that remove students from school and prevent them from accessing educational services due to behavior or violations of school codes of conduct. The report focuses on five key findings and recommendations, based on qualitative and quantitative data. It also includes the stories of youth across the state.

Keywords: litigation, children’s rights, exclusionary discipline, Washington state, school policies, educational costs, economic costs

—Marlene Sallo, web editor, Children’s Rights Litigation Committee