

March 19, 2018

Testimony in Support of SB 246 - The SAFE Act

Chair Oelslager, Vice Chair Manning, Ranking Member Skindell and members of the Senate Finance Committee

Thank you for giving me the opportunity to testify in support of SB 246. My name is Robert Cole and I am an attorney and I work for Advocates for Basic Legal Equality. I am the managing attorney for the Meaningful and Appropriate Education Practice Group. I have been with ABLE for 12 years, practicing in the areas of public health, access to health care and education. Advocates for Basic Legal Equality, Inc. is a non-profit regional law firm that provides high-quality legal assistance in civil matters to help eligible low-income individuals and groups in western Ohio achieve self-reliance, equal justice, and economic opportunity.

The single most effective means to address generational poverty is to promote access to a quality education for low-income children and increase the chances of future employment stability, higher educational opportunities and self-sufficiency. The disparities in the quality of education for wealthy and low-income Americans are dramatic. Children in poverty, particularly African American and Latino children, often are served by schools that do not meet their needs and too often treat low-income children and their problems as criminal matters instead of as educational needs. ABLE's advocacy for the educational rights of children in poverty seeks to assist in the removal significant barriers to achieving self-sufficiency and equal justice.

Although school responses to student misconduct typically are distinct to the individual jurisdiction, and even the individual school campus, the past two decades have witnessed a widespread reliance on suspension and expulsion as swift sanctions to expediently address disruptive classroom behavior. This is true across the country and is also very evident in Ohio, as reflected in the statistical data gathered by the Ohio Department of Education regarding expulsions and suspensions.

Suspension and expulsion can set a negative trajectory for young children. Students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure, hold negative school attitudes, and face incarceration than those who are not. Furthermore, data consistently show racial disparities in expulsion and suspension. For example, recent data indicate that African American boys make up 18% of preschool enrollment, but 48% of preschoolers suspended.

Suspensions and expulsions in the earliest years of schooling go on to affect a child's K-12 experience and beyond. When young children are suspended or expelled from school, they are more likely to drop or fail out of high school, report feeling disconnected to school, and be incarcerated later in life. Given that these negative experiences come at a time when children are just beginning to form the foundation of their relationships with peers, teachers, and the institution of school, they are especially concerning as an indicator of a student's future outcomes.

Here are examples of actual cases we have been involved in regarding suspensions and expulsions:

Oppy, Springfield City Schools (Clark County)

Grandmother/legal custodian contacted us regarding calls from school between the hours of 11:00 am and 1:00 pm to pick up her 2nd grade grandson from school due to behavior. No written notices of suspension and not noted on attendance sheet as absent in the afternoon. Grandson diagnosed with ADD and ODD, victim of severe trauma, on meds and in counseling. From a very poor, multi-generational neighborhood. Graduation rate for neighborhood is 38%. Emergency removal in 3rd grade due to behavior with no notice. In 4th grade, principal told grandson he would call the police on him if his behavior doesn't improve. In grandson's Behavior Intervention Plan, he was given the option to remove himself from a situation, reflect, and return to the classroom. He did this and school initiated emergency removal with no notice. Grandson could not read from 2nd grade to 4th grade.

Kilgore, Dayton Public Schools (Montgomery County)

Mother contacted us regarding calls from school every day in the morning or afternoon to pick up her 2nd grade son from school due to behavior. No written notices of suspension. Son diagnosed with ADD, ODD, and speech delay, on meds and in counseling. Unable to read. Son liked to go to school and didn't understand why his teacher and principal didn't want him there. In 2nd grade, principal threatened to call police to come get him, he had meltdown, call to client to come pick him up from school, and no written notice of suspension. End of 2nd grade, the last month of school her son was released at noon for the whole month with no change to his IEP. In 3rd grade, new placement in resource room. Two to three calls per week to come pick him up at school due to behavior. Put on home instruction the last two months of the school year. In 4th grade, was suspended 5 separate times for behavior. Son tried to hang himself in classroom with rope (cry for help). Repeated calls from school to pick him up due to behavior, ie., throwing papers, flipping desks, ripping papers off bulletin boards, leaving the classroom, calling the teacher names, fighting/hitting other students.

Cory-Rawson Elementary School (Hancock County, Ohio)

On February 1, a young boy was informally removed from school at Cory Rawson. He was sent to the office twice because he wouldn't sit still or do his work. At no point was he being violent or threatening others. His mother was called and emailed around 11 am to pick him up, she was told if she did not pick him up they would do a formal suspension. She did pick him up. After ABLE contacted the school, they sent an emergency removal notification. The principal admitted that no one tried positive behavioral intervention prior to removing him from school. The principal maintained she had a right to do an emergency removal for a mere "disruption" to other students.

McKinley Elementary (Toledo Public Schools)

A 9-year-old, who recently started in the fourth grade at McKinley Elementary (Toledo Public Schools). He has been diagnosed with ADHD, Autism, Eczema, and Alopecia. In the 2016-2017 school year, he was not informally removed. However, in the 2015-2016 school year, his mother was called to informally remove him approximately five times from McKinley for behavioral issues. Previously, he was informally removed regularly when he attended DeVeaux Elementary School. His mother states that his behavioral issues included being defiant, shoving other kids, talking back, and running around.

East Broadway School (TPS District)

A child in 4th grade at East Broadway School (TPS District) with diagnoses of ODD, ADHD, RAD, Separation Anxiety, PTSD, and Severe Sleep Disturbances. Her mother was being called on a daily basis

to pick her up from school due to her behavioral issues. The school district never provided her with any paperwork until they sent home a Notice of Intent to Suspend with Alternative Placement near the end of the school year (April). The mother ended up being placed on disciplinary watch with her employer due to the number of times she was contacted by her daughter's school during the work day as well as the number of days she had to leave work early to pick her daughter up from school.

The school principal admitted that he did not understand that sending a student home is not an alternative placement; it is a school removal unless services are provided to the student at home. TPS Special Education Director clarified for the group. The principal did not understand that any time of day that a student receiving special ed. services is removed from school is considered one full day towards the 10-day maximum allowed (per district practice). TPS Special Education Director clarified for the group. When I attempted to clarify that the student had met or exceeded the 10 days allowed out of school at that time and that she must stay in school at that point, the principal said that he was concerned about that because the only option left for the school at that point would be expulsion. I clarified that if they want to expel the student at this point then they would have to convene a Manifestation Determination Review meeting; it's not just that a student meets the 10 days allowed and then the school moves straight to expulsion.

McKinley Elementary (TPS District)

In 2015, mother was called to pick up her son when son was acting out and throwing things in the classroom. The school had used physical restraint on the child. Thereafter they called mother to pick up the child. Other similar incidents took place where the child would become aggressive or violent and the school's response would be to call mother to pick him.

It seems that the school attempted to create the impression that they were saving the child a suspension or expulsion note when in reality they were evading their responsibility to conduct a BIP or amend the IEP.

Unfortunately, it has been our experience that the vast majority of suspensions and expulsions are for disruptive behavior and that these removals from school significantly and disproportionately affect children of color, living in poverty and frequently those who have a disability. We should be focusing on supporting teachers and school staff with resources that will create a positive educational environment so that they are empowered to address behavioral issues within the classroom, by establishing clear rules, consistent expectations regarding compliance and a discipline system that will keep at risk children and children with behavioral issues in school rather than taking them away from their chance to become educated through the use school suspensions and expulsions.

Research supports the proposition that removal from the classroom by suspension and expulsion, especially in Pre-K through 3rd grade significantly contributes to school avoidance behaviors and truancy. These measures should only be used in very limited circumstance as last resort. The correlation between an individual's success in school, more specifically his/her ability to read, and incarceration is alarming. A student not reading at a third-grade level by the third grade is three to four times as likely not to graduate high school on time, and this figure actually increases to six times as likely not to graduate high school on time for students from low income families.

I strongly support the adoption of S.B.246

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