
CITIZENS FOR JUVENILE JUSTICE

SPECIAL EDUCATION REFORM RECIPE FOR JUVENILE CRIME DISASTER

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Citizens for Juvenile Justice is a statewide membership organization of juvenile justice professionals and organizations. Our mission is to strengthen the juvenile justice system by convening diverse groups and individuals to educate the public about juvenile justice. We advocate for policies that ensure the public safety by supporting families and communities through the rehabilitation of youth.

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FINDINGS

Special education reform as proposed by the House Ways and Means Committee is a recipe for a juvenile crime disaster, proves the law of unintended consequences and will result in higher levels of overall juvenile crime, especially school-based crime and violence.

Citizens for Juvenile Justice estimates that the House plan for special education reform will result in the equivalent of a 9.5% increase in juvenile crime over the next three years, as measured by arraignments in the juvenile court.

Arraignments in the juvenile court, the best overall measure of juvenile crime, fell by 7.9% in 1998 and 6.5% in 1999, according to the Commissioner of Probation.

Learning disabled youth who currently qualify for special education are 220% more likely to become delinquent than non-learning disabled youth.

Nationally 62% of learning disabled high school dropouts are arrested within three to five years, but only 15% of learning disabled high school graduates are arrested within the same period.

National research indicates that special education, by improving ties to teachers, fellow students and the school as an institution, effectively reduces delinquency among learning disabled youth who would otherwise be more than twice as likely to become delinquent.

The House plan transfers 30,000 special education students to the mainstream classroom, according to the McKinsey & Company report nearly all of these students are learning disabled.

Learning disabled youth are highly receptive to the delinquency prevention component of special education.

Already, 11.2% of Department of Youth Services youth have been served by the Department of Education.

Often the first indication of a learning disability is social withdrawal or aggression, resulting in truancy and school discipline problems.

In Massachusetts, 72.3% of school discipline problem youth and 47.1% of truant youth are arraigned within three years.

Massachusetts law and practice recognizes special education as an effective tool to prevent delinquency, as do the United States Department of Justice and Department of Education.

The McKinsey & Company Report does not address the *costs* associated with increased juvenile crime and is therefore an incomplete cost-benefit analysis.

Special education cannot prevent delinquency on a wide scale.

Special education should however be effectively employed to prevent delinquency among learning disabled youth. The House plan prohibits this function.

The legislature should restore language recently struck by the Department of Education that allows truants and school discipline problem youth to be eligible for special education evaluations.

SUMMARY

Special education serves an important, at times crucial, delinquency prevention role in the Massachusetts.

Reducing the total number of special education students in the Commonwealth of Massachusetts by approximately 30,000 students and lowering the standard of service provided to recipients of special education, as recently recommended by a report commissioned by the Massachusetts legislature and proposed by the House on Ways and Means Committee, will result in generally higher levels of juvenile delinquency, a decrease in the public's overall safety and an increase in school-based crime and school violence.

In short, special education reform as proposed is a public safety recipe for disaster.

Special education effectively reduces the number of learning disabled students *who would otherwise become delinquent* without special education, by lowering levels of school failure and improving social connections to fellow students, teachers and the school as a institution.

Citizens for Juvenile Justice estimates that the House plan for special education reform will result in the equivalent of a 9.5% increase in juvenile crime over the next three years, as measured by arraignments in the juvenile court.

The threat of higher juvenile crime rates as a result of special education reform comes at a time when the Commonwealth has made remarkable progress in reducing juvenile crime. The best overall measure of juvenile crime, arraignments in the juvenile court, fell by 7.9% in 1998 and 6.5% in 1999, according to the Commissioner of Probation.

The potential increase in school violence is extraordinarily startlingly and contradictory to the testimony from professionals, parents, and students collected by the legislature at school violence prevention at forums hosted throughout the Commonwealth earlier this year.

THE HOUSE PLAN AND THE MCKINSEY & COMPANY REPORT

The House Ways and Means Committee plan, inspired by the recently released McKinsey & Company Report, *Special Education in Massachusetts*, recommends sweeping and long debated changes in special education law. Specifically, the House Ways and Means Committee plan:

- Adopts federal eligibility guidelines for special education.
- Adopts the federal “free and appropriate” service standard, in place of the current “maximum feasible benefit” standard.
- Eliminates state-funded second opinions of eligibility.
- Places additional stress on early childhood education - \$27 million.
- Allots \$2.2 million for the Department of Education to administer and enforce special education reform.
- Requires school districts to uniformly report special education statistics.

The proposed alterations in *both* eligibility and standard of service have significant

negative public safety impacts not addressed in either the McKinsey & Company Report or the House Ways and Means Committee plan.

WHY?

Statistically, learning disabled students are exceedingly more likely to be found guilty of a juvenile offense than non-learning disabled students. A study of 1,943 delinquent and nondelinquent adolescent males from Baltimore, Indianapolis and Phoenix conducted by the National Center for State Courts and funded by the United States Department of Justice indicated that learning disabled students are 220% more likely to be adjudicated delinquent than non-learning disabled students.

Nationally 62% of learning disabled high school dropouts are arrested within three to five years, but only 15% of learning disabled high school graduates are arrested within the same follow-up period, according to the National Longitudinal Transition Study of Special Education Students.

Already, 11.2% of youth committed to the Department of Youth Services have been previously served by the Department of Education, indicating a significant link between special education and subsequent delinquency.

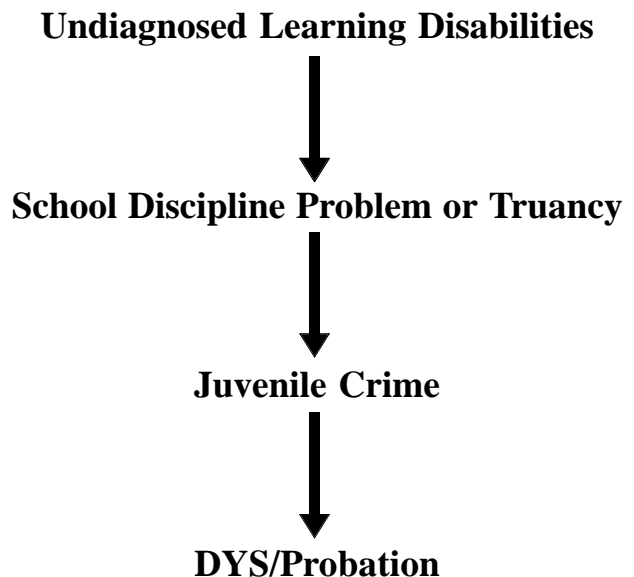
Two reasons were cited for the higher rates of adjudication among learning disabled students:

- 1) School failure resulting in delinquent behavior.
- 2) Natural susceptibility to delinquency as a result of poor impulse control.

Importantly, in the study of 1,943 adolescent males the National Center for State Courts found that special education reduced both the number and seriousness of delinquent acts by learning disabled youth, establishing special education as a key tool for preventing delinquency among learning disabled youth who are by circumstance and nature more inclined toward delinquency.

The National Center summarized: “These findings clearly show that children and youth handicapped by learning disabilities are at relatively higher risk of becoming delinquent than their non-learning-disabled peers. Furthermore, the risk of future delinquency is reduced by participation in a rehabilitation program designed to provide appropriate remedial instruction. It

Path of Learning Disabled Youth to Delinquency



is recommended that such prevention and rehabilitation services be made widely available to youth with learning disabilities.”

The guidebook for the administration of juvenile justice in the Commonwealth concurs. The Massachusetts Juvenile Court Bench Book, specifically recommends referral to a special education evaluation as a particular avenue toward correcting truancy and school discipline problems. “If the child is experiencing difficulties in school, exhibited through poor academic performance, poor school behavior or truancy, he or she should be referred to the appropriate school department for a CORE [special education] evaluation. This assessment determines whether the child possesses any learning impairments that require special education services.”

The McKinsey Report asserts that the Commonwealth has a statistically significant gap between comparative states in the number of students with “specific learning disabilities” and a high percentage of the 30,000 students transferred out of special education under the House plan would be students with specific learning disabilities.

Specific learning disabilities are distinctly different than other special education qualifying disabilities such as mental retardation, autism or speech impairment and may not be visually apparent to the causal observer or immediately detectable by the trained professional. Rather, specific learning disabilities are often first indicated by behavior, such as withdrawal (resulting in truancy) or aggression (school discipline problems) and often mistaken for simple delinquency.

Simply stated, the very population of youth suggested to be transferred under the House plan are those youth most likely to be receptive to the delinquency prevention component of special education.

According to McKinsey, the vast majority of cost savings (\$125 million) and pupil transfer from special education to the mainstream classroom would be realized from the change to the federal eligibility guidelines, not the subsequent level of service provided after a determination of eligibility. However, the National Center on State Courts strongly recommends

that the juvenile delinquency deterrence increases in direct proportion to the number of special education instruction hours per week. Consequently, even for those students not shifted from special education under the eligibility guideline changes, it is reasonable to predict increased levels of truancy, school discipline problems and subsequent delinquency.

Arrestment Rates of Truants and School Discipline Problem Youth	
three year follow-up period.	
Truants	47.1%
School Discipline Problems	72.3%

Source: Commissioner of Probation.

INCREASE IN JUVENILE CRIME

According to McKinsey, “If Massachusetts were to apply eligibility evaluation rules and criteria similar to those of the peer group [comparative states], the change could result in a

reduction in the number of children with specific learning disabilities by nearly 30,000 students. This impact would occur at full implementation.”

Citizens for Juvenile Justice, employing research from the McKinsey & Company Report, and the Commissioner of Probation concludes that the House plan would result in an equivalent net increase in the best overall measure of juvenile crime, arraignments in the juvenile court, of 9.5% over three years.

In reaching our conclusion we conservatively estimated that only 80%, not the nearly 100% of the transferred 29,700 students would be learning disabled. Of these 23,760 students our professional experience indicates that 15% (3,564) will demonstrate school discipline problems or truancy. According to the Commissioner of Probation, the combined rate of arraignment over three years for school discipline problem and truant youth is 51%, resulting in an additional 1,817 juvenile arraignments in three years. In 1999, the total number of arraignments was 19,119. Consequently, we estimate the total net increase in the number of juvenile arraignments over three years to be 9.5%.

Aside from the substantial savings outlined by McKinsey, no advocate of the House plan has outlined the inadvertent, but inherit *costs* of the House plan. Certainly, additional societal costs as increased commitments to the Department of Youth Services and the Commissioner of Probation should be researched and factored into any complete cost-benefit analysis of special education reform, as should the financial, educational and personal costs of increased school violence or the threat of school violence.

SCHOOL SAFETY

A joint publication of the United States Department of Education and Department of Justice recommends special education as an effective tool in mitigating school behavioral problems of learning disabled youth. In fact, *Early Warning, Timely Response: A Guide to Safe Schools* identified special education referrals as one of three key early “intervention tactics” for students at risk for behavioral problems: “If there is evidence of persistent problem behavior or poor academic achievement, it may be appropriate to conduct a formal assessment to determine if the child is disabled and eligible for special education and related services.”

The federal guideline is supported by *current* Massachusetts law which allows for court directed special education evaluations for youth deemed to be truant or school discipline problems and by current Massachusetts regulation which encourage referral to a special education evaluation for youth suspended for more than five days in any quarter or absent without a medical excuse more than fifteen school days in any quarter.

However, the Department of Education eliminated the express recommendation in 603 CMR 310.0 that truant and school discipline youth be referred for special education evaluation in the newly adopted special education regulations effective September 1, 2000.

The legislature’s own Special Commission on School Violence which reported in February 2000 noted truancy and school “bullying” (a type of school discipline problem) as

issues relative to school safety. Unfortunately, the Commission did not address learning disabilities as a root cause of many truant and school discipline cases.

RECOMMENDATIONS

Citizens for Juvenile Justice envisions a special education system which provides the needed levels of educational remediation in the least restrictive environment possible. Every effort should be made to reduce stigmatism associated with learning disabled youth, as such stigma and labeling often exacerbate school failure stress and limited impulse control. However, special education cannot prevent delinquency on a wide scale. No state sponsored program substitutes fully for the existence in a child's life of a caring parent, a set of moral values and a safe home and school environment.

Notwithstanding the adoption of the House Ways and Means proposal in full or in part, special education will most likely remain a controversial issue. We hope that this briefing reminds policy makers of the law of unintended consequences.

Unfortunately, our research does not suggest options for delinquency mitigation that we may recommend as part of the House plan. As the McKinsey Report and the House Committee and Ways and Means properly note few states have lower levels of eligibility or higher standards of service. Consequently, we reject the House plan and the McKinsey report as singularly dedicated to the issue of financial *savings*, with no attention paid or suggested to the issues of public safety, school safety or delinquency and the resulting personal and financial *costs* incurred by such a policy alteration.

At the least, we recommend that the legislature supercede the decision of the state Department of Education to strike language in the recently approved special education regulations that eliminated special education referrals for school discipline problem youth and truants. The previous regulation language was outlined in 603 CMR 310.0 -310.3 but eliminated by 603 CMR 28.04 effective September 1, 2000.

Lastly, aside from the House plan in particular, the link between learning disabilities and subsequent delinquency presents several questions for further research. Including the level and quality of special education services provided to youth in the care of the Department of Youth Services and Department of Social Services. The number of youth currently committed to the Department of Youth Services with undiagnosed learning disabilities, which undeniably would increase under the House plan. The impact of varying levels of eligibility as described by the McKinsey report and how such eligibility levels may vary according to school and school district based upon socioeconomic conditions.

Although too late to be considered at this time, the United States Department of Education, Office of Special Education Programs launched a 50 state, 200 school district study in March 2000 to investigate several of the unresolved issues raised above and several others relative to cost and cost-benefit analysis of special education. We look for to the Department of Education report.

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