



MENTAL HEALTH LEGAL ADVISORS COMMITTEE
The Commonwealth of Massachusetts
Supreme Judicial Court

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**Testimony of Jennifer Honig, Senior Attorney,
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before the Joint Committee on Education

regarding

H. 177 An Act to respond to School Exclusion Data and Reduce School Dropouts and H. 178, An Act relative to Students' Access to Education Services and Exclusion from School

September 27, 2011

I am testifying on behalf of the Mental Health Legal Advisors Committee, a state agency within the Supreme Judicial Court, mandated to provide legal advice and representation to indigent adults and children with mental health disabilities. The rights of children with behavioral health issues to appropriate education is integral to our work. Our agency strongly supports H. 177 An Act to respond to School Exclusion Data and Reduce School Dropouts, and H. 178, An Act relative to Students' Access to Education Services and Exclusion from School.

Our agency staff regularly work with families whose children with mental disabilities are facing suspension or expulsion from school. Last year we assisted a mother whose second grader, diagnosed with autism and anxiety, had been removed from school for behavioral changes and physical aggression. In December, we spoke with the father of a 9th grade girl with ADHD and PTSD. She had been suspended for fifteen days for allegedly holding marijuana for another student. The next month, we talked to the mother of a high school junior who had been barred from his high school without any process at all. A girl in his music class had accused him of making a machine gun noise and a school administrator was requiring a mental health evaluation before he could return. The next month, we heard from the family of a 16 year old girl, mentally retarded with cognitive learning disabilities and neuro-disabilities, who attended a charter school. She was an excellent student, but had cutting and eating issues. She lit paper on fire in the bathroom and it caught. She was suspended indefinitely and the school was considering expulsion. These children all had serious mental disabilities and therefore had families who were adept and experienced at advocating for services. Nonetheless, they were calling because the prospect of losing their child's educational placement was a new and potentially devastating calamity.

MHLAC supports H. 177 because it would improve our state's data collection practices so that we can better understand the variables, such as race and disability, which are part of school discipline outcomes.

We support H. 178 because it would ensure that youth subject to school exclusion receive proper legal process prior to exclusion and educational services after exclusion.

Youth with mental health disabilities are more likely than the general youth population to face suspension and exclusion from school.

Research shows that students who have been suspended or expelled are more likely to have been diagnosed with emotional or behavioral disorders than members of the general student body. A 2004 study tracking students from one year to the next found that students with serious emotional disturbances had been subject to school suspension or expulsion far more frequently than other students. In the second year, the researchers found that 64% of students with serious emotional disturbances in elementary and middle school had been suspended or expelled at some time in their school careers. This rate was nearly 3 times that of students in any other category and more than twice the rate of the next highest categories of disability.¹

This study reveals the special risks of school discipline for youth with mental health disabilities. It also suggests that further data collection for students with disabilities, broken down by disability, is warranted.

Expulsion exacerbates mental health and related problems.

It is particularly sad that youth with mental health problems are more likely to be subject to suspension and expulsion because these forms of discipline worsen their conditions. We know that expulsion in particular poses a risk to mental health. For example, the American Academy of Pediatrics has issued a policy statement on out-of-school suspensions and expulsions that states that expulsion exacerbates mental health and related problems.² They write:

Suspension and expulsion may exacerbate academic deterioration, and when students are provided with no immediate educational alternative, student alienation, delinquency, crime, and substance abuse may ensue. ... This policy statement ... highlights aspects of expulsion and suspension that jeopardize children's health and safety.

...

Children who use illicit substances, commit crimes, disobey rules, and threaten violence often are victims of abuse, are depressed, or are mentally ill. As such, children most likely to be suspended or expelled are those most in need of adult supervision and professional help.

...

Out-of-school adolescents are also more likely to smoke; use alcohol, marijuana, and cocaine; and engage in sexual intercourse. Suicidal ideation and behavior may be expected to occur more often at these times of isolation among susceptible youth.

Thus, being out of school itself has been linked to declines in mental health and being out of school also is linked to a number of other behaviors that themselves may be harmful to mental (and physical) health.

H. 177 and 178 are essential part of the Commonwealth's responsibility to address the needs of youth with behavioral health needs.

These bills are an essential part of the Commonwealth's efforts to treat and treat fairly youth with behavioral health needs. There is a substantial cohort of youth in our schools that have such needs. Recent estimates place the rate of serious emotional disturbance among youth in the general population at 9 to 13 percent.³ The state is in the process of implementing a range of services to treat these youth, through the Children's Behavioral Health Initiative which

¹ Blackorby, J. & Cameto, R. (2004). Changes in school engagement and academic performance of students with disabilities. In *Wave 1 Wave 2 Overview (SEELS)* (pp. 8.1-8.23). Menlo Park, CA: SRI International. Available at http://www.seels.net/designdocs/w1w2/SEELS_W1W2_chap8.pdf at 8-8.

² Pediatrics, Vol. 112, No. 5 November 2003, available at <http://www.cde.state.co.us/cdeprevention/download/pdf/1206.pdf>.

³ Friedman et al., 1996.

oversees the provision of Medicaid services to youth with serious emotional disturbance. Developed in response to the *Rosie D.* class action lawsuit, these wrap-around services are designed to be provided in the community. The initiative is working with schools to ensure that they are linked in with and part of the service delivery process.

Massachusetts is working extremely hard to keep kids with mental health needs in their own homes, schools and communities. The Commonwealth relies on research that shows that these community-based services are the most effective means of addressing these youths' needs.

At the same time, our state has been implementing Rosie D., key decision makers from the education and behavioral health worlds have been implementing another initiative. As part of the children's mental health legislation that passed in 2008, the state has convened a Behavioral Health and Public Schools Task Force to survey schools and direct a course to provide behavioral health services in our public schools. This August the task force issued its comprehensive final report and recommendations. Entitled "Creating Safe, Healthy, and Supportive Learning Environments to Increase the Success of all Students," the report is a blueprint of the steps the state should now take to ensure that schools are providing their students with behavioral health services.⁴ Notably, these services are not just for youth with serious emotional disturbance or youth who receive Medicaid. The task force describes a holistic approach for schools – these are services for everyone. The task force recognizes that which should be apparent to all – healthy schools offer behavioral health supports to all students.

This belief is consistent with another growing recognition of those developing educational policy -- the recognition that suspension and expulsion compromise the appropriate role of schools in shaping appropriate student behavior.⁵ So, schools function as a site where mental health services may be delivered, this is a proper role for schools, and when students are excluded from schools, they lose access to the very services that they likely most need.

Massachusetts has recognized that treating the behavioral health issues our students face within the context of their schools is effective education and mental health policy. This approach helps schools work better for everyone. H. 177 and H. 178 are part of that emerging model in Massachusetts. We urge you to support these bills.

⁴ Available at <http://www.doe.mass.edu/research/reports/0811behavioralhealth.pdf>.

⁵ See, e.g., A Technical Assistance Center on Positive Behavioral Interventions and Supports of the Office of Special Education Programs, U.S. Department of Education. Available at <http://www.pbis.org/default.aspx>.