



# CHILDREN'S RIGHTS

CHILDREN'S RIGHTS LITIGATION COMMITTEE  
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## Stopping the Schoolhouse to Jailhouse Pipeline By Enforcing Federal Special Education Law

By Jim Comstock-Galagan and Rhonda Brownstein

**D**avid Smith (not his real name) was a 15 year-old, 7<sup>th</sup> grader at a Jefferson Parish, Louisiana, junior high school who was headed for juvenile detention and, most likely, a life of prisons and jails. The fact that David had been identified as a child with an educational disability (Emotional Disturbance) and had an Individualized Education Program (IEP) in place did not stop his school from suspending him for 79 days during the abbreviated, post-Katrina 2005-2006 school year. No educational or related services of any kind were provided to David during his removal days, with the exception of homebound services for two days per week during one 45-day period. Oftentimes, the school would simply call David's mother or grandmother and demand that he be picked up from school. David had also been arrested at school three times during the school year -- proof that the school-to-

prison pipeline in Jefferson Parish was working very efficiently.

Despite David's IEP and despite the frequent behavioral problems that were clearly related to his disability, the school had not conducted a Functional Behavior Assessment (FBA) nor developed a Behavior Intervention Plan (BIP), as required by federal law, until months after David had been removed from school. Like the vast majority of children with emotional disturbance in the Jefferson Parish School System, the only help David ever received for the behavioral manifestations of his disability was a completely inadequate fifteen minutes of "counseling" once a month with the school guidance counselor.

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## Reframing School Discipline through Human Rights Standards

by Liz Sullivan

*"It's like the teachers, the guards, they are all just mad at you for being in school. They don't think we belong. They look for any excuse to kick you out the easiest way possible." - High School Student, New York City*

**I**n many public schools in the U.S., particularly those that serve low-income communities of color, school discipline policies and practices utilize reactionary and punitive responses that push students out of the learning environment and criminalize their behavior. Students receive suspensions and other punishments that remove them from the classroom, many times for minor infractions such as insubordinate behavior or verbal arguments with other students. These practices reflect a broader culture in our schools that fails to value students and holds entrenched and biased assumptions about their ability to learn and

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## FROM THE CHAIRS: Pitching Children's Law Pro Bono Cases To Lawyer Volunteers

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**C**hildren's law pro bono programs are continuing to develop all over the country at law schools, free-standing law centers, in existing legal services agencies and in law firms. Even as the practice continues to grow, however, there are many lawyers who, despite their interest, do not take children's cases. These trepidacious lawyers express the same series of concerns about taking on pro bono children's law cases. Here we have isolated some of the most common concerns of volunteers and offer reasons why they should not be a barrier to taking a children's case. When a prospective volunteer raises one of these concerns, here are some ideas about how to reply.

#### ***"It sounds too much like social work."***

Answer: Working with children can be a challenge. The matters that bring children into the legal system may be related to needs they have which fall into the area of mental health, social work, psychology, psychiatry, and other disciplines. Despite the need for multidisciplinary efforts to assist many of these children, their need for counsel remains clear. Whether it is juvenile justice, child protection, immigration, child custody, or any other area of law, does not matter. These children need lawyers. They may need a lot of other services which lawyers can secure for their clients, but the most important things an attorney can provide is zealous legal advocacy.

#### ***"I have never worked with kids before. I'm used to adult clients."***

Answer: Working with children is different from working with adults. Developing a successful child-client relationship demands that a lawyer is able to build rapport, generate a trusting relationship, and communicate difficult legal concepts to a child. A child's advocate needs to have these tools in their client communication arsenal along with several others unique to children. Mental, physical and developmental age affects many things significant to a child involved in a legal proceeding: ability to communicate, comprehend their rights, understand the proceedings, be able to make significant decisions, weigh issues relevant to the court's determinations, etc. Much due to the initiation of so many new law clinics and lawyers specializing in children's advocacy around the country, the highest quality training and mentorship of children's cases is becoming available all around the nation. Training on-line, at national conferences and in local jurisdictions is available to arm volunteer advocates with the tools they need to be the best advocates for children.

#### ***"The cases never end. You end up as a kid's pro bono lawyer for life."***

Answer: This is a fear that paralyzes volunteer attorneys in every area of pro bono practice. Volunteer attorneys are always concerned about limiting the scope of a pro bono assignment. Too many tales have been told by volunteer attorneys who took

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## Stopping the Schoolhouse to Jailhouse Pipeline (continued from page 1)

David's case vividly illustrates why the following statistics exist:

- Seventy percent of children in the juvenile justice system have an educational disability – the vast majority are children with Emotional Disturbance (ED) and children with Specific Learning Disabilities.
- Children with ED fail more courses, earn lower grade point averages, miss more days of school, and are retained more often than other students with disabilities.
- Children with ED have the worst graduation rate of all disabilities; nationally, only 35% graduate from high school (compared to 76% of all students).
- Children with ED are more than three times as likely to be arrested before leaving school as compared to all other students.
- Children with ED have alarmingly high drop-out rates and, for those who drop out of school, 73 percent are arrested within five years of leaving school.
- Children with ED are twice as likely to be living in a correctional facility, halfway house, drug treatment center, or “on the street” after leaving school compared to other students with disabilities.
- Children with ED are almost twice as likely to become teenage mothers as students with other disabilities.

Now, hundreds of special education students in Jefferson Parish, Louisiana, who, like David, were systematically denied the help they are due under federal law are getting desperately needed educational services under a new Corrective Action Plan (CAP). The CAP was developed as part of a Mediated Settlement Agreement with the Louisiana Department of Education.

The Settlement Agreement was the result of a legal project jointly run by three civil rights groups – the Southern Poverty Law Center, Southern Disability Law Center, and Juvenile Justice Project of Louisiana. In February 2005, the project filed a class action administrative complaint against the Louisiana State Department of Education after their year-long investigation

irrefutably revealed that the Jefferson Parish School System was systemically violating the rights of and failing to educate the mostly poor, primarily African-American students diagnosed with an emotional disturbance.

The project found that the school district routinely suspended or expelled children classified as emotionally disturbed for minor offenses related to their disabilities and segregated these students in self-contained classrooms or trailers in violation of federal and state regulations. The district also consistently failed to provide appropriate levels of related services (social work, counseling and psychological services) and vocational training to emotionally disturbed children. These practices had a pervasive and dramatic adverse impact on students with emotional disturbance -- the vast majority were typically performing several years behind their chronological grade level and their peers by the time they reached junior high or high school. This reality in turn led to abysmal graduation rates and alarmingly high drop out rates for these students. With over 800 children classified as emotionally disturbed, Jefferson Parish was also identifying children as emotionally disturbed at almost three times the state average, yet doing little or nothing to help them.

Based upon this evidence, the project filed a class complaint against the Louisiana Department of Education (rather than the school district), given the State's legal duty to monitor and supervise local school districts and to ensure their compliance with federal special education laws. After the complaint was filed, the Louisiana Department of Education agreed to investigate the project's allegations and sent a monitoring team to the district for three days. This team confirmed all of the project's allegations and thereafter the Louisiana Department of Education agreed to an extensive Settlement Agreement

The Settlement Agreement required the appointment of a Special Master (Dr. Joe Olmi, a professor in the school psychology program at the University of Southern Mississippi) to oversee the provision of special education services to emotionally disturbed students in Jefferson Parish School System. It also mandated several major systemic changes, which are now included in the Corrective Action Plan developed by Dr Olmi with a district CAP Team including: significantly increasing the frequency and duration of social work, psychological and counseling services provided to emotionally disturbed students; implementing district-wide use of positive

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## Stopping the Schoolhouse to Jailhouse Pipeline (continued from page 3)

behavioral interventions and supports; improving their academic progress at all grade levels; eliminating many harsh and illegal disciplinary practices and policies; significantly increasing their access to less restrictive, general education environments; and significantly expanding their access to vocational training.

The Project's special education legal team is now replicating its successful effort by bringing similar complaints in other large, underperforming school districts across Louisiana. If you are an advocate or attorney interested in finding out more about this exciting new strategy for systemic special education reform, visit our website at:

<http://www.splcenter.org/jefferson> or contact Courtney Bowie, Southern Poverty Law Center staff attorney, at (601) 948-8882. □

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## FROM THE CHAIRS (continued from page 2)

a case they thought would last a month and ended up representing the client for years. These tall pro bono tales harken from an era when the public interest law community was less sophisticated about how to screen, manage, and select pro bono cases. Public interest law organizations are experts at pro bono administration these days. Well-crafted engagement letters, carefully and skillfully limited scope assignments, and more organized and considered projects make the out-of-control, life-long pro bono cases a rarity. Volunteers can feel comfortable knowing they can limit a representation just as they would with any pro bono matter.

***"I hear that courts (and hearings) where children's cases are heard are unpredictable – almost as if they are not real courts of law."***

Answer: You bet. That's why we need you. Though great advocates for children continue to strive to secure justice for children, there are still settings where children's cases are heard that are nothing less than an affront to justice. Children plead to offenses without counsel. Children make significant decisions about where they will be safe without the benefit of advocates or complete information. Overburdened lawyers advocate for clients they have never met. Decisions are made about a child's life without any advocate assigned to express their wishes. It is these extreme situations, where justice is far from a child's grasp, which call for outstanding lawyers, both full-time advocates and volunteers.

***"Cases don't seem to have a high impact. You do a lot of work and the outcome seems to be same as it would have been if you weren't there."***

Answer: Nothing could be further than the truth. Talented lawyers make the difference in children's lives every day. Because the overburdened court systems appear to run on autopilot sometimes, it seems that individuals who work to present all the important facts in a case may not change the predetermined course of action. However, these overburdened systems sometimes need a new set of eyes through which to view the children who are the subjects of the proceedings. New voices – in the form of volunteer attorneys – can provide those new voices which are so desperately needed.

***"No-one has ever asked."***

Answer: So let's ask. As children's advocates we know how much help our children need and that the systems in place may not be able to provide the proper outcomes without the efforts of new energy burst into it. Volunteer attorneys won't carry the whole burden but they can be an important part of the team. Invite them to join the fight for kids. □

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## Advocacy at School Expulsion Hearings by Susel Orellana

According to statistics gathered by the UCLA/IDEA Institute for Democracy, Education, and Access, 89,000 students were expelled in the 2002-2003 school year (*Suspension and Expulsion At-A-Glance*, available at <http://www.idea.gseis.ucla.edu>). Students of color have higher suspension and expulsion rates compared to their enrollment rates than white students. Also, they are more likely to be suspended for non-violent offenses such as being defiant or disrespectful. (Id.).

Because expelled students are usually barred from attending any school in a given school district and instead enrolled mid-semester in day school programs, expulsion becomes disruptive to a student's learning. Being expelled can also lead the student to delinquent behavior, substance abuse, and/or to dropping out of school altogether (Id.).

Despite the severity of the consequences of being expelled and the importance of advocacy in expulsion hearings, very few attorneys practice in this area. However, this is changing and several pro bono programs across the country are focusing on expulsion work. Still, we as a profession need to be doing more. Too many children are being expelled, many not knowing their due process rights. In some districts the involvement of an attorney alone can prevent an expulsion from occurring. This article provides some basic information about how to handle an expulsion case in the hopes that more attorneys will focus in this area.

### Right to Due Process

Because of the severity of the consequences of removing a student from school, a school district cannot expel a student without providing him or her with due process. Although there is no constitutional right to an education, most states guarantee students the right to a free public education and have compulsory education laws. By suspending or expelling students, school districts deprive students of this state right. For this reason, the U.S. Supreme Court has found that the 14<sup>th</sup> Amendment's prohibition on a state's depriving a person of life, liberty, or property without due process of law, applies to education as well. As the Supreme Court stated in *Goss v. Lopez*, 419 U.S. 565, 574 (1975),

Those young people do not "shed their constitutional rights" at the schoolhouse door. *Tinker v. Des Moines School Dist.*, 393 U.S. 503, 506 (1969). "The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures -- Boards of Education not excepted," *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 637 (1943). The authority possessed by the State to prescribe and enforce standards of conduct in its schools although concededly very broad, must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.

*Goss* went on to hold that the due process required included that the "student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have, and an opportunity to present his side of the story." *Id.* at 581. The Supreme Court further held that notice of the charges should precede removal unless the student posed "a continuing danger to persons or property or an ongoing threat of disrupting the academic process" in which case the student could be removed first and a hearing conducted soon thereafter. *Id.* at 582.

Attorneys seeking to represent students who are recommended for expulsion should first become familiar with their state's education code and the procedures it outlines for handling suspensions, expulsions, and school removals. Although the Supreme Court set a floor of due process rights, individual states create their own rules and procedures on what will constitute expellable offenses as well as for filing for due process. Similarly, each individual school district and even school site will sometimes have their own policy describing the process of expulsions and suspensions. Advocates handling expulsions should be aware of all of these procedures.

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## Advocacy at School Expulsion Hearings (continued from page 5)

### Expellable Offenses

The types of offenses that lead to student expulsion vary greatly from state to state and can be very broad. In California, offenses include everything from possession of a firearm to disruption of school activities to defiance of school staff. *See* California Education Code Section 48900. Offenses are further subdivided into mandatory expulsion (i.e. zero tolerance), limited discretion, and full discretion. *Id.* at Section 48915. In Texas, expulsion is mandatory if the student commits an expellable offense such as possession of a firearm, murder, or aggravated sexual assault. *See* Texas Education Code Section 37.007. In Illinois, students can be expelled for "gross disobedience or misconduct." *See* 105 ILCS 5/10-22.6. However, in most states expellable offenses must be related to school programs or services in some way; usually happening on school grounds, at school activities, or coming or going from either of these.

### Levels of Discretion

The level of discretion afforded schools and school districts vary. School districts practicing zero tolerance mandate that a student found to have engaged in certain conduct be automatically expelled, leaving no discretion to consider the particular circumstances of the offense or of the student. Usually this includes bringing a firearm to school, brandishing a knife, or causing serious injury to another person. Other school districts will give school administrators varying degrees of discretion, usually depending on the particular circumstances of the offense or the student's prior disciplinary record.

### Advocacy in the Expulsion Process

#### 1) Research and Records

Attorneys representing students recommended for expulsion should research what level of discretion their client's offense falls under so that they can plan an adequate defense. Defending a "no discretion" offense will be based on whether the student actually committed a zero tolerance offense. Defending a discretionary offense can be based on the facts of the specific incident, as well as the student as a whole, including his character, his academic history, and his disciplinary track record.

It is also important to request all of the student's educational records the moment the attorney is retained. This includes a request for all witness statements and reports related to the incident in question as well as the student's prior disciplinary record and general academic records. Viewing the incident reports will aid in preparing a defense. If there is physical evidence involved, make it a point to view that evidence, even if the school is not intending to use it at the expulsion hearing, arguing that it is necessary to effectively defend your client. A case in point, I had a student accused of bringing a pellet gun to school. The school intended to use as evidence a black and white picture taken of the pellet gun that made it look much larger than it was and which also hid the fact that the pellet gun had a clear plastic body that easily identified it as a toy.

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In some districts the involvement of  
an attorney alone can prevent an  
expulsion from occurring.

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Reviewing the student's general education record is important to get a full picture of the client and understand surrounding circumstances. Important questions to ask during this review are: Does the client have a prior disciplinary record? Has he been expelled before? What interventions did the school utilize before, if any? Did the client have problems with the same person before? What kind of academic record does the student have? Does the client have special needs and/or qualify for special education or accommodations under Section 504 of the Rehabilitation Act of 1973 (see section on special education below)? Is the client on medication? Answers to these questions are important in mounting an effective defense.

Attorneys should then interview their client and any potential factual and character witnesses for the student. Schools are resistant to allowing attorneys access to other students involved in an incident due to concerns for that minor student's privacy and confidentiality. However, some expulsion procedures allow attorneys to request that the school subpoena witnesses for them.

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## Advocacy at School Expulsion Hearings (continued from page 6)

### 2) Negotiation

Representing a student facing expulsion does not begin at the expulsion hearing. It begins the moment the attorney or advocate is contacted for help. Often, I have been able to negotiate a lesser disciplinary sanction for a client or get the school or school district to stop the expulsion process altogether by contacting the appropriate person in charge of discipline for the school district, such as the director of pupil services. Through discussion of the strength of your client's case, the known facts of the incident (client only tangentially involved or can't be placed at the scene), or other surrounding circumstances (client never disciplined before, has great scholastic record, or previously undiagnosed disability), expulsion may be avoided. The latter arguments are less useful if it's a zero tolerance offense, but still should be attempted.

### 3) Expulsion Hearings – The Wild West

When it comes to the actual expulsion hearing, attorneys should be prepared for almost anything. These hearings operate informally, often without an attorney representing the school. Instead, a school administrator such as a principal or dean usually represents the school. The decision maker might be the principal, the local school board or a panel made up of school administrators. The decision maker will not always allow an attorney to give an opening statement or to conduct the direct/cross examination of witnesses. Instead, the panel hearing the case or the person putting on the case for the school may ask direct questions to the student or parents regardless of whether or not the attorney has called them as witnesses. Sometimes, schools do not call witnesses, but simply read witness statements into the record so that there is no one to cross examine. Objections are not ruled on but can be put on the record. In short, an attorney appearing at an expulsion hearing should be prepared to speak up and be flexible enough in his preparation of the case to handle the informal nature of the hearing. Researching how that particular school district runs expulsion hearings is vital to adequate preparation.

With that said, an attorney should prepare to put on an affirmative defense using all of the techniques listed earlier. Also, calling character witnesses such as the student's teachers, church leaders, or community group leaders can prove beneficial.

### 4) Appeal

If you lose at the school district expulsion hearing, many states have procedures for appealing the case with the County School Board. Attorneys should research their state's appellate procedures. For example, in California, the scope of review is limited to cases where 1) the governing board exceeded its jurisdiction 2) did not provide a fair hearing 3) there was a prejudicial abuse of discretion and 4) evidence was improperly excluded or new evidence has surfaced. *See* Cal. Ed. Code Section 48922.

### 5) Special Education, Section 504, and Students Not Yet Eligible for These Services

If your client already qualifies for special education or services under Section 504, be aware that a different set of rules applies to them. The Individuals with Disabilities Education Improvement Act (IDEA or IDEIA) states that special education students must first be afforded a manifestation determination Individualized Education Program (IEP) meeting, where team members must decide if 1) the conduct in question was caused by or had a direct and substantial relationship to the student's disability or 2) the conduct was a direct result of the local educational agency's failure to implement the student's IEP. *See* 20 U.S.C. § 1415(k)(1)(E)(i)(I&II). If the answer to either of these questions is in the affirmative, the student cannot be expelled. If the answer to both questions is negative, the school can move forward with the expulsion process as it would with a regular student. If the parent disagrees with the findings of the manifestation determination IEP they have a right to litigate the issue at a due process hearing. *See* 20 U.S.C. § 1415(k)(3)(A). Be aware that if the student is accused of committing a zero tolerance offense as specified in 20 U.S.C. § 1415(k)(1)(G), he can be moved to an interim placement for 45 days regardless of whether the act is a manifestation of his disability.

The Office of Civil Rights has stated that students eligible for services under Section 504 of the Rehabilitation Act of 1973 generally have the same protections as students classified as disabled under the

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## Advocacy at School Expulsion Hearings (continued from page 7)

IDEA. See 202 IDELR395 (OSEP 1987); 307 IDELR 05 (OCR1988); 22 IDELR531 (OSEP 1995).

According to the IDEA, special education protections apply to students who were in the process of being assessed for special education or of whom the school district should have known qualified for these services at the time of the incident. When reviewing school records keep an eye out for low grades or other indicators of eligibility for special education in order to identify clients who are in fact entitled to special education and, by extension, its different set of discipline procedures. With this knowledge, you should be able to halt the expulsion process until these students are assessed for special education and a manifestation determination IEP is held. See 20 U.S.C. § 1415(k)(5)(A) for more information.

### 6) Final Tips

Be aware that your client may have a criminal matter pending in the juvenile delinquency system as a result of the same incident for which he is being recommended for expulsion. If you are not representing him in the criminal matter, you should keep abreast of the criminal case and be in close communication with the criminal defense attorney. If criminal charges are dropped, you should bring this up at the hearing or in negotiation.

Be on the look out for procedural violations such as timeline violations according to your state's laws. Not only are these negotiating chips, they can sometimes bar moving forward with an expulsion altogether.

In my experience, clients in the foster care or dependency system are much more likely to be targeted for expulsion as well as to have gone unnoticed as requiring special education services. Pay particular attention to their prior school records and request any relevant records such as medical reports, or neuropsychological evaluations from their social worker or dependency attorney.

If you are interested in doing expulsion work and would like more information, or if you are interested in starting a pro bono program focused on expulsions please contact the committee director of the Children's Rights Litigation Committee at 202 547 3060. □

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## The ABA Directory of Children's Law Programs

has recently been updated

Visit our website to view the Directory which contains

- children's law programs
- legal clinics and
- resources centers from around the country.

<http://www.abanet.org/litigation/committees/childrights/>

## Private Firms Tackling a Public Problem: How Law Firms Can Help Fight Homelessness\* by Jeffrey Alan Simes

\* "Private Firms Tackling a Public Problem: How Law Firms Can Help Fight Homelessness" by Jeffrey Alan Simes was first published as a chapter in Lawyers Working to End Homelessness, 2006, published by the American Bar Association Commission on Homelessness & Poverty. © 2006 by the American Bar Association. Reprinted with Permission.

**I**magine you have just become homeless. You struggle to find shelter and ultimately find refuge in a homeless shelter far from your last place of permanent residence. You would like your children to continue to attend their public schools—the less disruption in their lives the better—but because you no longer reside in the school district, your children are not permitted by school district officials to attend school. "We are sorry," they say, "but this school is open only to residents of our school district. You don't live here any more. Good bye."

Your protestations fall on deaf ears. Reluctantly, you go to the new school district where the shelter is located and try to enroll your children in the schools there. Better that they attend some school, you reason, than no school at all. But the new school district won't enroll your children without proof of residency—something you don't have. You don't have a lease, a utility bill or any other piece of paper showing your permanent address because, quite simply, you have no permanent address. The school district also demands that you provide proof of immunization. You explain that you are homeless and have lost your records. You ask whether the school district can obtain the records from the last school district your child attended. The school district smugly explains that they are not in the business of tracking down students' documentation.

After much back and forth, you are told you can appeal the school district's decision directly to the State's Department of Education. You ask for the relevant form and are handed a lengthy, single-spaced document, requiring detailed, typewritten, notarized affidavits, along with a filing fee, all hand served on the relevant parties. The instructions as to how to fill out the form, you are told, are available on the Internet. You reflect that you have little more than the clothes on your back, much less a computer, access to notaries and proc-

ess servers, or the other wherewithal necessary under the arcane appeals system to assert your rights.

Because your children's education is important to you, you persist. You finally find a way around this Catch-22 and manage to persuade a sympathetic administrator to enroll your children. Unfortunately, your troubles have only begun. You ask the district to send a school bus to pick up your children. They tell you that it is the problem of the Department of Social Services. Social Services agrees to send a bus, but days pass into weeks before a bus arrives.

Finally, the bus comes, and your children are off to school. Your patience has paid off! That evening, however, you receive a notice that the Social Services Department is moving your family to a different shelter, in a different school district. A few days pass before the bus starts coming to the new shelter to take your children to school. Your children are becoming upset that they have spent so little time in recent weeks with their schoolfriends. Your oldest, a senior in high school, wonders if she will be able to graduate on time, and with her friends.

With transportation re-established, you feel relief. But then the school district informs you that your children can no longer enroll in that district because—you suspected this was coming—they no longer live within the school district. You have now spent weeks seeking to enroll your children and get them transportation to school, and you are back at square one. The chances are great that your child will suffer academically and perhaps be left back a grade.

If, at this point, you have the presence of mind and patience to pursue the matter further, the cycle will simply repeat itself. No sooner will you work out the bureaucratic obstacles with the school district, then the Department of Social Services will move you to a new shelter, requiring a new round of frustration and pleading simply to secure the basic right for your children to attend the public schools. All the while, your children are falling further behind, risking failure, grade retention and dropping out. What should be your children's best

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## How Law Firms Can Help Fight Homelessness (continued from page 9)

source of stability and best avenue to break the cycle of poverty—the public schools—are simply unavailable.

Sadly, the scenario presented above is not a hypothetical—it was a reality faced by many homeless families throughout the country. It was the subject of a year of litigation against State, County and local authorities in the matter of National Law Center on Homelessness and Poverty, et al. v. State of New York, et al. brought in the United States District Court for the Eastern District of New York. That lawsuit exemplifies both the problems facing homeless families, as well as the ways in which private law firms and nonprofit organizations can play a role in assisting homeless families and in breaking the bureaucratic cycles that help to perpetuate homelessness.

### The Origins of a Lawsuit

The history of this case is an odd mix of serendipity and fate. Our law firm's growing New York office was looking for a significant pro bono matter that would entice and engage our personnel, but also which could help to integrate the New York office with the firm's other offices. In December 2003, that opportunity presented itself. Chance brought them in contact with the pro bono administrator of our firm, who directed their call to me, because she knew I had been a teacher before becoming a lawyer. As a result, I received a call from the National Law Center on Homelessness and Poverty. They had been tracking a large number of complaints in New York—particularly Suffolk County on Long Island—but they were having difficulty finding a firm with the resources and desire to take on this fight.

My first reaction was surprise that no other firm in New York—perhaps the most crowded legal market in the country—had expressed interest in taking on such a worthy and noble cause. Delving further into the matter, I began to sense why: fighting such a case could potentially involve a massive commitment by a firm at a time when many firms, ours included, were quite busy with existing client obligations. After discussions with our firm management, we decided to commit to this important cause, and we immediately began to investigate the claims, interview affected homeless families, and prepare our complaint.

### The Nuts and Bolts of Taking on the Government

We concluded early on that the matter would be brought in federal court. First, a federal statute—the McKinney-Vento Act (See 42 U.S.C. § 11431 et.)—mandated (although the precedents were few) that States and school districts remove the bureaucratic obstacles of the sort that were preventing many children in Suffolk County from attending the public schools. We were also concerned that State court judges—subject to election pressures—might be less inclined to vindicate the rights of the disenfranchised.

We also concluded that a class action was the appropriate: because the population of homeless families is constantly changing and moving, seeking relief on behalf of a handful of specific homeless families might result in wasted efforts, if the plaintiffs found permanent housing or obtained access once again to the public schools. We realized that the issues in this case were widespread and repetitive, and thus the broader relief available through a class action seemed most desirable.

Finding class representatives was no easy task. Because our complaint alleged a wide array of unlawful activities that were preventing homeless children from attending public school, we needed a comparably diverse array of representative plaintiffs. We had an institutional plaintiff—the National Law Center on Homelessness and Poverty—but we needed individual families whose stories were compelling and cried out for relief. We relied heavily on our friends in the local legal aid agencies and advocacy groups to direct to us potential plaintiffs who had been denied access to the public schools. Having been frustrated by many years of bureaucratic indifference at all levels, the legal aid attorneys and local homeless advocates were more than happy to help and proved to be a vital resource at all stages of the litigation.

We ultimately settled on approximately ten homeless families as our class representatives. While this was perhaps more than we needed, we faced a potentially long-lasting litigation, and we had to be realistic about the prospects of our plaintiffs' problems becoming resolved by the march of time, as well as the possibility that we might lose track of some of the homeless

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## How Law Firms Can Help Fight Homelessness (continued from page 10)

families over time. To ensure that we would have their stories preserved, even if they moved away, became permanently housed, or disappeared, we obtained detailed affidavits from each of the homeless families at the outset of the case. These proved indispensable later on, when we faced waves of motions from determined opponents.

Armed with our complaint and detailed affidavits from each plaintiff, we filed our lawsuit along with a motion for a preliminary injunction seeking immediate relief on behalf of S.P. (we fought hard throughout the case to protect the privacy of our plaintiffs), a fifteen year old with learning disabilities who had missed the better part of the school year due to bureaucratic inertia and resistance. When her family was evicted in December 2003, her mother pleaded with everyone who would listen to get her back into school. No one would help, and every government agency she spoke to insisted it was someone else’s problem, resulting in months of school absences. So compelling was S.P. and her story that the Defendants agreed, the very day we filed the lawsuit and motion, to arrange immediate transportation for her to avoid an injunction, and agreed to expedited procedures for enrolling and transporting homeless children during the pendency of the lawsuit.

We had half-hoped for a speedy resolution to the case, prompted in part by signals from the Judge that he was surprised that the State, County and local governments were not eager to ensure that homeless children were getting a public education. Nonetheless, initial efforts to settle the case were unsuccessful. Although we sought no monetary damages in the lawsuit—and, in fact, we informed the Defendants that if a settlement could be reached expeditiously, we would waive any claim to the attorneys’ fees to which the relevant statutes would entitle us—the Defendants were determined in their opposition. Not only did they insist that they were under no legal obligation to remove the obstacles that kept the public schools closed to homeless children, but they insisted that the homeless families themselves were solely to blame for their predicament.

### Waging War on All Fronts

We now hunkered down to contend with determined opposition by the State, County and local governments. Our Judge, sympathetic to the plight of homeless children, ordered that the case proceed at a blistering pace to avoid any more unnecessary absences. Within days of the Court’s establishment of a demanding schedule for the lawsuit, we served hundreds of discovery demands on our opponents. Over the course of a single summer, we took and defended some forty depositions in Albany, New York City and Suffolk County, and reviewed thousands of documents from some twenty different defendants. With help from our client, the National Law Center on Homelessness and Poverty, we retained some of the best experts in the country to testify on our behalf.

While discovery was raging throughout New York State, we faced extensive motion practice from the Defendants. They moved to dismiss the Complaint, denying their legal obligations to the homeless children. Given the lack of precedents on this issue, and the possibility that the matter would have nationwide ramifications for the rights of homeless children, we spared no effort in defeating this motion. The defendants also sought to oppose class certification, arguing that each homeless family’s situation is unique and not capable of aggregate adjudication, a position that we vigorously contested.

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That hundreds, even thousands, of homeless children could be repeatedly missing school due to bureaucratic ineptitude is a matter so serious that no responsible person should permit it to continue.

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To fight this war, we put together a small army of dedicated attorneys from both our New York and Boston offices. Our “core” trial teams consisted of approximately a dozen attorneys. Over the course of the year or more than this litigation was prosecuted, some forty-two professionals from our firm worked on the case. This group worked furiously—often late into the night, and on virtually every weekend of an otherwise beautiful summer. Several of the attorneys opposing us literally quit their jobs. We soldiered on.

This dedication quickly yielded results. The depositions inexorably produced testimony much better than we had originally hoped. The problems ran deeper and

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## How Law Firms Can Help Fight Homelessness (continued from page 11)

broader than we had imagined, and we were able to document years of neglect and malfeasance in various levels of the government that had directly resulted in the denial of public schooling for homeless children. The defendants' own witnesses were forced to admit to serious, systemic problems in the education of homeless children in New York State and Suffolk County. Witness by witness, we were able to demonstrate a pattern of neglect that had resulted in widespread, and wholly unnecessary, school absences by homeless children.

Meanwhile, our plaintiffs did beautifully in their depositions. One plaintiff described in painful detail how hard her daughter cried out of frustration from missing school. Another described the cold indifference of governmental officials after she had fled domestic violence and sought to keep her child in the stable environment of a school. The defendants' efforts to portray the plaintiffs as troublemakers responsible for their own problems completely backfired; the poignant stories of the homeless families were unassailable.

### The Defendants Throw in the Towel

The Judge ruled against the defendants' motions against our complaint and ordered a prompt trial. (See National Law Center on Homelessness and Poverty, et al., v. State of New York, et al., 224 F.R.D. 314 (E.D.N.Y. 2004)). This was a matter of major significance to our client, the National Law Center on Homelessness and Poverty, because it affirmed the right of homeless families to seek relief in federal court for the denial of access to a basic public school education.

We then prepared the case for trial. We prepped some thirty witnesses to testify and prepared cross examinations for the witnesses of our opponents. We drafted trial briefs, prepared exhibits, crafted demonstrative exhibits and slide shows and prepared motions in limine and other evidentiary briefs. The hardest challenge was finding the right balance between the compelling details faced by individual homeless families and

the "big picture" issues concerning systemic neglect.

The day before trial, the Court scheduled a final pre-trial conference. We indicated our readiness for trial and presented to the Court a lengthy list of exhibits and witnesses. Outside the Judge's chambers, in the courtroom, our litigation technology staff were busily setting up computers and audio-visual equipment for the finely-honed multimedia presentations we had planned.

Our opponents, at this point, faced a difficult decision. With little or no evidence on their side, and with a prepared and well-armed opposition, the defendants faced the prospect of a public airing of serious problems in the education of homeless children. They also faced the possibility that a federal court would order sweeping changes in how they do business, or even appoint a special master to supervise the day-to-day affairs of the bureaucrats. Late that evening, the defendants capitulated, and agreed to substantial changes in the education of homeless children. Although we were eager to try the case, with the defendants offering us virtually everything we had sought in the lawsuit, we concluded the interests of the class were best served by accepting the eleventh-hour settlement. We entered into a consent order memorializing the rights of homeless children to unfettered access to the public schools.

### Lessons Learned

Our experience in this lawsuit provides important lessons about the role of private law firms in advocating for people experiencing homelessness. First, on its most basic level, the case evidences the serious need for private law firms to contribute their resources and expertise to such causes. Large firms are well suited to fight protracted, hard-fought litigations of the sort that legal aid attorneys or nonprofit organizations might not be. Faced with the tight schedule in our case, we were able to put literally dozens of lawyers on the matter—a luxury available to few entities other than large law

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## Reframing School Discipline (continued from page 1)

succeed. This culture translates into discipline policies that focus on control and the removal of “problem students,” rather than discipline that aims to teach positive behavioral skills and keep children in school.

International human rights standards provide a framework that can shift the way that discipline is viewed and practiced in schools. The Convention on the Rights of the Child and other international human rights instruments recognize that discipline is part of the educational process and should be aimed at developing the social and behavioral skills of students. In all disciplinary processes, the fundamental dignity of the child must be protected. By asking local school districts, and city and state governments to adopt human rights-based policies, we can reframe discipline around the needs of children.

### **International Human Rights Standards for Education and Discipline**

The Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are the two primary human rights treaties that recognize the right to education. Both treaties state that education must be aimed at “the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms” (ICESCR, Article 13). To promote the full development of the child, education must teach not only literacy and numeracy, but also be aimed at:

*“ensuring that essential life skills are learnt by every child...such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility.” - UN Committee on the Rights of the Child, General Comment 1<sup>1</sup>*

School discipline policies are an essential part of teaching students those life skills and promoting fundamental human rights principles of tolerance, dignity and non-violence in school. Therefore, any policies or practices that undermine the full development or threaten the dignity of the child, are at odds with human rights. Article 28 of the CRC states that:

*“States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.”*

This has been interpreted to prohibit corporal punishment in school, but also to prohibit “other aspects of school discipline [that] may also be inconsistent with human dignity, such as public humiliation.”<sup>2</sup> All methods and processes of education, including discipline, must be free from discrimination, promote self expression and confidence among students, and create a safe and supportive school environment.

### **Human Rights as a Strategy for Change in U.S. Schools**

International human rights provide both a legal and a policy framework for education in the U.S. Although the U.S. has not ratified the CRC or the ICESCR,<sup>3</sup> courts in the U.S. have relied on un-ratified treaties as persuasive and a source of guidance in state and federal constitutional and legislative interpretation in areas outside of education.<sup>4</sup> The CRC in particular is so widely ratified (only the U.S. and Somalia have failed to ratify this treaty) that U.S. courts have consistently acknowledged it as a source of customary international law and cited it as a basis for decisions on children's rights.<sup>5</sup>

But human rights may be of even greater use in the policy arena as it provides a powerful framework for making policy change at the local, state and national levels. Advocates and community organizations in the U.S. can use human rights as a framework for documenting and analyzing conditions in schools, shaping policy recommendations that are grounded in internationally recognized standards, and mobilizing communities to demand their rights. This process of building accountability to human rights from the ground up can contribute to building a culture of human rights in government policy and practice, as well as in the courts.

For example, in Los Angeles, Community Asset Development Redefining Education (CADRE), a grassroots parent organizing group, is using human rights in their campaign to end destructive discipline practices. CADRE is advocating for policies to ensure that students rights to education and dignity are protected, and

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## Reframing School Discipline (continued from page 13)

that parents have the right to participate in creating and monitoring discipline policies. In particular, CADRE is advocating for the adoption of a proposed Los Angeles Unified School District (LAUSD) policy that takes a proactive approach to discipline emphasizing supportive and collaborative interventions to promote positive student behavior. CADRE has found that the human rights framework has empowered parents in South LA and brought public attention to the debate around school discipline.

### A Look at School Discipline and Culture in New York and Los Angeles

The National Economic and Social Rights Initiative (NESRI) has been engaged in a project to document human rights violations in New York City and Los Angeles public schools. Interviews and focus groups were conducted with over eighty students, parents, educators and advocates in 2005. The goal of this documentation project is to expose the ways in which school discipline policies fail to protect the dignity and promote the full development of the child, and to advocate for school policies that view discipline as part of guaranteeing the right to education.

#### *Discipline Policies that Push Students Out of Schools*

In New York City and Los Angeles, interviews with students and parents revealed that discipline policies rely on suspensions and other removals that push students out of school rather than address their needs. For example, in New York City, students described that suspensions of two weeks or more are given for talking back to teachers, shouting, being involved in arguments or minor fights. As a result, students described missing homework and tests that they were not allowed to make up, falling behind in classes, and never receiving alternative educational services. This repeated and systemic denial of educational services reflects a failure to guarantee access to education under the human rights framework as recognized in Article 13 of the ICESCR and Article 28 of the CRC.

Students and parents also described that suspensions and other exclusionary punishments are handed out without any accompanying services or counseling to address the problems they are having, to teach conflict management or promote positive behavioral skills. In our inter-

views, students reported that in many schools guidance counselors are unavailable and overwhelmed and have no time to help students with disciplinary matters. Conflict resolution programs are non-existent or poorly managed. This reflects a clear failure by schools to implement discipline as part of an educational process that is aimed at the full development of the child as recognized in Article 29 of the CRC.

*“The involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.” - UN Committee on the Rights of the Child, General Comment 1*

Furthermore, these punishments are handed out unequally, disproportionately targeting students of color, and excessively punishing students simply because they have a bad reputation or have been labeled as “difficult,” often without regard to the fact that these students are the ones that need the most support, not exclusion. Students also described that repeated suspensions make students feel disengaged from their classes and from school in general, and that they perceive that schools would rather “get rid of them” than help them to learn. The discriminatory use of policies which send students the message that they are not valued by their school community reflect a failure to ensure non-discrimination and protect the dignity of the child.

Freedom from discrimination in education is protected in both the CRC and the ICESCR. It is also protected in the International Covenant on Civil and Political Rights and the International Covenant on the Elimination of All Forms of Racial Discrimination, which have both been ratified by the U.S. government.

*“Discrimination on the basis of any of the grounds listed in article 2 of the Convention [on the Rights of the Child], whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities.” - UN Committee on the Rights of the Child, General Comment 1*

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## Reframing School Discipline (continued from page 14)

### *The Criminalization of School Discipline*

Our interviews in New York City and Los Angeles also document the increasing criminalization of discipline policies. Schools use police officers, safety agents, metal detectors and other aggressive safety policies not only to address real criminal activity in school, but to manage day to day disciplinary problems. Students that we interviewed described that police and safety agents are regularly involved in school discipline code violations like being late to school, shouting in hallways, disrupting classrooms and fighting. Police tactics are used, including issuing tickets, handcuffing and interrogating students, and in some cases arresting them, for what should be school disciplinary matters. Students also encountered the excessive use of force from police officers when breaking up fights or attempting to disburse crowds of students in school hallways.

Human rights standards in the CRC and in UN Guidelines for the Prevention of Juvenile Delinquency require that schools avoid criminalizing the behavior of children and adolescents. Human rights standards prohibit schools and other institutions from punishing youth as criminals for offenses that in any other context would be considered non-criminal, even typical adolescent behavior. Article 37 of the CRC states that the arrest or detention of a child should be used only as a last resort and for the shortest possible period of time.

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*"Sometimes they arrest students in the classroom. I got in trouble one time for trying to talk to a police officer. I wanted him to tell me why he was handcuffing the student and didn't want to wait until they had taken the student away." - High School Teacher, Los Angeles*

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### *Degrading School Culture and Lack of Resources*

These destructive and abusive practices are not isolated to discipline or safety policies in schools, but reflect conditions that students face throughout the school environment, including in the classroom. In Los Angeles and New York City, over half of the students we interviewed said that their teachers sometimes or often say

things that humiliate or insult them, and almost everyone had a least one teacher who told them they were "stupid" or "ignorant."

Our interviews with students and teachers revealed that this degrading treatment is fueled by overcrowding and lack of resources in schools. Many teachers in these schools do not receive adequate training in classroom management or support from administrators when they face problems in their classrooms.

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*"I am struggling for respect in the classroom, from the administration. The problem goes beyond the way particular teachers behave, there isn't a support mechanism for students and their teachers. There is no collaboration among teachers and administrators and counselors about how to reach out to students and help."*

*- High School Teacher, New York City.*

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The lack of resources in schools can also contribute to discipline problems. Over three quarters of the students we interviewed in Los Angeles said that students sometimes or often misbehave *because* there are too many students in the classroom. A study of New York City schools by the National Center for Schools and Communities found that schools with more qualified teachers, better libraries and other resources have lower suspension rates, higher student attendance rates and lower dropout rates.<sup>6</sup>

The UN Committee on the Rights of the Child has recognized that the dignity of the child must be protected in "the educational processes, the pedagogical methods and the environment within which education takes place." The lack of resources for teachers and overcrowded classrooms contribute to a destructive climate in schools that violates students' right to dignity and to education.

### **Promoting a Human Rights Approach**

The findings from the interviews in New York City and Los Angeles demonstrate that abusive and ineffective

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## Reframing School Discipline (continued from page 15)

discipline policies contribute to a loss of learning and a negative school environment that degrades and criminalizes youth. In order to effectively create a positive and safe environment, schools must begin by improving education and treatment in the classroom and promoting preventive approaches to addressing student misbehavior that involve the whole school community.

Recommendations generated by this documentation project include calling on schools to implement whole school approaches to creating a welcoming school environment. District-wide discipline plans should include plans for reducing overcrowding, providing better counseling and mentoring for students, and targeting staff development for teachers and principals to address the underlying causes of safety and discipline problems.

Clear guidelines for the behavior of staff should be developed based on human rights standards for non-discrimination and dignity, with consequences for inappropriate actions. Students should have access to advocates within schools as a resource to go to when they feel mistreated. Furthermore, armed police officers should be removed from any involvement with day to day discipline and special guidelines and training should be provided for school safety agents in how to interact with students.

Schools should focus on preventive strategies, positive behavior support methods, counseling and mediation as necessary first steps in the discipline process, avoiding suspension and other forms of removal whenever possible. Finally, students and parents have a fundamental right to participate in decision-making that impacts school discipline. Young people in particular should be involved in shaping disciplinary policies and proceedings.

### Conclusion

Human rights provide a framework for focusing school discipline, as well as the broader culture of our schools, on the rights and needs of children. We hope that human rights can be used to expose the destructive

impact of current practices on students and change the dialogue about discipline at the local and national level. While there remain barriers to enforcing legal accountability to human rights law in U.S. courts, we believe that human rights standards can be adopted and implemented by school districts to ensure that every child receives a quality education in a supportive school environment. □

*Liz Sullivan is the Right to Education Program Director at the National Economic and Social Rights Initiative (NESRI). The Education Program works with community organizers and advocates to promote accountability to international human rights standards for education at the local level in the U.S. Visit [www.nesri.org](http://www.nesri.org).*

### Endnotes

<sup>1</sup>General Comment 1, UN Committee on the Rights of the Child, CRC/GC/2001/1. The UN Committee on the Rights of the Child, a treaty-body created to monitor government compliance with the CRC, issues general comments to provide guidance on treaty implementation. General Comment 1 addresses implementation of Article 29 of the CRC.

<sup>2</sup>General Comment 13, UN Committee on Economic, Social and Cultural Rights, E/C.12/1999/10. General Comment 13 addresses implementation of Article 13 of the ICESCR.

<sup>3</sup>Although the U.S. has not ratified the CRC and ICESCR, the U.S. President has signed these treaties obligating the U.S. to refrain from violating the "object and purpose" of the treaties (see Vienna Convention on the Law of Treaties, Article 18, entered into force January 27, 1980).

<sup>4</sup>For more information see Davis, Martha. "The Spirit of Our Time: State Constitutions and Human Rights." *New York University Review of Law and Social Change*. Volume 30. Number 1. 2006.

<sup>5</sup>For more information see the amicus brief submitted by the Center for Economic and Social Rights in *Sojourner A vs. the New Jersey Department of Human Services* available at [www.cesr.org](http://www.cesr.org).

<sup>6</sup>Eskenazi, Michael, Gillian Eddins and John M. Beam. *Equity of Exclusion: The Dynamics of Resources, Demographics, and Behavior in the New York City Public Schools*. Fordham University: National Center for Schools and Communities. October 2003.

## How Law Firms Can Help Fight Homelessness (continued from page 12)

firms. We routinely work on large cases, under difficult conditions and thus the challenges presented by this case were merely our "bread and butter." Our scale, access to resources and experience with complex litigation helped enormously. If large law firms are not willing to devote their efforts to such causes, it is entirely possible that serious injustices will go unremedied.

Second, the case shows the value of partnerships between the private sector and nonprofit organizations. Without the National Law Center on Homeless and Poverty, we would not have known of this case, and would not have had the access to the expertise and national networks that were essential in litigating it. Conversely, the National Law Center did not have the staffing to litigate this matter and needed our help to act as lead litigation counsel. It was the mutual cooperation of for profit and nonprofit entities that brought about the result in this case. And it is our hope that the mutually beneficial relationship we have developed with the National Law Center on this matter will continue and extend to future matters of import to people experiencing homelessness.

Third, our firm received tremendous benefits from prosecuting this matter. Many of our younger attorneys received invaluable training experiences, including deposition work, expert discovery, motion practice and court time. In addition, our senior attorneys felt great pride in fighting for such a just cause. The case also allowed our firm to integrate members of different offices in a single project, promoting unity and cooperation within the firm. The public recognition involved in this case was also a significant boon, particularly at a time when the "A lists"

run by the major law journals are putting increasing attention on pro bono work. Despite the substantial devotion of firm resources that this case entailed, we learned that there are significant benefits that more than outweigh the costs of such important work.

Finally, the case affirms the enormous need for legal services for the homeless. That hundreds, even thousands, of homeless children could be repeatedly missing school due to bureaucratic ineptitude is a matter so serious that no responsible person should permit it to continue. That the very same government officials responsible for educating homeless children would defend this situation is appalling, and speaks volumes to the disconnect between the needs and rights of the homeless and the legal obligations of certain government agencies. Nonprofit groups and private law firms must continue to bridge this gap and correct such injustices. □

This article is a chapter in the book [Lawyers Working to End Homelessness](#). For more information about the book or to order a copy visit the ABA web store at <http://www.abanet.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=4180012>

For more information about the ABA Commission on Homelessness and Poverty visit their website at [www.abanet.org/homeless/](http://www.abanet.org/homeless/)

*Jeffrey Simes is a partner at Goodwin Proctor where he has significant experience with complex business litigation.*

## Announcements

- ◆ The Children's Rights Litigation Committee is planning another **complimentary national teleconference**, this one focused on the representation of unaccompanied immigrant minor children. The call has not yet been scheduled as of the printing of this newsletter but the date and time will likely be on our website by the time our readers receive this newsletter. Please visit our website at <http://www.abanet.org/litigation/committees/childrights/> for more information.
- ◆ ABA CENTER ON CHILDREN AND THE LAW presents the 12th National Conference on Children and the Law in partnership with the HARVARD LAW SCHOOL CHILD ADVOCACY PROGRAM (CAP): "**Promoting Children's Interests: Preparation, Practice & Policy**" April 13-15, 2007 Harvard Law School Cambridge, MA. For more information visit: <http://www.law.harvard.edu/academics/cap/conference/index.php>
- ◆ According to national data, of the approximately 500,000 children in foster care, close to 50 percent are age 11 or older. This vulnerable population is a heightened risk for unemployment, homelessness and reliance on public assistance -- challenges that might be mitigated by access to higher education and training. With the goal of helping foster youth secure more promising futures, **Casey Family Programs** has published "**It's My Life: Postsecondary Education and Training.**" The comprehensive guide serves as a framework of strategies and resources both for youth and for child welfare professionals. Please visit [www.casey.org](http://www.casey.org) to download the guide.
- ◆ The ABA Family Law Section recently published "**Creating Effective Parenting Plans: A Developmental Approach for Lawyers and Divorce Professionals**" By John N. Hartson, Ph.D. and Brenda J. Payne, Ph.D. <http://www.abanet.org/abastore/productpage/5130141>
- ◆ A video entitled "**What Happens When I Go to Immigration Court,**" has been produced by the Women's Commission for Refugee Women and Children to explain the legal system to the approximately 8,000 children who each year arrive in the United States alone. For more information see: [www.womenscommission.org](http://www.womenscommission.org).
- ◆ The **ABA Child Custody and Adoption Project** has updated its on-line resource library so that the training manuals, substantive articles, informational brochures, and other education materials in the library can be accessed directly from the website which can be found at: <http://www.abanet.org/legalservices/probono/childcustody.html>
- ◆ A national survey of lawyers representing children in abuse and neglect cases has found that unmanageable and at times overwhelming caseloads are preventing attorneys from doing the work necessary to protect their clients from harm. Released by the Fordham University's Interdisciplinary Center for Family and Child Advocacy, in collaboration with the American Bar Association Center on Children and the Law and the National Association of Counsel for Children, the study surveyed more than 200 lawyers from across the U.S. and found that more than 40 percent of all respondents have more than 100 cases at a time, only 30 percent of respondents are supported by trained social workers to help them advocate for their clients, and less than one-half of the lawyers have use of investigators to assist them in their cases. To view the full report visit: <http://www.firststar.org/documents/CaseloadCrisisStudy.pdf>
- ◆ To learn more about trainings and resources, please visit our website which is updated regularly. <http://www.abanet.org/litigation/committees/childrights/>

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