



Pegasus Legal Services for Children

- Mission is to promote and defend the rights of children and youth to safe and stable homes, quality education and healthcare, and a voice in decisions that affect their lives.
- Non-profit that serves all of New Mexico across a broad range of children's issues, including abuse and neglect, special education, kinship-guardianship, young parents, homeless youth, access to healthcare, and policy and systemic advocacy.

Disability Rights New Mexico

- DRNM is a private, non-profit organization whose mission is to protect, promote, and expand the rights of persons with disabilities. DRNM is the designated protection and advocacy program for New Mexico and as such it has authority under federal law to pursue legal, administrative, and other remedies on behalf of persons with disabilities.

Native American Disability Law Center

- The Law Center's mission is to advocate so that the rights of Native Americans with disabilities in the Four Corners area are enforced, strengthened and brought in harmony with their communities. The Center is a non-profit that addresses civil rights, special education, health care, and rights to public and private services. The Center's staff investigates abuse and neglect in care facilities and provides rights-based training for people with disabilities, their families, educators, and service providers.

Education Justice Project

Overall Objective:

- Provide advocacy and direct legal representation to young people eligible for special education services in New Mexico who are also involved with, or at risk of involvement in, the juvenile justice system.

Goals:

1. Improve access to appropriate special education and related services for eligible youth
2. Collaborate with schools to increase the use of evidence-based discipline practices, including positive behavior supports, using federal guidance and other sources
3. Assure IEPs and other records get to Juvenile Probation Officers; support JPO education efforts
4. Create culture shift in education and Juvenile Justice System (JJS); bridge gaps so that juvenile justice is better able to partner with schools in providing services to youth
5. Help entire court system appropriately respond to students with disabilities

Priority Clients:

- Motivated students and families
- Students with low reading skills
- Students 14 and under who are involved with Juvenile Justice System
- Students who miss substantial school due to suspension or reduced school day
- Students in need of educational evaluations

Partners:

1. Families and Students
2. JJS personnel: Judges, JPOs, DAs, PDs, JDAI consortium, YSC staff, social workers
3. Schools and Teachers
4. Diversion programs: New Day, JDAI, Reception and Assessment Centers.
5. Service providers: PTs, OTs, SLPs, transition and vocational specialists, and others

Activities:

1. Provide parents with guidance about how to navigate between special ed and JJS systems
2. Advise parents on how to obtain evaluations
3. Encourage schools to develop behavior plans and positive behavior supports
4. Provide information about educational needs and services to judges
5. Provide direct representation for select youth under 14 and their families
6. Gather data on project effectiveness
7. Hold regular meetings with stakeholders to facilitate collaboration; address feedback

Data Points at the Intersection of the School-to-Prison Pipeline and Disability

- STPP Definition: Policies and practices that make the criminalization and incarceration of children more likely and the attainment of a high quality education less likely.
- Federal law requires that students with disabilities receive a “free and appropriate public education,” or FAPE.¹
- The main federal special education law, the Individuals with Disabilities Education Act (“IDEA”), requires schools to employ positive behavioral supports that look to the educational roots of student behavior rather than only the surface manifestations.²
- The IDEA limits schools from punishing students with disabilities who act in conformity with their disability.³
- Nationwide, up to 85 percent of youth in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37 percent receive these services while in school.⁴
- Students with disabilities comprise 12 percent of the student population nationwide, but 58 percent of those placed in seclusion or involuntary confinement and 75 percent of those physically restrained at school.⁵
- In New Mexico, students with disabilities are more than twice as likely to receive out of school suspensions than students without disabilities.⁶
- There were over a thousand out-of-school suspensions in the two biggest school districts in Sandoval County, the current EJP pilot target county.⁷
- About ten percent of all students in the state are Native American, but more than fifteen percent of disciplinary action in school is taken against Native students.⁸
- Native students represent 17 percent of students suspended and 32 percent of students expelled in New Mexico. The state ranks fourth nationally in suspensions per 1000 Native American students.⁹
- In the Gallup-McKinley district, Native American students represent 97 percent of all referrals to law enforcement of students with disabilities.¹⁰

¹ 20 U.S.C. § 1412(a)(1) (2004).

² See, e.g., 20 U.S.C. § 1412(a)(22)(B) (2004).

³ 20 U.S.C. § 1415(k) (2004).

⁴ National Council on Disability, *Breaking the School-to-Prison Pipeline for Students with Disabilities* (2015).

⁵ U.S. Department of Education Office for Civil Rights Civil Rights Data Collection.

⁶ U.S. Department of Education Office for Civil Rights, *Civil Rights Data Collection Data Snapshot: School Discipline: Issue Brief No. 1* (March 2014).

⁷ U.S. Department of Education Office for Civil Rights Civil Rights Data Collection.

⁸ UNM Center for Education Policy Research, *Understanding New Mexico's School To Prison Pipeline: What The Data Are Beginning To Show* (2014).

⁹ New Mexico Center on Law and Poverty, *Suspend, Expel and Exclude: How Zero-Tolerance Discipline Policies Deny New Mexico Students Access to an Education* (February 2012). Data is from 2006.

¹⁰ U.S. Department of Education Office for Civil Rights (2014).

Sample Case History

The following is a fictional, composite case, typical of some of the clients Pegasus has served:

Elena is thirteen and is in the eighth grade at a New Mexico middle school. She was adopted by her grandmother when she was seven. Elena has been receiving special education services for the past two years, but her grandmother recently called Pegasus because Elena has been having behavior trouble in school. She has been diagnosed with ADHD. She has also been suspended twice and was recently referred to a juvenile probation officer at CYFD. According to the school, Elena frequently leaves class without permission and she recently pushed another girl in the hallway. Elena's school thinks she needs a behavior management specialist, and her grandmother has provided one through her own insurance. But Elena's troubles have continued.

After consulting with the family, Pegasus filed a request for due process hearing on behalf of the family. After additional evaluation, it turns out that Elena has a specific learning disability in reading (dyslexia) and some sensory issues that result in her becoming overwhelmed in the school environment. Her frustration in the classroom and in interacting with her peers emerges directly from her disabilities. Through the mediation process, the school has agreed to provide research-based reading instruction in a small classroom setting in addition to her regular English class. The school has also provided positive behavior supports to Elena, including a plan to minimize distractions in the classroom and to help her develop skills to self-regulate. The school is also helping her implement strategies to avoid crowded hallway situations. The school has taken responsibility for addressing Elena's behavior, rather than relying on an outside behavior management specialist. This is important because the school is thinking more carefully about how to support Elena.

Since her new IEP, Elena has made excellent progress. She has improved a full grade level in reading and has had no further altercations with her classmates. Elena has also completed a CYFD girls group designed to work on coping strategies. She is looking forward to high school.