

Improving “Alternative Education For Disruptive Youth” In Pennsylvania

Executive Summary

by **Education Law Center – PA**

ModelsforChange
Systems Reform in Juvenile Justice

Prepared by the Education Law Center – PA.

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Models for Change

Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states, with core support from the John D. and Catherine T. MacArthur Foundation. Models for Change seeks to accelerate progress toward a more effective, fair, and developmentally sound juvenile justice system that holds young people accountable for their actions, provides for their rehabilitation, protects them from harm, increases their life chances, and manages the risk they pose to themselves and to the public. The initiative is underway in Illinois, Pennsylvania, Louisiana, and Washington, and through action networks focusing on key issues, in California, Colorado, Connecticut, Florida, Kansas, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Texas, and Wisconsin.

Executive Summary

Pennsylvania's program of alternative education for disruptive youth ("AEDY") is at a crossroads. Created about fifteen years ago, the program has grown dramatically, to the point that it now serves some 30,000 students in 614 locations – the equivalent of the third-largest school district in the state. In recent years, moreover, the Pennsylvania Department of Education has taken significant steps to increase its support to, and oversight of, these programs.

But AEDY programs are uneven. Some are reportedly highly successful, while others are seriously flawed. This variation exists because AEDY lacks a legal and policy structure sufficient to ensure that the funds devoted to it are effectively spent, that student needs are consistently met, and that only those students who truly need AEDY services are assigned to these programs – and then only for the length of time necessary. In some respects, too, practices within AEDY programs are at odds with provisions of federal and state law, including certain provisions of the No Child Left Behind Act, federal laws relating to children with disabilities and English language learners, and state laws relating to school discipline. These would be significant problems even in a small program, but they are especially serious where, as here, hundreds of millions of taxpayer dollars – not to mention the educational well-being of tens of thousands of children – are at stake.

How should this situation be remedied? As we note in this report, we are not convinced that Pennsylvania's model of alternative education, which focuses solely on students who have committed serious offenses and groups those students together in separate settings, is the best approach. We favor exploration of a broader concept of alternative education that could provide a variety of options for students who have difficulty in the regular environment. Some Pennsylvania school districts are experimenting with such programs, apparently with positive results.

But whether troubled youth are sent to separate "AEDY" programs or served within a broader range of alternative options, these students have a right to programs of the same high quality as those provided to their peers. As we have noted, the Pennsylvania Department of Education ("PDE") has made a commendable effort to improve practices in AEDY programs. But more is needed.

In this report, we propose legal and policy changes that will ensure that alternative programs are adequately supported and monitored; that their services are consistently comparable to those offered to other Pennsylvania students; that students are placed in these programs only when their needs justify the assignment; that the programs operate in a manner that is consistent with applicable federal and state laws; and that, in a number of other respects, programs meet the high standards that the state has set for all of Pennsylvania's public education programs – and justify the taxpayers' investment of funds.

Our recommendations are summarized in the following chart.

These recommendations are eminently "doable." Some have already been implemented for public school students other than those in AEDY programs. Other recommendations could be carried out through some reworking of existing policies. Still others require legislative or regulatory action, in some instances along lines already taken by other states. All of our recommendations, we believe, reflect what is known about good practice, and will help improve a program that is very much in need of attention.

Criteria for placement

The General Assembly should amend the definition of “disruptive student” to ensure that the category will be applied only to students who commit serious offenses. Neither “disregard for school authority” nor “habitual truancy,” in the absence of serious and repeated disruptive behavior, should be a basis for assignment to AEDY. “Misconduct that would merit suspension or expulsion” is also an excessively broad criterion. With respect to students with disabilities, the AEDY statute should be amended to refer to the correct sections of the federal Individuals With Disabilities Education Act (“IDEA”) regulations.

PDE should amend the AEDY Basic Education Circular (“BEC”) to comply with the federal IDEA, which requires that students who show signs of a possible disability, but who have not yet been evaluated, not be transferred to alternative schools except in certain special circumstances.

PDE should make clear in the BEC that assignment to AEDY can be based only on misbehavior that occurs at school or a school-sponsored activity.

Overrepresentation

PDE should determine whether students of color, students with disabilities, or any other group are disproportionately represented in individual AEDY programs and in the AEDY program as a whole. To the extent that such disproportions are found, PDE should investigate the reasons and require corrective action.

Due process procedures

The General Assembly should provide that the decision to transfer a student to an AEDY program for disruptive students is appealable to court.

PDE should monitor AEDY programs frequently to ensure that students are provided with required due process procedures.

School day

PDE should revise its interpretation of the AEDY statute to require that all AEDY programs operate for a full school day.

The General Assembly should amend the AEDY statute to eliminate any possible ambiguity on the issue of the right of students in AEDY programs to receive a school day of equal length to that provided to all other students.

Content and outcomes of AEDY programs

PDE should require that AEDY programs use approaches of proven effectiveness in both academic and behavioral areas, e.g., individualized academic plans and positive behavioral support programs.

PDE should make clear to AEDY programs that the use of restraints, seclusion, physical or verbal abuse, and corporal punishment are forbidden in AEDY programs; should require that any program in which an employee is discovered to have used such approaches report the incident; and should take immediate corrective action in response to any such reports.

PDE should establish clear performance targets relative to student outcomes, both academic and behavioral, in AEDY programs. Data collection should be aligned with these targets.

Services to students with disabilities

PDE should closely and frequently monitor the extent to which each AEDY program is complying with special education laws. This monitoring should include collecting data not only on the numbers of students served but also on the types of disabilities represented, the nature of the programming provided, the availability of related services, and the like. The monitoring should also include frequent site visits. To the extent that deficiencies are found, PDE should require prompt correction. Alternatively, if PDE is unable to conduct such monitoring, it should prohibit the placement of students with disabilities in AEDY programs.

PDE should inform school districts of all legal requirements applicable to students with disabilities, including not only those requirements currently addressed in the BEC, but also the requirement that no student be placed in a 20-hour-per-week program for whom an appropriate education cannot be provided in that setting; requirements applicable to “protected handicapped students;” the 45-day limit on stays in AEDY programs for certain students with disabilities; and other applicable rules.

Services to English language learners (ELL)

PDE should include, in its BEC and Guidelines, information on services that must be provided to ELLs in AEDY programs, and should require reporting concerning the numbers of ELLs served by each program and the services offered.

Staff qualifications

PDE should establish competencies and preparation requirements for all personnel in AEDY programs, and should gather information from AEDY programs to determine whether these requirements are being met.

The General Assembly should amend the AEDY statute to conform with federal law, by providing that personnel in private AEDY programs will no longer be exempt from certification and “highly qualified teacher” requirements.

Alternative Education Issue**Policy Reform Recommendations****Progress reviews and length of stay**

PDE should monitor AEDY programs frequently to ensure that adequate procedures are in place for reviewing student progress; that the student, his or her parents, and representatives of the student's home school participate in the review process; and that reviews occur at least every semester.

PDE should adopt a performance target relative to students' lengths of stay in AEDY programs.

PDE should raise the 20% annual-return target to a figure that would better promote the statute's goal of returning students to the regular environment.

PDE should adopt targets, and collect data, on the academic and behavioral success of students once they return from AEDY programs to regular school.

Safety

PDE should require that AEDY programs report incidents involving school violence, weapons possession, and controlled substances on the same basis as all other schools.

PDE should establish performance targets for AEDY programs in the area of school safety.

Family engagement

PDE should develop requirements and performance measures for family engagement for AEDY programs.

PDE should make clear to AEDY programs that they are obligated, no less than regular schools, to carry out the parent-involvement activities required by the No Child Left Behind Act.

PDE should develop information on students' and families' rights within AEDY programs, on how to resolve problems, and on how to obtain help from PDE when problems are not resolved at the local level. PDE should ensure that this information is provided to all families whose children are assigned to AEDY programs.

Public reporting

PDE should make publicly available the data that it collects concerning AEDY programs, including information on the extent to which each program meets criteria and performance targets established by PDE.

PDE should publicize the results of any studies or reports that it commissions concerning AEDY programs.

PDE should provide timely annual reports to the General Assembly on AEDY programs, as required by the current law. These reports should include the data and analyses described above, and should be readily available to the public.

The General Assembly should amend the AEDY statute to make clear that PDE's annual reports on the effectiveness of AEDY programs must be based, to the maximum extent possible, on reliable and objective data.

Alternative Education Issue**Policy Reform Recommendations****PDE support, monitoring and enforcement**

PDE staffing should be increased so that the agency can provide adequate monitoring, support and oversight to AEDY programs.

PDE should develop clear performance targets for AEDY programs, as noted throughout this report.

The General Assembly should amend the AEDY statute to require that PDE monitor all AEDY programs on an ongoing basis, respond to allegations or findings of deficiencies in such programs, mandate that corrective action is taken if deficiencies are found, and terminate programs if deficiencies are not corrected.

Funding

PDE should design and implement a process for determining whether AEDY programs are adequately and equitably funded.

If the grant program is restored, PDE should distribute the funds on a competitive basis in order to promote the development of high-quality programs.

If the General Assembly determines that statutory change is necessary in order to allow for the distribution of grant funds on a competitive basis, it should make the necessary changes.

Legal structure for AEDY

The General Assembly should amend the AEDY statute to the extent necessary to ensure that these recommendations are implemented. If regulations are needed, the General Assembly should grant regulatory authority to the State Board of Education.

The General Assembly should amend the law to make clear that all AEDY programs require PDE approval, regardless of whether the program receives grant funds.

The General Assembly, the State Board of Education, and PDE should consider developing a broader definition of alternative education that would involve a continuum of options for students who need different types of educational experiences.

Acknowledgements

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