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ELC Applauds U.S. DOJ Agreement to Overhaul PA's Alternative Education Programs to Protect Students with Disabilities and English Learners but Says Agreement Ignores Racial Disparities

The U.S. Department of Justice has reached a comprehensive [agreement](#) with the Pennsylvania Department of Education (PDE), settling a federal civil rights investigation triggered by the Education Law Center's [2013 complaint](#) challenging discriminatory practices in the state's disciplinary "alternative education" programs.

The programs covered by the agreement are known as Alternative Education for Disruptive Youth (AEDY) programs. ELC's civil rights complaint reported that at the time more than 14,000 students in Pennsylvania were segregated in the state's 700+ approved AEDY programs.

"If the state implements and builds on what is now on paper, this new agreement has the potential to significantly transform alternative education in Pennsylvania in a positive direction," said ELC executive director Deborah Gordon Klehr. "The Education Law Center will be working with parents, students, and other stakeholders to ensure that the detailed remedies are implemented promptly and with fidelity by the Pennsylvania Department of Education, to both protect the students already in these programs and students who could be improperly placed in them."

Education Law Center's complaint highlighted the high percentages of students with disabilities and African American students in AEDY programs across the state. In 82 Pennsylvania school districts, more than half the students sent to AEDY programs were students with disabilities, compared to a 16 percent special education population statewide. African American students comprised 35 percent of the students placed into alternative education programs, yet only 15 percent of Pennsylvania students.

The agreement details protections against inappropriate placement for students with disabilities as well as measures to ensure that English learners in alternative programs receive the language services to which they are legally entitled.

"While we anticipate important and significant changes as a result of this settlement, the glaring problem is that this agreement does nothing to address the disproportionate placement of African American students into AEDY programs, a central component of our original complaint," Klehr said. "The agreement requires the state to collect data about students who are in alternative programs, analyze their outcomes, and report these findings on an annual basis – all positive steps – but it never mentions data about students' race. PDE should take this opportunity to start monitoring and proactively addressing racial disparities. The agreement also requires PDE to implement a complaint process for English learners and students with disabilities; that process should be opened up to all students in AEDY programs."

In addition to challenging inappropriate placements, the 2013 ELC complaint pointed to the substandard quality of education in AEDY programs and the fact that students often languish in these programs for years, without supports for transitioning back to a traditional setting or completing high school. Monitoring of these students has been virtually non-existent. The complaint also cited the proliferation of rogue, "non-AEDY" disciplinary programs that operate without any state oversight.

The agreement now sets clear time limits for how long students with disabilities can remain in AEDY programs and requires transition plans for returning to their general education program. It spells out educational standards, including staff qualifications and annual training requirements. And notably, the agreement forbids the placement of students with disabilities or English learners in "unapproved" alternative disciplinary programs.

"We look forward to working with the Pennsylvania Department of Education to ensure that newly adopted policies, procedures, and oversight mechanisms protect all students from discrimination based on disability, English learner status, and race," Klehr said.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness. For more information, visit elc-pa.org or follow on Twitter [@edlawcenterpa](https://twitter.com/edlawcenterpa).