

NATIONAL
DISABILITY RIGHTS
NETWORK



Protection & Advocacy for Individuals with Disabilities

The Honorable Virginia Foxx
Chairwoman
Education & Workforce Committee
2262 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
Education & Workforce Committee
1201 Longworth House Office Building
Washington, DC 20515

May 17, 2018

Dear Chairwoman Foxx & Ranking Member Scott:

"In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."
-Chief Justice Warren

On the forty-fourth anniversary of *Brown V. Board of Education of Topeka* (347 U.S. 483 (1954)), the National Disability Rights Network (NDRN) writes to both honor that watershed moment in civil rights history and to recommit to the protection and implementation of civil rights laws in our schools today.

NDRN is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies for individuals with disabilities. The P&As and CAPs were established by Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories, and there is a P&A and CAP affiliated with the Native American Consortium in the Four Corners region of the Southwest. Collectively, the 57 P&A and CAP agencies are the largest provider of legally based advocacy services to people with disabilities in the United States.

One critical area of legally based advocacy performed by the P&As is focused on the education of students with disabilities, including students who belong to more than one protected class (intersectionality). In 2016 alone the P&A Network advocated in almost 14,000 individual education cases and hundreds of systemic cases.

As we look at our schools today through a civil rights lens, it is hard to not be alarmed by the experiences of students who belong to one or more protected class. Indeed, one must look no further than the recent data around school climate and safety reported by the Civil Rights Data Collection (CRDC) for the 2015-2016 school year.

For example:

- Black students represented 15 percent of the total student enrollment. They represented 31 percent of students who were referred to law enforcement or arrested and students with disabilities who received services under the Individuals with Disabilities Education Act (IDEA) represented 12 percent of the overall student population, but represented 28 percent of students referred to law enforcement or arrested.
- Black male students represented 8 percent of enrolled students and yet alarmingly accounted for 25 percent of students who received an out-of-school suspension. Black female students represented 8 percent of the student enrollment and accounted for 14 percent of students who received an out-of-school suspension. And students with disabilities represented 12 percent of students enrolled and 26 percent of students who received an out-of-school suspension.
- Students with disabilities were also harassed or bullied based on sex, race, and disability at rates higher than their representation in the total school enrollment.
- Black students were 15 percent of all students enrolled, but 27 percent of students restrained, and 23 percent of students secluded, while students with disabilities comprised 12 percent of all students enrolled but represented a shameful 71 percent of all students restrained and 66 percent of all students secluded.

These statistics are unacceptable. The data noted above represent the very real and far too often traumatic experiences of students in our schools today. These students who are referred to law enforcement suspended, expelled, restrained and secluded are the very students that many of our landmark civil rights laws were crafted to protect. As the CRDC data illustrates in starkest of terms, our students of color and students with disabilities are not receiving an education “on equal terms.”

Given this grim reality for far too many students, NDRN calls upon Secretary DeVos to use her role as the Secretary of Education to ensure that states and locals robustly implement civil right laws in our schools including, but not limited to, the IDEA, Section 504 and Title VI of the Civil Rights Act as well as their implementing regulations. NDRN also exhorts Congress to act in their role to provide robust oversight to ED to ensure that civil rights are a reality for every student in the United States of America.

America’s shameful roots in racism and segregation cannot be denied, but there is simply no excuse for those roots to continue to grow. We must, on this day, remember the strength and courage of the lions of civil rights who fought before and honor those who continue the fight today. Let us renew the promise of *Brown V. Board* and remember that the robust enforcement and protection of civil rights are the strongest bulwark we have against the inequities experienced by far too many students today.

Sincerely,



Curt Decker
Executive Director