



# Exclusion and Push-Out Issues in the Context of Education Advocacy

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# School to Nowhere Pipeline and Race and LEP Status

- ▶ **INADEQUATE RESOURCES** Inequitably Distributed
- ▶ Disproportionate Identification
- ▶ Overly Restrictive Settings
- ▶ **HIGH RATES OF SUSPENSION** and Expulsion
- ▶ **LOW GRADUATION RATES**
- ▶ Racial Isolation
- ▶ Disenrollment
- ▶ Criminalization of youth
- ▶ Prisonification of school
- ▶ **INVISIBLE CHILDREN**
- ▶ **HIDDEN COSTS**
- ▶ High Incidence of Discipline for Special Education Children

## SUSPENSIONS AS A FOCUS FOR EDUCATION ADVOCACY

- ▶ California admits having significant disproportionality in long-term suspensions between students with and without disabilities, that are due to inappropriate policies, practices or procedures.
- ▶ 9<sup>th</sup> Highest in the Country
- ▶ Reported in 2007



# Suspension's Impact

- ▶ Kick out the bad kids so the good kids can learn
- ▶ Three fold increase in risk of dropping out
- ▶ Leading indicator of future incarceration
- ▶ 34% of incarcerated youth are students with disabilities (JJ administrators self-report survey data)
- ▶ Jail is the default education provider for many students with disabilities



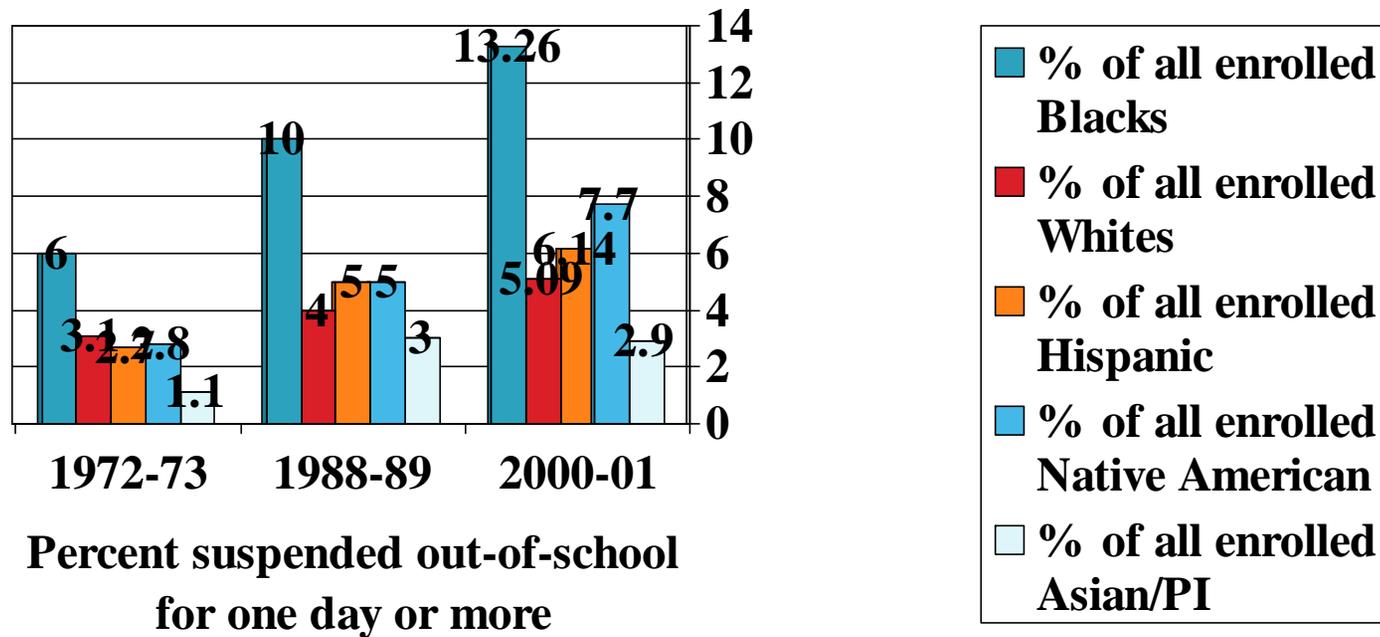
# Racial/Ethnic Disproportionality in Suspension

- ▶ Should be analyzed
- ▶ and reservation of 15% of Part B funds required for early intervening services
- ▶ Not limited to identification disproportionality
- ▶ State and Annual Performance Reports Only To Cover Disproportionality in Identification?

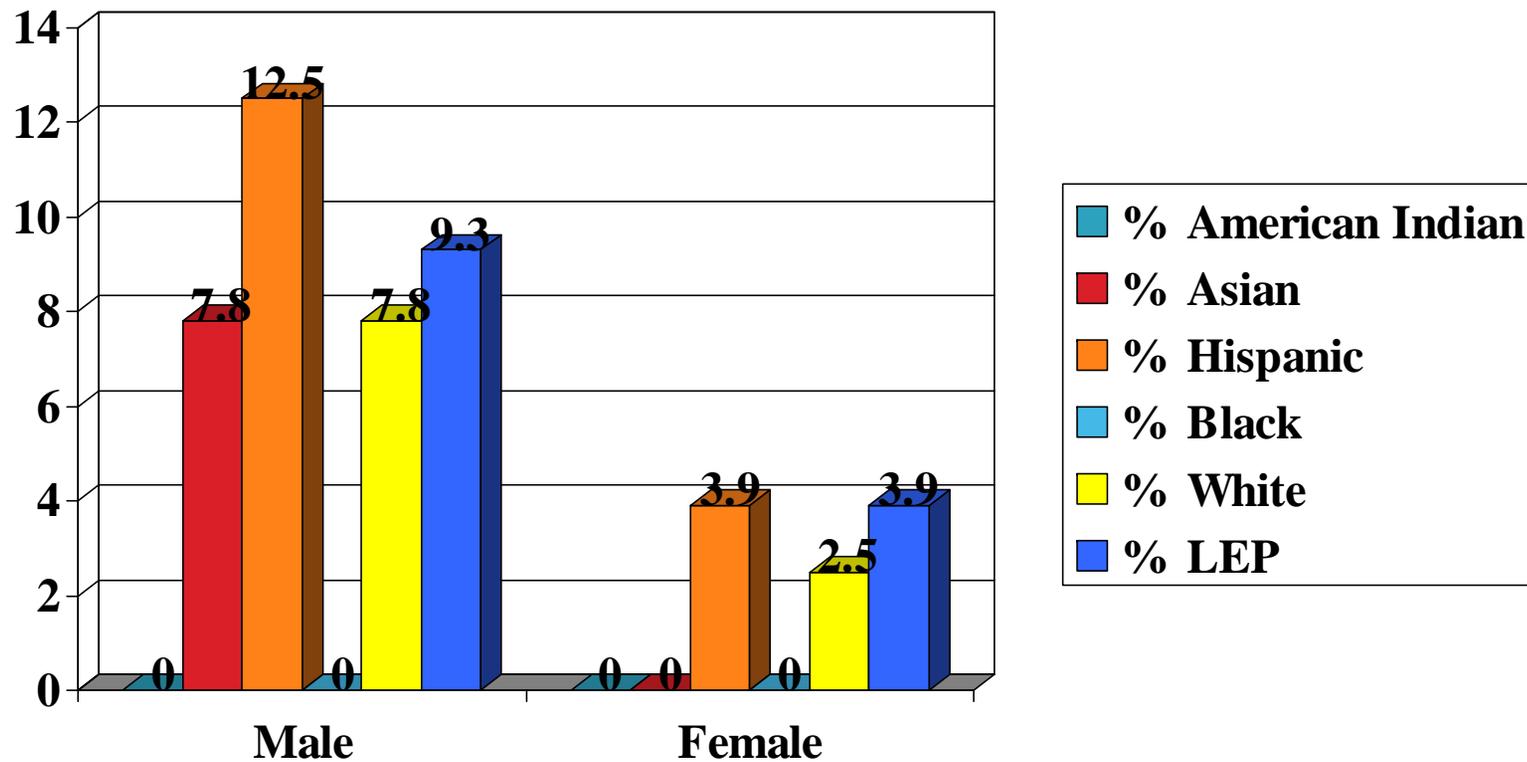


# Racial Impact of the Rising Use of Suspension

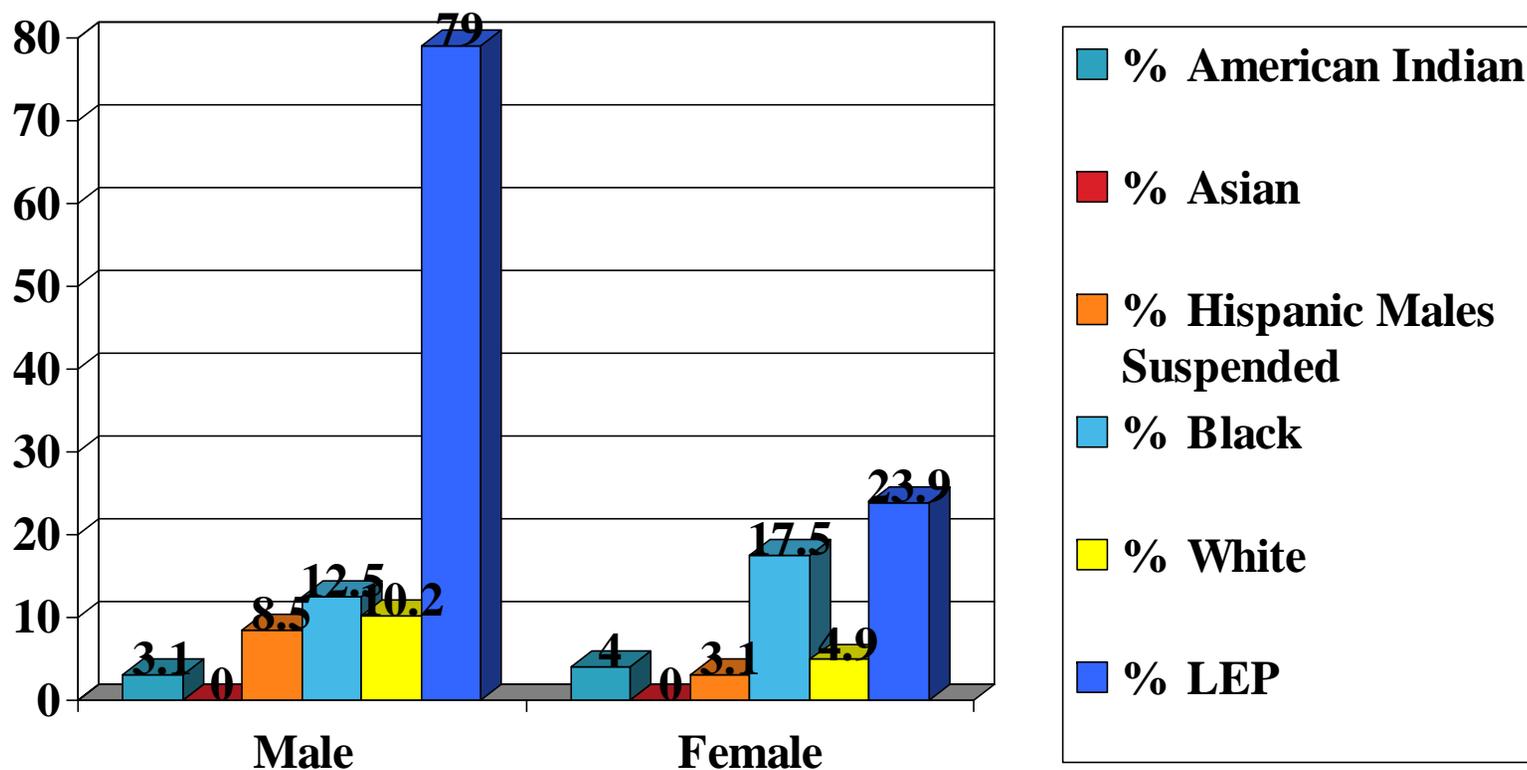
## Suspension Rates By Race



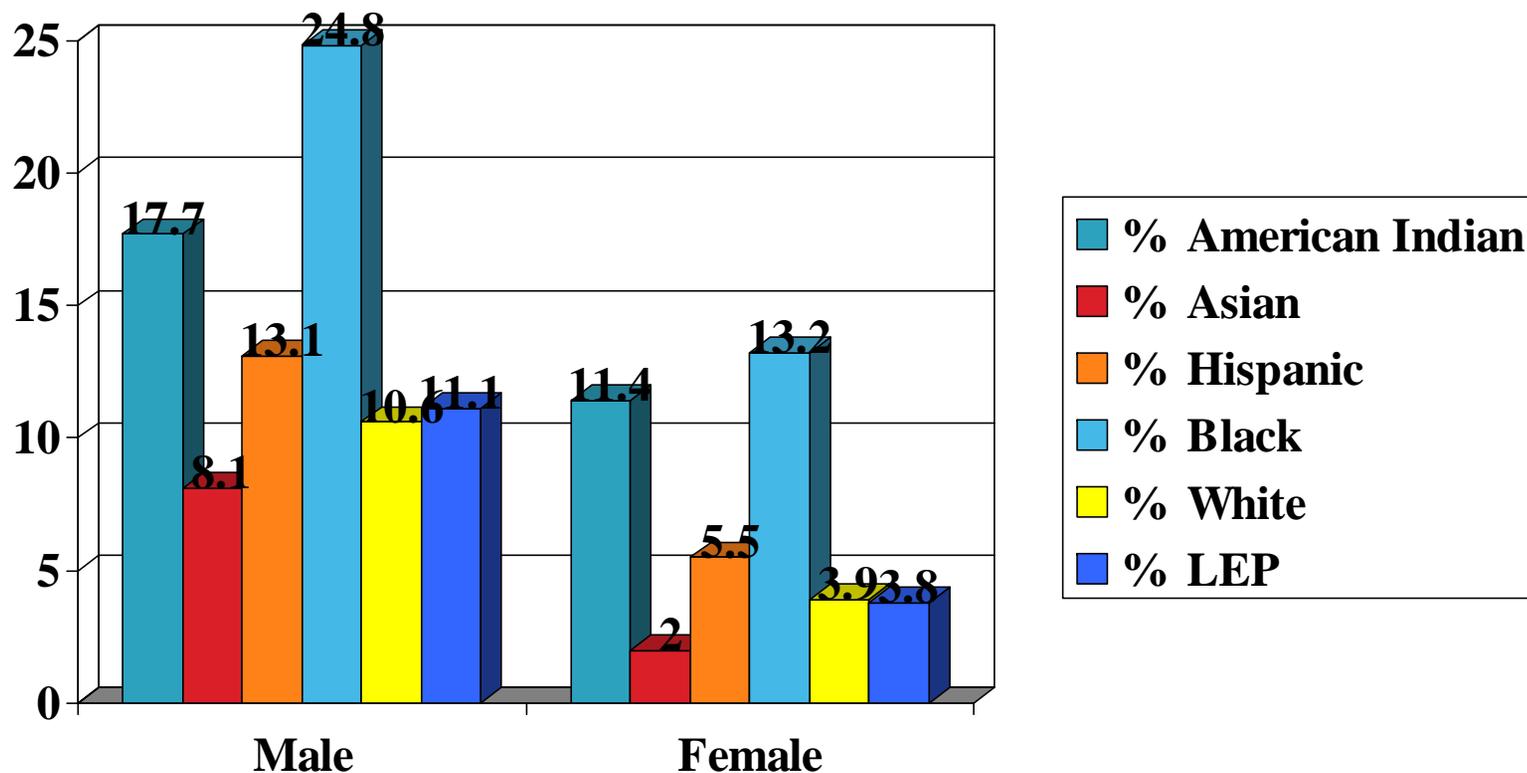
# Suspension Rates in Sonoma by Gender and Race and LEP (Source OCR 2006)



# Suspension Rates in Coachella by Gender and Race and LEP (Source OCR 2006)



# Suspension Rates in Fresno USD by Gender and Race and LEP (Source OCR 2006)



# Suspensions for Latino Students Oxnard High School District

	Total Students	Latino Students	% Latino Students	Total Suspensions	Latino Student Suspension	% Latino Student Suspensions
2009-2010						
Camarillo	2401	790	32.9%	167	84	50.3%
Channel Islands	2761	2317	83.9%	853	814	95.4%
Frontier	398	354	88.9%	891	792	88.9%
Hueneme	2191	1903	86.9%	281	267	95.0%
Oxnard	3109	2317	74.5%	820	690	84.1%
Pacifica	3257	2848	87.4%	1510	1442	95.5%
Rio Mesa	2205	1426	64.7%	816	739	90.6%
District	16322	11955		5338	4828	90.4%

# DATA?



# POLICY OR LEGAL OBLIGATION?

- ▶ Gang Policies – First Amendment, Equal Protection, Unlawful Search & Seizure, Disparately Impact Children of Color in Violation of Title VI
- ▶ Discipline and Corrective Assignment or Enrollment Policies – State constitutional rights to Education, Due Process, Title VI, IDEA (sec. 612)
- ▶ 1983 Actions
- ▶ Taxpayer Suits
- ▶ State Writs of Mandate

# Alternative Schools

- ▶ ADA collectors and dead-end tracks for minority & other low-income students
- ▶ Disproportionate enrollment of ethnic/racial and/or LEP students
- ▶ Failure to address the needs of LEP students
- ▶ *Involuntary* placements without protections mandated by the Education Code





# Advocacy Tools

- ▶ DATAQUEST
- ▶ CDE WEBSITE
- ▶ EDUCATION CODE & TITLE V REGS
- ▶ LANGUAGE CENSUS REPORTS
- ▶ COUNTY WIDE PLANS FOR EXPELLED STUDENTS
- ▶ DISTRICT & SCHOOL SITE WEBSITES
  - POLICIES
  - SCHOOL BOARD DEMOGRAPHICS
  - MINUTES
  - STUDENT HANDBOOKS
  - SARC REPORTS



# Questions to Ask About Alternative Schools



For each student it should be determined:

- Why is the student enrolled there?
- How long has the student been enrolled?
- When is the student entitled to return to a regular school?
- If the student has a right to return to a regular school, and if that has not occurred, why not?

# Alternative Schools in California

- ▶ County Community Schools – EC §§ 1980–1986
- ▶ Community Day Schools – EC §§ 48660–48667
- ▶ Continuation High Schools – EC §§ 48430–48438
- ▶ Independent Study – EC §§ 51745 – 51749.3
- ▶ Juvenile Court Schools – EC §§ 48645 – 48645.6

# Ed Code §48916.1



- ▶ In most cases, at the time an expulsion is ordered, the governing board of the school district must ensure that an educational program is provided to the pupil who is subject to the expulsion.

# Barriers to Re-Entry

- ▶ Need to serve out expulsion term
- ▶ Failure to accept partial credits
- ▶ SARBED
- ▶ Ignorance
- ▶ Placement in a group home
- ▶ Foster, migrant or homeless youth
- ▶ Need to make up credits or graduation requirements
- ▶ Tracking of certain youth by a school district into certain placements



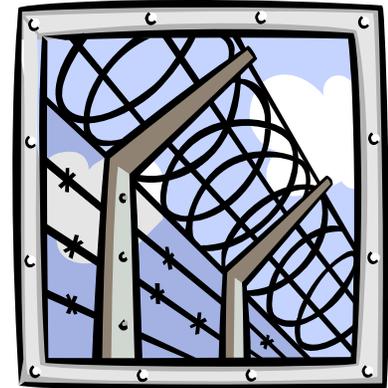
# Educational Status of Juvenile Justice Youth

- ▶ Significantly below grade level in basic literacy
- ▶ Chronic academic and behavioral difficulties and grade retention
- ▶ Formal ties to school – typically disrupted by dropping out, being expelled or suspended
- ▶ Disproportionate number are Special Ed. eligible, with estimates ranging from 32 to 90 percent



# Lack of Educational Equity for Youth Already Pipelined

- ▶ Denial of access to education or insufficient instructional time
- ▶ Lack of comprehensive programs
- ▶ Failure to provide equitable academic resources
- ▶ No effort to group by ability or grade level
- ▶ Lack of appropriate assessments
- ▶ No effort to address special needs
- ▶ Over use or under use of substitute teachers
- ▶ Absence of relevant staff development
- ▶ Denial of re-entry to a regular school
- ▶ Failure to give partial credits
- ▶ Lack of adequate library resources



# “Length of Stay” Issue



- ▶ Does not excuse lack of comprehensive program
- ▶ A month is a significant amount of education time for any student, especially one at risk for academic failure
- ▶ A month can be a significant amount of time in terms of teaching LEP students academic English

# Foster Youth and Alternative Schools



## ▶ AB 490

“In all instances, educational and school placement decisions must be based on the best interests of the child and shall consider, among other factors, educational stability and the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress.

Ed. Code § 48850(a)

“Before any decision is made to place a pupil in a juvenile court school...a community school...or other alternative educational setting, the parent or guardian, or person holding the right to make educational decisions...hall first consider placement in the regular public school.”

Ed. Code § 48853(b)

# CA LEP Enrollment



- ▶ 24% of all students are Limited English Proficient (LEP) or English Learner (EL) students
- ▶ 43% of all students speak a language other than English in their homes (LEP/Fluent English Proficient (FEP))
- ▶ Do alternative schools provide appropriate programs to address the language needs of LEP youth?

# Need to Eliminate Language Barriers

- ▶ LEP students are entitled to educational programs to address their language needs
  - Must teach them academic English
  - Must have access to the curriculum and must not incur academic deficits



*Equal Educational Opportunities Act, 20 U.S.C. Sec. 1703(f)*

# No Accountability or Monitoring



“Despite the importance of alternative education, existing K–12 accountability programs do not permit an evaluation of whether participating students are making progress. In fact, the state’s accountability system allows schools and districts to use referrals to alternative schools as a way to avoid responsibility for the progress of low-performing students.”

“Improving Alternative Education in California”  
(Calif. Legislative Analyst Office – Feb. 2007)

# “Dumping Grounds”

- ▶ “In general, alternative schools, including continuation and community schools, should not be regarded as state policy strategies for reducing dropouts. On the contrary, there is some evidence . . . that schools use alternative education programs as ‘dumping grounds’ for students who display difficulty and vulnerability in relation to school completion.”

“Does State Policy Help or Hurt Dropout Problem in California” (Milmar, Biag, Lawson – California Dropout Research Project #3 – Oct. 2007) [http://www.cdrp.ucsb.edu/pubs\\_reports.htm](http://www.cdrp.ucsb.edu/pubs_reports.htm)



# Truancy & the SARB Process

- ▶ The Truancy Rate for all students enrolled in California schools during 2010–11 was 29.81%.
- ▶ 1,837,013 students met the definition of “truant” in 2010–11.



# Consequences of Truancy

- ▶ Truancy is recognized as a risk factor for substance abuse, teen pregnancy, delinquency and dropping out of school.
- ▶ Truant youth are much more likely later in life to have lower paying jobs, to live in poverty, to have poorer health, including mental health issues, and to engage in adult criminal activities and incarceration.
- ▶ Truancy “has been found to be related to substance abuse, gang activity, and involvement in criminal activities such as burglary, auto theft, and vandalism.”
- ▶ Students who experience the highest rates of truancy have the lowest academic achievement rates and truants are most likely to drop out of school.



# Compulsory Education Laws

- ▶ Children between the ages of 6 and 18 years must attend school
- ▶ If children do not attend school, there can be significant consequences for them and their families including, but not limited to:
  - A finding of truancy
  - Referral to SARB, Probation, or a District Attorney Mediation Program
  - Initiation of juvenile court proceedings
  - Reduction in the family's public benefits
  - Civil and criminal penalties



# Very Important to Verify Excused Absences

- ▶ Examples:
  - Due to illness
  - For the purpose of having medical, dental, optometrical, or chiropractic services rendered
  - For justifiable personal reasons, including, but not limited to, an appearance in court
- ▶ The student must be allowed to complete all assignments and tests missed during the absence that “can be reasonably provided” and shall be given full credit



# Discipline v. Truancy

- ▶ It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities. EC 48900(w)
- ▶ Suspension days are NOT “un-excused absences” and CANNOT be used to establish truancy!

# Willfull Insubordination v. Willful Defiance

EC 48900 (k) – Grounds for Suspension/  
Expulsion:

- “Disrupted school activities or other willfully defied the valid authority of .....school officials.....

EC 48263 – Basis for SARB referral:

- “If any minor pupil in any district of a county is an habitual truant ....or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board...”

# Truancy Defined – 3 Classifications

- ▶ **Truant** – student missing more than 30 minutes of instruction without valid excuse 3 times *during the school year* (includes full day absences and/or if student is more than 30 minutes late to class)
  
- ▶ **Habitual Truant** – student who has been reported as “truant” 3 or more times *per school year*
  - HOWEVER, a student cannot be deemed a “habitual truant” if the District has not made a “conscientious effort” to hold at least one conference with a parent/guardian and the student
  
- ▶ **Chronic Truant** – student who has been absent from school without valid excuse for 10% or more of the schooldays in *one school year*
  - HOWEVER, a student cannot be deemed a chronic truant if the District has not complied with Educ. Code §§48260, 48260.5, 48261, 48262, 48263, and 48291.

# Responses to “Habitual Truancy” and/or “Habitual Insubordination”

- “[A]lternatives to suspension or expulsion” are to be used for students who are “truant, tardy, or otherwise absent from school activities”

A student **CANNOT** be suspended or expelled for being truant or tardy!



# Educ. Code §48263 presents one Alternative

- ▶ “If a student is “habitually truant, or is irregular in attendance...or is habitually insubordinate or disorderly during attendance” the student may be referred to a school attendance review board”



# School Attendance Review Boards (SARBs)

- ▶ “[I]t is the intent of the Legislature that *intensive guidance* and *coordinated community services* may be provided to meet the **SPECIAL NEEDS** to pupils with school attendance problems or school behavior problems”
  - SARBs may:
    - Promote the use of alternatives to the juvenile court system
    - Provide for maximum utilization of community and regional services
    - Continued improvement of existing resources and creation of resources where none exist

# Goals of SARB

- ▶ Divert students from juvenile justice system until all available resources have been exhausted
- ▶ Create a safety net for students with persistent attendance or behavior problems
- ▶ Reduce drop out and increase school holding power



# SARB – 3 Levels

- ▶ County SARB
- ▶ Local SARB
- ▶ State SARB



# County SARBs

- ▶ **Must include the following 10 representatives:**
  - A parent
  - A rep. of school district
  - A rep. of county probation
  - A rep. of county welfare department
  - A rep. of county superintendent of schools
  - A rep. of law enforcement agencies
  - A rep. of community based youth service centers
  - A rep. of school guidance personnel
  - A rep. of child welfare and attendance personnel
  - A rep. of school or county health care personnel

# County SARBs (Cont.)

- ▶ May adopt rules and regulations that are NOT inconsistent with law that are necessary for self-government and to enable it to carry out its duties under state education law



# County SARBs (Cont.)

- ▶ May provide for the establishment of Local SARBs in any number as shall be necessary
  - Local SARBs may include the above parties, but not required to
  - County SARB rules and regulations may be binding on Local SARBs



# Local SARBs

- ▶ If there is a County SARB,
  - Creation of Local SARB must be approved by County SARB
  - Local SARB is bound by rules and regulations adopted by County SARB
  - Local SARB *may* include any of the 10 reps. previously listed
  
- ▶ If there is no County SARB,
  - A School Board may elect to establish a local SARB, “which shall operate in the same manner and have the same authority as a County SARB”
    - If so, Local SARB *must* include 10 reps. previously listed AND
    - Any adopted rules and regulations must not be inconsistent with state law

# County & Local SARBs

- ▶ **Must maintain records!**
  - **Must track SARB referrals by:**
    - Type (if based on habitual truancy, irregular attendance, and/or behavior)
    - Grade level
    - Gender
    - Age of pupil
    - Disposition of case
  - **Must provide a summary report to their governing board and member organizations**
- ▶ **Data collection and monitoring is important!**
  - This informs our policy and practice – if proposed interventions are not addressing root cause of truancy/problem behaviors, we need to try something else! Also, if certain student populations are being disproportionately affected, we need to know!

# SARB Process – Notification, Intervention, & Referral

- ▶ 3 parental notification letters
  - Notice is triggered by identification of student as “truant” (3 or more absences/tardies)
  - 3rd notice – child may be classified as “habitually truant” and referred to SARB



# First Notification Mandate

- ▶ Notification to parent (by “most cost-effective method”) must include:
  - That pupil is truant
  - Parent/guardian obligated to compel attendance of the pupil at school
  - Failure to comply is an infraction and subjects parent/guardian to prosecution
  - Alternative education programs are available in District
  - Parent/guardian has the right to have a meeting to discuss solutions to the student’s truancy
  - Student may be subject to prosecution
  - Student’s driving privilege may be suspended, restricted, or delayed
  - Recommendation for parent to accompany student to school and attend classes with the pupil for one day

# Interventions

- ▶ Interventions should be designed to divert students from the juvenile justice system and reduce the number of drop-outs
- ▶ School site and District level interventions need to be explored PRIOR TO involving SARB
  - Examples:
    - Counseling, tutoring,
    - Student Study Team (SST)
    - Special Education/504 evaluations, IEPs/504 accommodations
    - Positive Behavior Supports/Behavior Support Plans
    - Transportation assistance

# Referral to SARB

- ▶ Referring school site/district must provide the SARB with sufficient documentation re: the student's attendance/behavior problems including any attempted interventions
- ▶ SARB can remand the case back to the school site/district if application is inadequate



# Notice of SARB Hearing

- ▶ Should be in writing and include:
  - Reasons for the referral
  - Explanation of SARB process
  - Identity of the members of the local SARB
  - Statement that information from the pupil's records will be released to the SARB
  - Invitation to participate in a conference on a specific date and at a specific location



# SARB Hearing

- ▶ Identification of problem and assessment of contributing factors
  - Many questions to ask and service options to explore
    - Does the child need transportation or other support services?
    - Does the child have a disability?
    - Does the child have medical conditions that are affecting attendance?
    - Is the child a homeless child? Foster youth? Migrant child?
  
- ▶ Recommendations and directives to student/parent
  - May include, but not limited to:
    - Agreement with parent/student
    - Specific referrals to community agencies/services
    - Follow-up dates to review progress of student/parent in meeting directives

# SARB Process: Interventions! Interventions! Interventions!

- ▶ The purpose of SARB is to propose interventions to address the **root cause(s)** of a student's attendance/behavior problems
- ▶ Cases referred to SARB, should be the cases where interventions at the school site and district level have failed
- ▶ SARB should be the safety net!



# Assignment to Alternative Education Programs

- Expulsions: Standard is high, very clear procedural requirements and due process protections for students and their parents

## Why?

- Because exclusion from a comprehensive school is a BIG deal
- So, similarly, assignments to alternative education programs, namely community and/or continuation schools, should be of last resort and the result of a needs based analysis of the student



# Note: Legal Action Should be Limited

- ▶ SARB can take legal action if it determines that attendance problems/behaviors persist after exhausting community resources or finding that the pupil and family fail to cooperate



# Conclusion

Truancy can be a gateway to delinquency

Persistent attendance and/or behavior problems are often symptomatic of other issues affecting a child and his/her family.

SARB presents an opportunity for schools, parents, and the community to work together to address these problems and divert children from the juvenile justice system