



Citizens
for
Juvenile
Justice

Citizens for Juvenile Justice: School to Prison Pipeline: The Realities of the CRA Process

June 3, 2022

Citizens for Juvenile Justice: Who we are

Founded in 1994, Citizens for Juvenile Justice is the only independent, non-profit, statewide organization working to improve the juvenile justice system in Massachusetts.

As an independent research and policy organization, we are uniquely positioned to understand and advocate for the *whole* system – Juvenile Justice and the other child serving systems that often feed into juvenile justice

We don't represent individual juvenile clients. Instead, we try to change the way the **entire system** operates.

- We advocate for smart policies that prevent crime, help youth develop into responsible citizens, and use resources wisely.

Citizens for Juvenile Justice: Who we are

Mission: Our mission is to advocate for statewide systemic reform that achieves equitable youth justice

- This includes fair and effective systems serving young people in Massachusetts, that promote positive development and successful outcomes for young people.
- Our goal is to ensure not just a fair and effective juvenile justice system, but fair and developmentally appropriate child serving systems that prevent vulnerable youth from entering the juvenile justice system
- The pillars of our work: advocacy, research, public education and community engagement/coalition building.

Overview of School-Based CRA's

What is a school-based child requiring assistance petition?

The CRA Statute

Massachusetts law changed with the passage of “An Act Regarding Families and Children Engaged in Services” in 2012 (Chapter 240 of the Session Acts of 2012)

- Changed the terminology from CHINS (Child in Need of Services) to CRA (Child Requiring Assistance)
- The goal of this reform was to help children get the care they need without the stigma of being court-involved.
- The provisions of the CRA Statute can be found at M.G.L.c. 119 § 39E through 39I

The CRA Statute

The CRA legislation aimed to achieve this goal by:

- Focusing on Family Resource Centers (FRC's) and community-based referrals before CRA filing
- Ensuring youth with CRAs do not have CORI records from their involvement
- Set timelines for hearings that did not exist in statute (for CHINS did not have timelines for these hearings in statute)
- Stated that children cannot be placed in handcuffs or lock up

School-Based CRA Petitions

Today we are going to focus on the petitions for truancy and habitual school offender, which are defined in M.G.L.c. 119 § 39E

- A school district may initiate an application for assistance...stating that said child is not excused from attendance in accordance with the lawful and reasonable regulations of such child's school, has willfully failed to attend school for more than **8 school days in a quarter** or **repeatedly fails to obey the lawful and reasonable regulations of the child's school.**

School-Based CRA Petitions

Two grounds for a school based CRA:

Truancy – Willfully fail to attend is defined in *Millis Public Schools v. M.P* (2018) as “a child who “acts purposefully, such that his or her behavior arises from reasons portending delinquent behavior”

Habitual School Offender – Where a child between 6-16 fails to obey the lawful and reasonable commands of the school

School-Based CRA Petitions

Actions schools are required by statute to take before filing:

- The application...shall also state whether or not the child and the child's family have participated in the truancy prevention program,
- If one is available...statement of the specific steps taken under the truancy prevention program to prevent the child's truancy;
- Habitual school offender, the application must include a statement of the specific steps taken by the school to improve the child's conduct.

So, a CRA Has Been Filed. Now What?

What support can – and can't – you get through a CRA?

There are often myths surrounding what the juvenile court is capable of providing in CRA cases, including those involving school-based petitions.

- It is important to debunk these myths to avoid unnecessary court involvement for children and families, especially when that involvement doesn't get them closer to having their needs met.

So, a CRA Has Been Filed. Now What?

The Petition Reaches the Clerk Magistrate. They can:

- Provide a description of the CRA Process
- Divert the matter to the Family Resource Center:
 - When an application for assistance is presented to the clerk for filing, the clerk shall inform the petitioner that they may delay filing the request and meet with FRC first
 - The clerk shall provide educational materials to the petitioner on available FRCs and community-based programs.

A CRA isn't necessary to access assistance from the Family Resource Center

So, a CRA Has Been Filed. Now What?

The Petition Reaches a Juvenile Probation Officer. They can:

- Probation Officers can also conduct conferences with the child and the family to attempt to resolve the situation
- Refer the child to an appropriate public or private organization or person for psychiatric, psychological, educational occupational, medical, dental or social services

However, probation making the referral is not a guarantee of service acceptance/availability

So, a CRA Has Been Filed. Now What?

If the case reaches court, in disposing of a case, a judge can:

- Set conditions for the child while remaining home, including provision for medical, psychological, psychiatric, educational, occupational and social services
- Set condition for supervision by a court clinic or by a public or private organization to provide counseling or guidance services

Even the judge finding the need for these services is not a guarantee of service acceptance or availability

So, a CRA Has Been Filed. Now What?

Having the clerk or probation officer direct the child and the family to the FRC or other community-based supports prior to formal court involvement is preferable to the matter proceeding through the court process, but they still have a major flaw:

They result in a DELAY in getting services!

- Families are often desperate for services but engaging the process for getting connected to services is slow.
- It can take weeks, or even months, between the application being filed, intake interviews, preliminary hearings, case plan development, etc.
- If the case proceeds into court, attorneys get involved and due process rights are invoked which takes even more time.

Services happen quicker when referrals are made directly to community-based providers

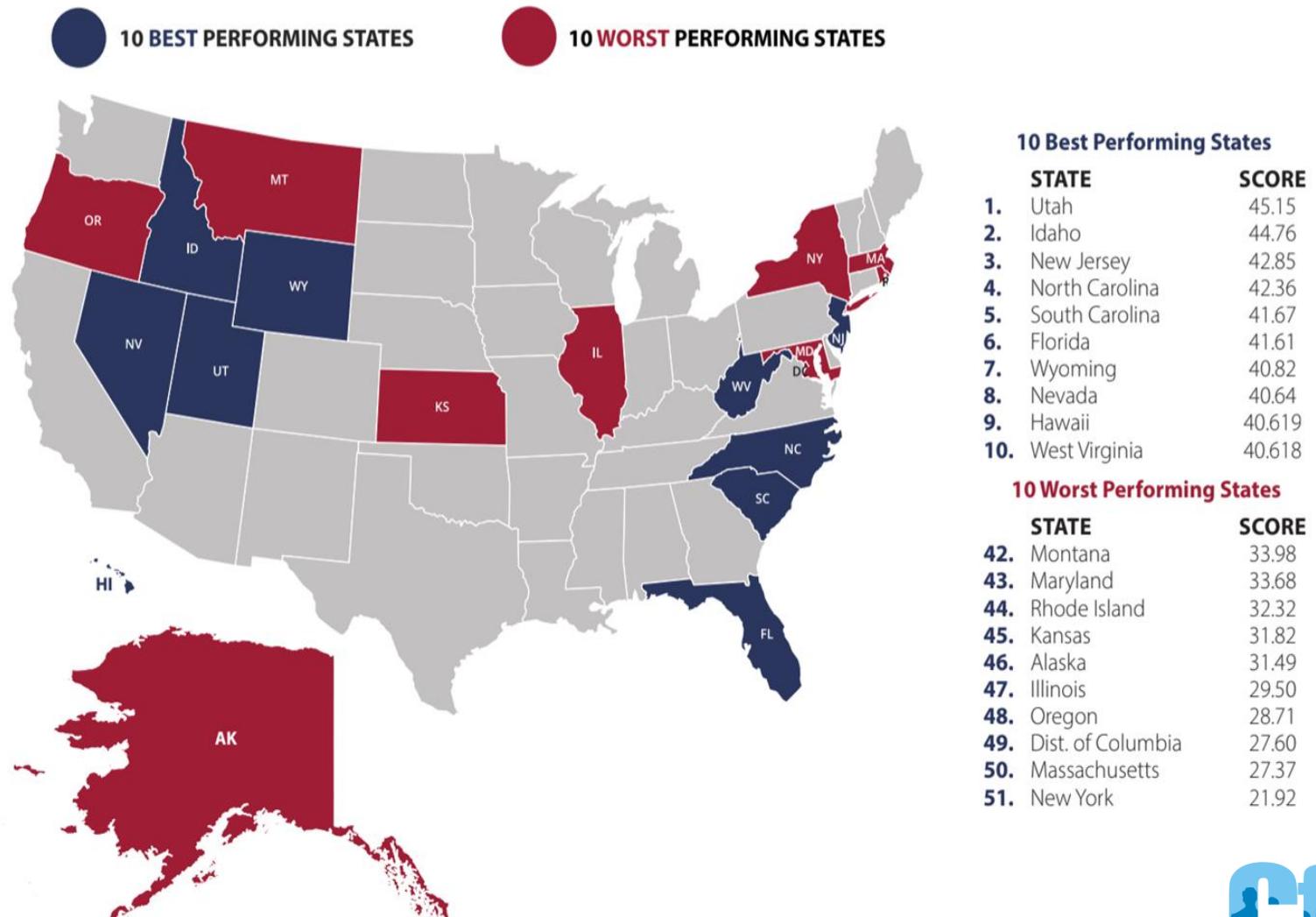
So, a CRA Has Been Filed. Now What?

Removal as a part of the CRA Court Case:

- In disposing of a case, the judge can place a child in the temporary custody of DCF, a relative or other adult or a licensed private charitable or childcare agency or private organization.

Removal of a child from the home can lead to a whole host of other issues, and make the situation underlying the CRA petition **worse**

Massachusetts ranks 50th in outcomes of youth in state DCF custody



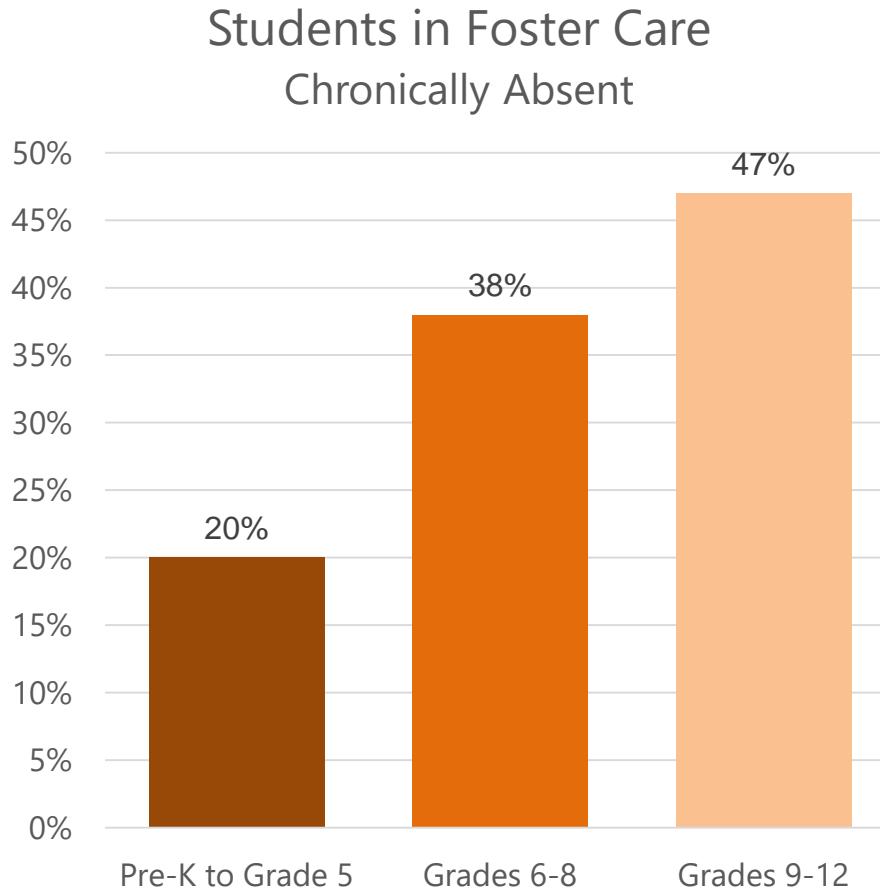
Source: Andrew C. Brown, Nicole Pressley & Charissa Huntzinger, *Right for Kids Ranking*, (2020).

School-Based CRA's – The Harm of Removal

In addition to ranking 50th overall in child welfare outcomes, Massachusetts ranks 50th in “placement stability”

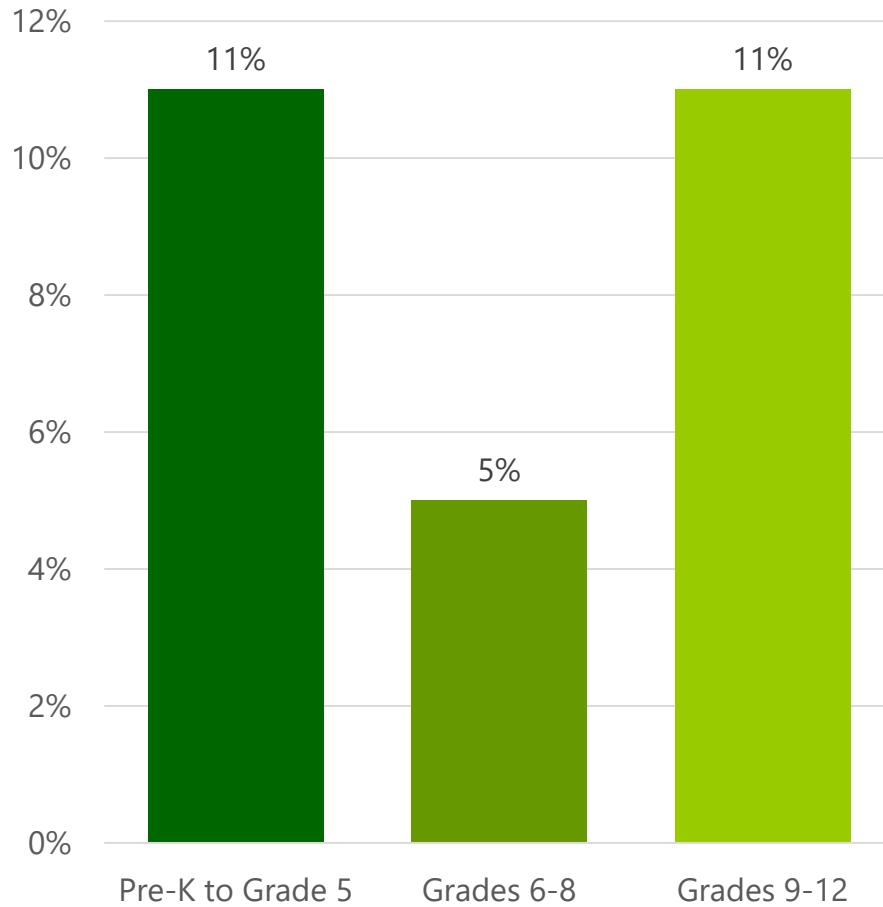
- Of dual-status youth (juvenile justice & child welfare) who had spent time in DCF placement, most had three or more placements.
 - 15% of girls and 10% of boys had 11 or more placements during their time
 - When children move around, they often end up in multiple schools
- This instability leads to worse educational outcomes for children in DCF custody, including children with attendance issues which can end up **even worse**

Harm of Removal: Foster Youth have 2.5x the Rate of Chronic Absence



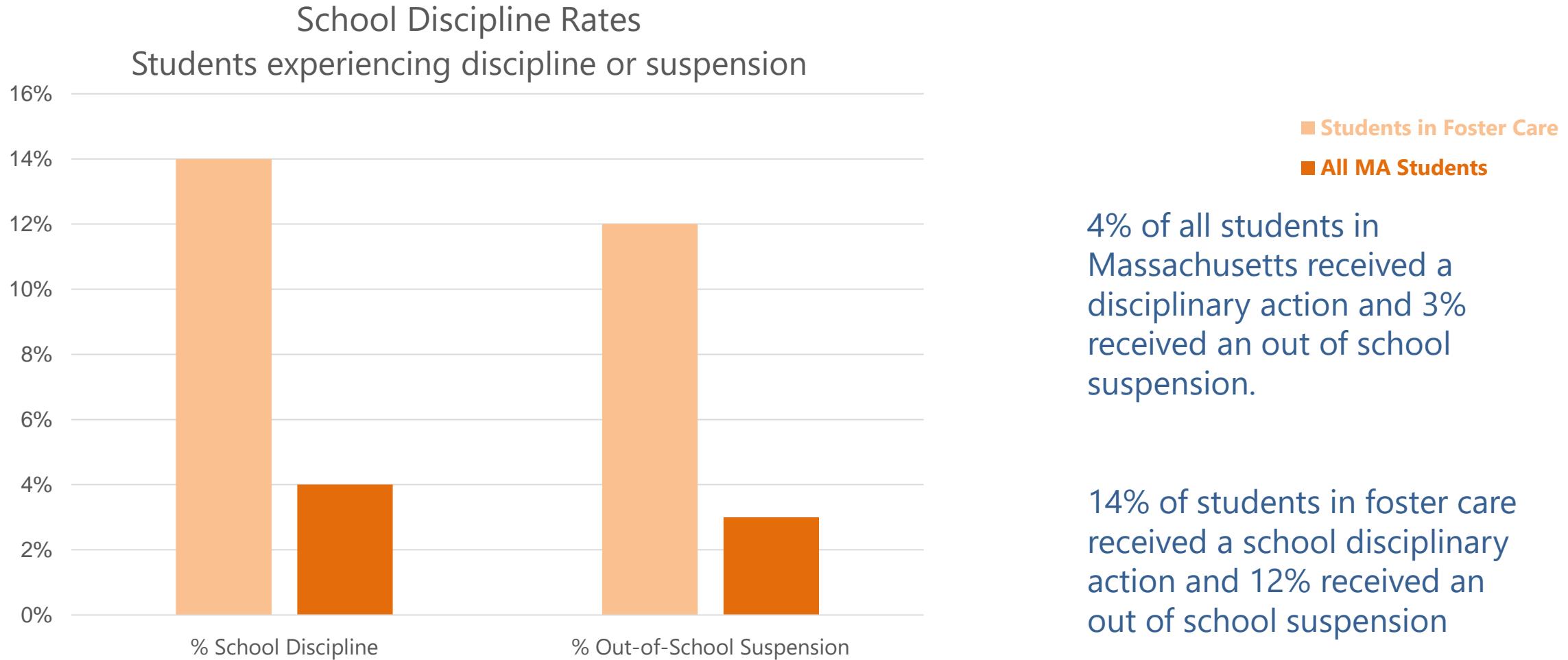
Approximately one-third of the students in foster care are chronically absent, compared to 13% of the overall Massachusetts student population.

Harm of Removal: Foster Youth have 10x the Rate of Grade Retention



Overall students in foster care are 10 times more likely to experience grade retention than the average student in Massachusetts (1.5%)

Foster Youth have 3.5 and 4x the Discipline Rate



School-Based CRA's – Additional Harms of Removal

Removal can expose youth to peers in congregate settings that perpetuate dangerous behavior, causing a CRA to Delinquency pipeline.

- Introduction to different youth who may have more serious issues and can influence youth to more serious behavior
- Leads to CRA cases being a major source of kids “crossing over” from DCF to delinquency

Even though there is no CORI of the youth being involved in a CRA, these facts can still come up to a child’s detriment

- For example, during future court involvement, issues that arise during a CRA may be mentioned in court proceedings, insinuating a lack of respect for the court by the child. This can impact cases down the line.

Removal and placement in congregate care settings often happens to youth with the highest levels of complex trauma

What Can't CRA's Do?

Guarantee Services:

- Gain priority access to any mental health services, like counseling or a partial hospitalization program
- Order a school to pay for a residential placement
- Order DCF to access a specific residential placement

Get a child “locked up”:

- A child may not be confined in shackles or similar restraints or in a court lockup facility in connection with any CRA proceedings
- A child shall not be placed in a locked facility/any facility designated or operated for juveniles alleged to be delinquent or who have been adjudicated delinquent.

School-Based CRA's – The Hard Reality

The Juvenile Court is NOT a service provider. While it takes a more rehabilitative approach than the adult system, it is not the oasis of supports and services that it is often perceived to be.

- The court, for all intents and purposes, is a referral entity but one that often takes longer to connect families to services than a fully community-based continuum operating outside of the legal system.

The Hard Reality – There is a lack of available services to match kids' needs and gaps in services across the Commonwealth, and **that can't be solved through CRA system**

A Statewide Lack of Services in MA

A recent case file review by the Office of the Child Advocate found that **20% of Youth with a CRA Petition received no services or supports.**

In looking at petition types where the youth needed services and supports and did not receive them, they found the following for school-based CRA petitions:

- 62% needed mentoring programs and did not receive them
- 44% needed family support and basic needs and did not receive them
- 37% needed education or employment assistance and did not receive them
- 29% needed mental health, physical health or disability related help and did not receive it.

A CRA is Not a Solution for SPED Issues

In a recent case file review by the OCA, nearly half of CRA filings were identified as needing an IEP or a 504 Plan

- 41% of Community based referrals and 60% of school-based referrals
- This is not a need that the court is structured to address, that must be handled by the IEP team at the child's school

The school has a legal obligation to identify and evaluate students where there is a suspicion of a disability

Special Education: The Child Find Mandate

Child Find: IDEA places **affirmative and ongoing obligation** on school districts to identify, locate, and evaluate *all* children suspected to have disabilities who may need special education and related services

- Child Find Mandate is found at 300.111 of the Individuals with Disabilities Education Act
- Prompt referral to an IEP team must be made for all children suspended repeatedly or whose behavior, attendance, truant behavior, or progress in school is considered unsatisfactory or at marginal level of acceptance
- School district has 45 *school* days from date of referral to hold IEP meeting, schedule and conduct evaluations, determine eligibility, develop program

“Kicking the can down the road” to the court through the CRA process only delays this process rather than resolves it.

A CRA is Not a Solution for SPED Issues

In a recent case file review by the OCA, 30% of school based CRA's and 29% of community based CRA's the Youth were Identified as Needing an Alternative/Therapeutic School Placement.

- The juvenile court is not going to order a school to make or pay for that placement.
- Placements for a student with an IEP is covered by IDEA

Special Education: Placement

Placement is covered by section 300.116 of the IDEA

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that -

- The placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with LRE provisions ;
- The child's placement is determined at least annually, is based on the child's IEP and is as close as possible to the child's home;
- Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

Discussion & Questions

Have you heard myths about the CRA process?

Have you been disappointed by the CRA process?

Are there supports and services in your community that can be a resource to children, parents and schools?



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Citizens for Juvenile Justice (CfJJ) is the only independent, non-profit statewide organization working exclusively to reform and reimagine the juvenile justice and other youth serving systems in Massachusetts. Our mission is to advocate statewide systemic reform to achieve equitable youth justice.

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