



Use of the INEE Minimum Standards for Education

To: INEE Working Group on Minimum Standards and Network Tools – Doha, Qatar
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Introduction

The Inter-Agency Network for Education in Emergencies (INEE) Minimum Standards for Education embody tremendous potential for global collaboration to protect the delivery of quality educational opportunities for students all over the globe, including in the United States.

There are children in the United States who are reared in deplorable conditions, whose frustration and anger at their condition is unbridled and misdirected, who are dismissed by society as academically incapable, and worse. There are children in the United States who are afraid to walk alone to school each morning for fear of being jumped or physically harmed by someone from a different neighborhood. There are children in the United States who arrive at school on time every day; their first priority is to eat the breakfast and lunch they would not get at home but which the school provides at no cost. There are children in the United States who are banished from school by adults, suspended and expelled as punishment for developmentally appropriate behaviors that could be corrected, adapted for positive use in the classroom, and/or used as learning tools. Instead, such behaviors are attributed to deficiencies in the students and in the communities the students represent, and are believed to be inherent to a “culture of poverty” that does not value education. There are children in the United States who are arrested out of school or criminally punished for things that would not provide sufficient basis for an adult to be arrested in the street.

The children that I describe live in the “developed” world, yet they are forced to operate in environments that produce constant crisis. Children know intuitively that they can improve their circumstances if they receive an education. Unfortunately, there is dissonance in this belief, because too often the education they receive is not a quality one. Finding research-based strategies that are proven to deliver quality education to students in emergency situations must be a priority for American educators, families, and advocates. The INEE Minimum Standards for Education are a critical resource for education advocates in the United States.

Background

I began using the INEE Minimum Standards as a trial attorney for the United States Department of Justice, Civil Rights Division, Educational Opportunities Section. The Minimum Standards helped inform my work enforcing the national civil rights laws that prohibit harassment and discrimination in the provision of public education and require that all students have equal access to educational opportunity. The Civil Rights Act of 1964, enacted in the wake of one of the most violent periods in American history, was one of those statutes. American institutions that had been built upon a foundation, cracked though it was, of white superiority were bucking both of the oft-conflated notions of equality and equity for black people. The Civil Rights Act bestowed upon the federal government the power to enforce the 14th Amendment to the United States Constitution. With this power, the United States government could require equity, particularly for black people, in all things the federal government sponsors or supports, including

public education. Federal statutes enacted subsequently created even more protections for disadvantaged student populations in education. These statutes were developed from the premise of equity that drove the creation of the Civil Rights Act. This family of statutes now exists to protect students from discrimination and harassment based on race/ethnicity, national origin, disability status, English language proficiency, gender and perceived sexual orientation, and religion.

I left the federal government in May 2012 to launch an independent consulting firm, Allison Brown Consulting (ABC), that works with educators, non-profit organizations, advocates, students, and families to understand the applicability of these civil rights laws to their educational environment.

As a civil rights attorney, I have litigated cases to protect the United States' interest in ensuring equity in education, crafted agreements and resolutions that contained remedies that would address inequities, convened community meetings to assess the unique needs of the students who live in a particular area, and negotiated and collaborated with school district officials to improve equity for their students. I also became the point person in my office for matters involving disparities in student discipline and, in that role, I created, planned, and implemented a two-part conference series that was the first of its kind: a national conference series co-hosted by the United States Departments of Justice and Education to address, in a comprehensive fashion, racial disparities in student discipline, particularly exclusionary student discipline practices, and the effects on what is known colloquially as the School-to-Prison Pipeline.

I could not have been as impactful as I have been without relying on outside resources. One of the outside resources that I came to know well was the INEE Minimum Standards for Education.

- **Use of the INEE Minimum Standards in the United States – Similarities in Mission**

Unlike in the international arena where all children have the right to education, education is not a fundamental right in the United States. However, once individual states undertake to provide a free education to their constituencies and they receive federal monies for that purpose, the federal government requires that states and school districts then utilize that federal money in an equitable fashion.

The INEE Minimum Standards define emergencies to include conflicts and disasters. Many American children are in emergency situations, and many times that emergency exists with such devastating effects because of socio-economic conditions. Socio-economic status is not a protected class that is recognized by the United States Constitution or existing statutes; however, race and socio-economic status are inextricably intertwined such that many times the students of color who are in emergency situations, and thus the children for whom the United States government intervenes, are low-income children.

I utilized the INEE Minimum Standards for three distinct purposes: (1) to initiate conversations within the Civil Rights Division about educational equity and about holistic redress for inequities, *i.e.*, I used the INEE Minimum Standards as support for the Civil Rights Division's aggressive enforcement of civil rights laws and to introduce new approaches to attaining equity in internal strategy discussions and ultimately in the actual work product we created; (2) to ensure

that we had exhausted all possible areas when considering litigation strategies for cases between the United States and school districts and when convening inter-agency planning sessions and events such as the student discipline conference series; and (3) in the work on the ground, *i.e.*, to conduct investigations, identify community partners, communicate with stakeholders, and craft and monitor agreements with school districts. Specifically, I used the INEE Minimum Standards in the following ways:

A. Access and Learning Environment Domain.

- Non-discrimination has been the root of my work, including removing all barriers to a quality education without removing the high expectations a quality education necessarily requires. The Department of Justice utilizes data to make an initial determination as to whether discrimination has occurred. We also require that schools track data, disaggregated by race, in particular areas of concern, *e.g.*, student discipline, bullying, and sexual harassment. The INEE Minimum Standards reflect all of these tenets of equity enforcement in recognition that discrimination can take the form of intentional acts (“disparate treatment” in the domestic legal realm), and also can take the form of unintended consequences (“disparate impact”) so that data collected should expose both.
- For school systems that are still trying to desegregate their schools in compliance with federal law, the Department of Justice investigates proposed school siting and school construction. Unfortunately, school buildings are not held in high enough esteem in emergency settings as recommended by the INEE Minimum Standards. The neighborhoods and areas where children are most in need of services tend to have the worst school facilities. I have worked to make sure that schools are prioritized by the institutions and systems charged with the flow of resources. In an ongoing school desegregation lawsuit in Georgia, I worked with a school district that had recently constructed new elementary schools in areas of the city that had enviable levels of diversity in the student population. However, the one elementary school in the nearly all-black area of the city had not been renovated in decades because of where it was located. The INEE Minimum Standards supported the conversations I initiated with the school district and the community about respecting their educational institutions.

B. Teaching and Learning Domain.

- The INEE Minimum Standards support the United States’ position that high-level academic programs must be accessible to all students, regardless of their race/ethnicity, national origin, or English language proficiency. Learning by rote and without imagination in any setting, and most especially for children in emergencies, is more harmful than good. As an attorney for the Department of Justice, I crafted a settlement agreement that was adopted by the court in a school desegregation lawsuit in Louisiana, where the historically-white high school had over 90 course offerings of Advanced Placement, Honors, and Gifted programming, but the historically-black high school had less than five course offerings of Honors and Gifted programming and no Advanced Placement classes. I referred to the Minimum Standards in crafting that agreement. I also have insisted that school

districts create relevant curricula, critical thinking training, and opportunities for critical thinking. And, much like the life skills encouraged by the INEE Minimum Standards, I have worked with schools to consider that separate curricula can be designed or incorporated into existing rubrics to teach students effective conflict resolution, leadership skills, and appropriate behavior.

C. Foundational Standards Domain.

- Student and family voice are critical components of any effort to improve an education system. Social audits as they are termed by the INEE Minimum Standards are community outreach for me. In a school desegregation lawsuit in Mississippi, we learned from community members that black children were being arrested by law enforcement authorities out of school for minor infractions such as school uniform violations (*e.g.*, wearing the wrong color shirt to school), fighting (even students with disabilities defending themselves against bullies were arrested), and disrespect (*e.g.*, flatulence in the classroom). We could not have known the extent of the school district's over-reliance on the police to administer student discipline without reaching out to students and families and hearing their stories. I used the INEE Minimum Standards to consider how best to interact with complaining families and elicit the information we needed.
- Coordination between sectors to serve students in emergencies is another important component of the INEE Minimum Standards. For example, I referred to the INEE Minimum Standards as we drafted a settlement agreement with a school district in Pennsylvania. In that case, a 12-year-old fifth-grade student with a long history of sexually inappropriate behavior violently sexually assaulted on numerous occasions younger students in the first-grade boys' bathroom. In each instance, the school district was made aware of the assault, yet did not take adequate steps to stop future assaults from occurring. The victims were the students who were assaulted and the 12-year-old student as well – it came to light through the evidence that the 12-year-old child had been violently assaulted himself at a very young age. The 12-year-old child and his family had received intensive and long-term services from community service providers who were familiar with the sexual history of this student. In the settlement agreement, we therefore insisted that the school district collaborate in the future with community service providers, who would have a clear understanding of a child's challenges and propensities, to ascertain the need for holistic interventions at school.

- **What Can INEE Do to Bridge the Gap?**

National courts in the United States are methodically whittling away the protections afforded American students from disadvantaged backgrounds and their right to equity in educational opportunity. As the strength of the 14th Amendment wanes, educators and advocates find themselves looking together for alternative weapons in the ongoing battle for equity in education. The INEE Minimum Standards for Education, and in general the international framework of education as a human right, should be such alternatives. There may be some initial reluctance on the part of advocates to incorporate in their methods such an optimistically strong

outlook as the international frame or the INEE Minimum Standards because United States courts of late have not allowed equity advocates such optimism. However, grassroots awareness of international law and the Minimum Standards and community-based push for, at the very least, reference to the Minimum Standards in creating education reform tools will generate significant momentum for the equitable provision of educational opportunities to all students in the United States.

Partnership between internationally-focused agencies such as INEE and American organizations is crucial to ensure that students in the United States and all over the world receive a quality education no matter their circumstances. The key is to cultivate this mindset, provide training and professional development in furtherance of this mindset, and incentivize implementation of partnerships to effectuate this mindset. The INEE can (a) inform domestic partners about what international law requires with respect to equity in education; (b) share proven best practices for educating children in emergencies and for federal government intervention (to what extent and how can the federal government guide local provision of educational opportunity?); (c) serve as best practices experts in preparation for trial and at trial; (d) convene small discussion groups and larger meetings/conferences of international education in emergencies experts and domestic education advocates so that they can share experiences and collaborate on planning and prevention outcomes rather than after-the-fact emergency and crisis recovery; and (e) work with domestic partners whose expertise is not necessarily education, but who have an important focus nonetheless, *e.g.*, I have partnered with the Interactivity Foundation to create sanctuary discussion spaces, similar to the INEE Minimum Standards “safe spaces for learning,” for key stakeholders in the educational realm.