

Educational Neglect: A Symptom of a Child in Crisis

Introduction

Any given day, educators are expected to interact with and instruct a classroom filled with 25 or more students, on average. When one of those students is absent, it may appear to make a teacher's day a bit more manageable having one less child to handle. However, there may be an underlying issue surrounding these absences. When students have frequent absences, an educator is unable to cultivate that valuable relationship enhancing a child's learning experience, which enables the child to retain important information. One has to wonder, how impactful are these occasional absences? What is the threshold for an excessive amount of absences? And, at what point should one start examining the parenting?

It is understood that life happens, hence occasional excused absences are expected. It is normal for a child to be sick sometimes, to have the occasional obligation during school hours, or to occasionally oversleep. It is expected for parents to send in a note explaining why their child missed the previous day. But what happens when that student is continually missing from the school environment? When the educator is unable to form a meaningful relationship with that student because the student is never there? When a student is always sick? When the parent is unresponsive? When the excuses become just, *excuses?*

Educators play a unique role in ensuring the safety and wellbeing of school-aged children. Educators become quasi-parents, *in loco parentis*, when children are on school grounds. In addition to being a learning environment, schools are social environments. School staff act as a safety net, recognizing red flags and initiating investigations into what may be going on in a child's life and household. Children spend a large portion of their time in school, offering educators greater access to students than most other adults besides their parents.¹ Thus, knowledgeable educators are better equipped to pick up indicators of possible maltreatment than other mandated reporters by observing children's behavior at school, recognizing physical signs, and noticing family dynamics during routine interactions with parents.² Excessive absence does not afford educators the opportunity to get to know certain children or their families, but can be as much or even more of an indication that a family may be in crisis. Therefore, educational neglect is a serious concern that educators should work collaboratively with authorities to investigate further.

What is Educational Neglect?

Educational neglect is a symptom of a bigger problem that needs to be addressed. It often is an indicator of other forms of neglect and abuse occurring within the home, or of exposure to bigger societal ills. Educational neglect refers to a parent's failure to ensure their child's educational needs are being met. Legal boundaries between governmental regulation of education and parental rights to oversee their children's education presents

¹ U.S. Department of Health and Human Services, *The Role of Educators in Preventing and Responding to Child Abuse and Neglect*, <https://www.childwelfare.gov/pubPDFs/educator.pdf> (2003)

² Id.

difficult practical problems.³ While the specifics may vary, there are compulsory school attendance statutes in every state. Reporting and investigating suspected cases of educational neglect present a wide range of complex challenges for poorly funded school districts and social service agencies. However, it is in the best interest of the children that these agencies collaborate in addressing these concerns and maintain open lines of communication rather than working against one another.

Often mistaken for truancy, which refers to a student's refusal to go to school, educational neglect addresses parental behavior when it fails to meet state compulsory school attendance laws. Truancy in teenagers is something parents may be unable to control, but when children in Kindergarten through 8th grade unlawfully miss excessive days of school the parents must be held responsible, and a closer look must be taken.⁴

Why Should We Care?

Educational neglect should be enough to initiate a social service investigation regarding a child's wellbeing or the parent's ability to care for their children. The central purpose of investigations into allegations of educational neglect is to determine whether absence from school is a symptom of abuse or neglect that threatens the child's safety.⁵ An investigation may be triggered by a parent's failure to enroll their child in school; failure to ensure their child attends school regularly; or interference with a child's educational

³ Michael J. Kaufman and Sherelyn R. Kaufman, *Education Law, Policy, and Practice: Cases and Materials*, (Wolters Kluwer Law & Business: New York, 2013), 65.

⁴ Kurtis A. Kemper, J.D., *Determination that Child is Neglected or Dependent, or that Parental Rights Should be Terminated, on Basis that Parent Has Failed to Provide for Child's Education*, 6 A.L.R.6th 161 (Originally published in 2005)

⁵ VERA Institute of Justice, *Rethinking New York State's Response to Chronic Absence*, <http://www.vera.org/project/educational-neglect> (2010)

development. There may be serious implications for educational neglect, which in the worst-case scenario can go as far as loss of custody of children and criminal penalties. On the other hand, in the best-case scenario, an investigation may show a legitimate reason for the child's absence and a family will be to their own devices.

Child Protective Specialists often are sometimes only introduced to families in desperate need of intervention based on investigations of educational neglect. While, on the surface, a child being absent may seem innocent; there may, in fact, be a very dark reason behind that child's empty seat. While it is not always the case, absenteeism can be an extremely powerful tool in the hands of abusive parents to perpetuate and intensify abuse while isolating their children and keeping potential reporters in the dark.⁶

Keeping children at home can play a crucial role in concealing abuse and neglect. As previously mentioned, educators and other mandated reporters of abuse and neglect serve an important role in our nation's child protective system. Parents who are not involved and don't send children to school often fail their children in other ways. Sometimes there is drug abuse, domestic violence, physical abuse, sexual abuse. There may be extreme poverty, starvation, illness, or other problems taking place within the home so it is in the parents' best interest to not send their child to school where mandated reporters may become involved.

What Does an Investigation Look Like?

⁶ Id.

Each state has its protocol for handling reports concerning child abuse and neglect. New York State's process for investigating educational neglect allegations begins when a school employee calls the State Central Register (child abuse and neglect hotline) because a child has missed an excessive amount of school. In New York, there is no set number of absences needed to trigger a report of educational neglect. Nor are steps a school should take to address the problem or determine the parent's responsibility for it defined, educators are allowed to make judgment calls on a case-by-case basis.⁷ Each report starts an immediate investigation that typically lasts up to 60 days. If credible evidence is found, the investigative agency works with the family to address the concerns through referrals, court intervention, or in worst-case scenarios formal charges in family court and children may be removed from their custody and placed into foster care.⁸

What REALLY is the Worst Case Scenario?

Although not every instance of educational neglect reflects a family in crisis, it is better to be overly cautious in such circumstances. The following scenarios will show how important a role educators play in identifying children in crisis—in these case the child's absences from school were, in fact, a symptom of a much bigger problem. The absences were indicative of deep, dark secrets taking place within the walls of these households. Cases like these stress the importance of identifying chronic absenteeism as a possible symptom of a child in crisis and show why absent students should not be written off.

Elisa Izquierdo

⁷ Id.

⁸ Id.

In November of 1995, in Manhattan, New York, 6-year-old Elisa Izquierdo was murdered by her mother, Awilda Lopez. Elisa's story is tragic but highlights the importance of educators in the lives of small children. Elisa was born addicted to crack cocaine and released to the custody of her father, Gustavo Izquierdo. When Ms. Lopez cleaned herself up and found some stability, she began having weekend visitation with Elisa. In early 1994, Phyllis D. Bryce, who was the director of the Montessori School Elisa's father enrolled her in noticed Elisa seemed upset after visits with her mother and appeared bruised. Ms. Bryce called in a report to the state central register to initiate an investigation.⁹

Unfortunately in May of 1994, Mr. Izquierdo passed away due to illness and Ms. Lopez assumed temporary custody of Elisa, who she withdrew from the Montessori School. Ms. Bryce wrote to Judge Phoebe K. Greenbaum of Family Court in Brooklyn, asking her to place Elisa in the custody of her father's cousin. While still in her mother's custody, Elisa began kindergarten at Public School 126 in Manhattan. Early on, PS 126 officials also had concerns regarding Elisa and reported possible child abuse allegations for investigation.¹⁰

By early 1995, Elisa became chronically absent from PS 126 and ultimately stopped attending school altogether. Follow-up visits were conducted to her home to no avail.

⁹ Alvarez, Lizette, *A Mother's Tale: Drugs, Despair And Violence; A Life Mired in Urban Ills Ends in a Daughter's Death*, <http://www.nytimes.com/1995/11/27/nyregion/mother-s-tale-drugs-despair-violence-life-mired-urban-ills-ends-daughter-s-death.html> (1995)

¹⁰ Id.

Tragically, on November 22, 1995, Elisa was found beaten to death in her mother's apartment as a result of blows so severe her brain hemorrhaged.¹¹

Although the system failed Elisa, Elisa's story shows how keen an educator's eye can be in quickly discovering when something is wrong in a child's world. Within the first month of Elisa starting Kindergarten, PS 126 staff was able to identify the same red flags her former educators noticed at the Montessori School. Once Elisa was no longer attending school, she lost the safety net that was provided by the educators. It is unknown what Elisa endured in her home between the last day she attended school and the date she was killed.

Elisa's death was not in vain, in response to her death New York State has enacted Elisa's Law.

“Elisa's Law (New York Social Services Law Section 422-a) was enacted February 12, 1996. The Law enhances accountability and public understanding of child protective services by lifting the veil of confidentiality, which previously precluded State and local officials from disclosing information about child welfare cases. Today, Elisa's Law acts as an effective tool for reform by holding the agency and the child welfare system publicly accountable for its work.”¹²

Nixmary Brown

¹¹ Id.

¹² <http://www.nyc.gov/html/acs/html/about/elisaslaw.shtml>

In January of 2006, in Brooklyn, New York, a 7-year-old girl named Nixzmary Brown died in her home at the hands of her stepfather and mother. This was a very tragic story but represents another missed opportunity to save a child in crisis. Nixzmary's school noticed that she had frequent absences, and called in a report to investigate what was going on just eight months before she was tragically killed.¹³ Unfortunately, the investigating agency failed to thoroughly assess the situation and work collaboratively with the school to uncover the true story until tragedy hit. Nixzmary's Story serves as a learning opportunity and stresses the importance of following up on and getting to the root of reports of educational neglect to avoid such horrendous consequences.

In May of 2005, a guidance counselor at Nixzmary's school called in a report of educational neglect detailing that she had missed 47 days of school.¹⁴ NYC's Administration for Children's Services (ACS) responded immediately but closed the case weeks later, somehow the agency failed to find educational neglect despite it being clear Nixzmary had not been attending school.¹⁵ In December of 2005, ACS received another complaint about Nixzmary, the family was interviewed but refused to give access to the home, and the case stalled.¹⁶

Then, in January of 2006 tragedy struck. Stepfather, Cesar Rodriguez bought yogurt for his children but refused to give Nixzmary any. On the night of her murder, Nixzmary's mother discovered one of the yogurt cups was missing, and she went to Rodriguez. The

¹³ Leslie Kaufman and David M. Herszenhorn, *Discrepancies Emerge in Case of Girl Who Was Killed*, <http://www.nytimes.com/2006/01/15/nyregion/15girl.html> (2006)

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

frightened girl denied taking it, but one of the other children pointed the finger at Nixzmary. Rodriguez then stripped Nixzmary naked and proceeded to beat her in front of her mother. He dragged Nixzmary into the bathroom and repeatedly dunked her head under cold water while she banged, fought, and screamed for her mother who did nothing to aid her daughter. Rodriguez beat Nixzmary to death and then tossed her on the floor in the family's rodent-infested "dirty room". A room where she had previously been tied up and left with only a litter box as a toilet.¹⁷

This entire story screams of terrible parenting, beating a child to death for eating yogurt is reprehensible. Further, it is questionable what type of parent alienates a child by depriving her of yogurt, tying her up, and isolating her in a "dirty room" with a litter box. All of these behaviors amount to abuse and neglect, and would not have gone unnoticed had a thorough investigation featuring a home assessment been completed. Based on this atrocious account of child abuse, both Nixzmary's mother and stepfather were charged with both manslaughter and murder, both later convicted of manslaughter.¹⁸

There had been warning signs. Her chronic absenteeism was one of them. Her educators picked up on them and followed protocol. Unfortunately, she slipped through the cracks somehow. But not at the hands of those who had the chance to notice her. Her classmates were able to miss her when she was absent; her teachers were able to make note of her empty desk and initiate the investigation into her wellbeing. As unfortunate

¹⁷ Id.

¹⁸Kareem Fahim , *Mother Gets 43 Years in Death of Child*, 7, <http://www.nytimes.com/2008/11/13/nyregion/13nixzmary.html> (2008)

as it is to highlight such a sad story to illustrate a point, many people do not understand the seriousness of educational neglect without knowledge of such scenarios.

Mandated Reporting

There are countless other scenarios, many not as tragic. Thanks to educators who report educational neglect to the authorities, children in crisis are often rescued from situations that could turn tragic. While not all absenteeism is a symptom of dire circumstances at home, child abuse and neglect is a hidden problem that tends to be ignored until tragedy hits. Mandated reporting laws exist to protect children because neighbors, family members, and friends are not guaranteed to pick up on or report suspected child abuse. Mandated reporters undergo specific training to identify behavior, signs, and indicators that a child needs help. Family members, friends, and neighbors may be exposed to the same situations and those norms make them desensitized to the fact that it places a child in danger.

Doctors, police officers, and other professionals are also considered mandated reporters but their interaction with children does not occur on as consistent a basis as an educator. Therefore they are unable to pick up on subtleties that suggest immediate intervention is necessary.

Conclusion

As outlined above, although all mandated reporters play an important role in ensuring the wellbeing of our most vulnerable population, educators have one of the most vital positions as in preventing, identifying, and responding to child abuse and neglect. Because of the nature of their relationship and their close and consistent contact with students and their families, educators are in a uniquely critical position to help deal with the underling issues that affect more than education.

The press generally limits its coverage of child abuse and neglect to the most sensational child deaths so the light never gets shined on the struggle next door until it is too late. It is extremely unfortunate that due to budget concerns many investigators are overburdened and not every investigation will be thorough, therefore not every child can be saved.

However, if the public school system and investigative authorities work collaboratively to develop a system of well checks when attendance becomes a concern instead of ignoring absent children, or treating them like numbers it is likely more crises will be averted than allowed to occur.