

# **Podcast for Keeping Kids in School and Out of Court: Leadership Designed to Keep Kids in School and Out of Court**

**Hon. Tani Cantil-Sakauye:** Chief Justice of California

**Tony Thurmond:** California's State Superintendent of Schools

**Julia Scott:** Host

## **Julia Scott**

Welcome to the Judicial Council of California podcast. I'm Julia Scott. In this episode we'll be exploring an unprecedented statewide effort called the Keeping Kids in School and Out of Court initiative through the voices of the Chief Justice of California, Tani Cantil-Sakauye, and the California State Superintendent of Public Instruction, Tony Thurmond. Here in California, school discipline results in suspensions and expulsions that affect 3.5% of all students, which adds up to tens of thousands of students each year.

Chronic absenteeism is an even bigger problem. But you can make headway on big problems when you have the right leaders for the job. Today, we'll be hearing from two prominent leaders in government representing California's judicial branch and executive branch, who have championed an innovative effort to get stakeholders together on behalf of students and bring about real change.

## **Chief Justice Tani Cantil-Sakauye**

Hi, I'm Tani Cantil-Sakauye. I am the Chief Justice of California.

## **Tony Thurmond**

I'm Tony Thurmond. I'm California's State Superintendent of Schools. It's called State Superintendent of Public Instruction.

## **Julia Scott**

The story begins in 2012, when California's Chief Justice joined Chief Justices from all 50 states hosted by the Chief Justice of New York at a convening on the negative effects of school suspensions and chronic absenteeism on educational outcomes. She realized that she wanted to do something about this issue in California.

## **Chief Justice Tani Cantil-Sakauye**

There were probably hundreds of us in the room, and we learned about suspension and truancy and the effect on a student's future development, and also on the connection to criminal activity and the pipeline to prison. There is a greater impact that I learned at that summit on suspension and truancy and the connection to courts and juvenile justice with children in foster care and black children and Native American children and disabled children.

And that's just a population in my mind that we in the court need to protect if it comes within our jurisdiction. I came away incredibly impacted and impressed not only with the gravity of the problem, but the role that the judiciary could play. And so, I came back to California, talked with the judges who had been at the conference with me, and together, we decided to launch the California version of Keeping Kids in School and Out of Court.

### **Julia Scott**

Although it might seem like a problem for schools to solve, this is very much an area for judges to become invested in. Kids who are pushed out of the classroom are more likely to end up in juvenile court at some point, and you see it start to increase exponentially. The more suspensions, the less likely a student is to complete high school.

Courts can also deal with chronic absenteeism cases. And juvenile courts oversee the cases of all kids in foster care, including their education. It's been said that chronic absenteeism and school discipline are community problems and require a community solution. Collaboration is critical. And that means sitting down, maybe for the first time, with all the people whose roles can make a difference in a child's educational journey within schools, probation, courts, social services, mental health, and other community services.

### **Chief Justice Tani Cantil-Sakauye**

I saw an opportunity with great leaders in California to engage California's judiciary, to engage local communities, child welfare, probation, etc., to come to the table, and let's work on this locally because so much is at stake. And I'm a firm believer that the labor we put in at the front end to keep people out of the court system—to prevent—is so much far better than what we do on the back end to rehabilitate.

### **Julia Scott**

Tony Thurmond was on the Alameda County team at the Chief Justice's first California convening in 2013, before he was in the Legislature or had become the

State Superintendent. Since becoming State Superintendent, he has been a powerful champion for the Keeping Kids in School and Out of Court initiative or KKIS for short. But his roots run deep on this issue, and so does his personal story.

### **Tony Thurmond**

I'm just grateful to have been a part of some of the early conversations about keeping kids in school and out of court. And I'm just grateful that the Chief Justice has had the vision to lead and to really use the power of the Office of Chief Justice to really stand up such an important initiative. You know, my career has been in social work and working with young people who oftentimes, you know, coming from disadvantaged backgrounds, find themselves pushed into the criminal justice system and being in court with them and really trying to keep them out of the system.

And for me, as a young social worker, I found myself often trying to help a student that was someone I was working with, who maybe found themselves in some trouble, and going to court with them and literally giving testimony on their behalf. And sometimes it helped. Other times it didn't. And I'll be honest, I can think of a time where a young man that I was working with found himself then being detained in a juvenile camp, and he was a student in a program that we had built for helping foster youth and students who'd had contact with criminal justice to learn entrepreneurship as a way of teaching them life skills and keeping them out of court. And here he ends up in court. And so, it taught us that sometimes we have to take our programs wherever the youth are. We literally took the program into a juvenile camp to work with youth directly, and it provided some great opportunities for me and my team to work with young people on life skills and really to help them think about how they reenter the community in ways that we hope prevent them from returning to the criminal justice system.

And so, all of this has been powerful. A lot of this speaks to my own personal experience as a young person growing up and overcoming challenges. I look at many of these young people and I see myself and I think to myself, I want to offer to them what was offered to me: mentorship and coaching that helped me to get on the right path.

### **Chief Justice Tani Cantil-Sakauye**

I love the Superintendent Tony Thurman's perspective. When he and I talk, he is so insightful, and I love that he always remembers the communities that can be overlooked. And he does want to bring the program to them. And I think that's

exciting and that's how we reach people. He's truly been instrumental in helping us think differently about how we can deliver and reach folks.

### **Tony Thurmond**

I'm grateful that the Chief Justice has really stood up this initiative; has stayed with it and has continued to put a spotlight on it. And so, it's been a very easy decision for me. And we want to do all we can to build off of these efforts until we can say that we've made even more impact in keeping kids in school and out of court.

### **Julia Scott**

As Superintendent Thurmond knows better than most, the behavioral reasons why students are suspended, or why a student might not show up in school in the first place, often have complex social, emotional, and societal roots. Very often, trauma is also at play. It's not just about what happened in the classroom that day. It's often about everything in a child's life leading up to what happened in that classroom.

### **Tony Thurmond**

You often hear people say that in this country people are making decisions about how many prison beds there should be based on either third grade reading levels or what attendance levels look like, because people get the correlation between chronic truancy and the likelihood to end up in the criminal justice system. It is so easy for our students to fall off track; it's much harder to get them back on track.

There are reasons why students are missing school. Poverty being one of them. Sometimes health issues, transportation, all kinds of issues around violence sometimes in the community. Any of these can impact a student's attendance, and we have to work to remove these barriers so that we can help our students remain on track for success and to keep them out of our criminal justice systems.

### **Julia Scott**

One of the key early determinants for whether a child stays in school and ultimately graduates is how well that child is reading by the time they reach third grade.

### **Chief Justice Tani Cantil-Sakauye**

We're aware of studies by institutions that say that if a child cannot read by the second grade or isn't learning to read by the second or third grade, that there's a direct correlation to eventuality in institutions, in prisons; because of the inability

to read means being left behind. And being left behind means not being included and not feeling part of your cohort.

And as a result, there's been acting out or disinterest in coming to school, disinterest in participating, because potentially the child lacks tools that should have been taught sooner or more consistently if the child were regularly attending and the cumulative effect of neglect or not learning along with one's cohorts as early as second grade and into third grade, and as you move through the elementary grades, turns into a form of alienation, a form of acting out because children are basic and their reaction is simple. They act out. And then, of course, we know the reactions are different amongst the educators who have their hands full. And so, we see a decline in behavior, a referral to juvenile court; and ultimately, depending on when it happens and the conditions of juvenile wardship or probation, we see it escalate.

### **Tony Thurmond**

That's so right on point, Chief Justice, and you're a great educator, and you're right: if we engage students early on, so that they don't feel disengaged, they will complete their education, they won't drop out. But we have these huge barriers that get in the way of that. And so, it even starts before third grade. That's why we always talk about the importance of preschool and early education so that students get exposed to school early, so that they make a strong connection when they get to school because as the Chief Justice has said, if you find yourself in your early years, your early grades, you know, missing foundational information, it is hard to get back on track. And the older you get, the more you are at risk to be disconnected, to drop out. If you can't read and you're in the upper grades, it's difficult.

### **Julia Scott**

As you've started to hear by now, these issues are often so difficult and complex that no one system or agency can untangle them alone. KKIS kicked off with a statewide summit in 2013 organized by the Judicial Council's Center for Families, Children, & the Courts and led, at the request of the Chief Justice, by Justice Richard Huffman of the Fourth District Court of Appeal and Sacramento County Superior Court Judge Stacy Boulware Eurie.

### **Chief Justice Tani Cantil-Sakauye**

We were the conveners. We brought the people to the table. I think perhaps maybe this was the first time we brought to the table the collective voices of the community where the students are located. Judge Boulware Eurie, she brought

together counties and the voices in that county that address the children directly. So, a representative from probation that sees these children's reports, a representative from the child welfare agency, the juvenile justice judge of that county, across the board, bringing together people who all may have touched the lives of that child or many children.

### **Julia Scott**

The summit introduced a holistic way of thinking about how to improve the school climate, how to facilitate stable academic achievement for youth, and do it mindful of the ways in which students who are black and brown, native, disabled, or have special learning needs are disproportionately punished. Then, it asked what children need to stay in school. That opened up new avenues for problem solving among public agencies that might all belong to the same county, but rarely spoke to each other, including educators, counselors, child development specialists, probation officers, mental health professionals, judges, and parents.

### **Chief Justice Tani Cantil-Sakauye**

We brought together the experts, the people who are professionally engaged and invested in ensuring children's success. And with these people sitting at a table together for the first time, sharing ideas about what I can do for you, what you can do for me, so that we can further our children, or the issues facing our children or in our community.

It was a very focused community effort and, to my knowledge, this was the first time many of those most knowledgeable people about their issue and their role with children, came together to build a network and to build programs and to discuss matters of challenge, like: should we really be suspending? What's behind the suspensions? What can we give our teachers as tools to help them look at this differently? Or to provide alternative manners of reaching children and families and the problems those children and families are facing?

And of course, with juvenile justice also sitting at the table, the juvenile court judge, knowing that these children come before him or her to hear what work is out there, what programs can be used, what support that judge can order for the family, rather than a suspension. It made the world of difference.

### **Julia Scott**

That first convening was three days of intensive training where teams could split up and go to an expert on the developing adolescent brain and the effect of trauma on the brain, or how police are being trained to more appropriately interact with

youth, or how to use restorative justice techniques to intervene when a student exhibits certain behaviors. Then they took those best practices, training, and education back to their home counties and districts with a plan for how they would implement them when they got there.

### **Chief Justice Tani Cantil-Sakauye**

And that was the effort of keeping kids in school, because it was also to let everyone know that our work here means if we fail, we lose this child, and they go into the court system with consequences we cannot control.

### **Julia Scott**

KKIS went on to hold a series of convenings across the state with a special focus in rural, poor, or underserved counties. They were culturally appropriate convenings with a special focus on tribal and state courts in tribal areas. The convenings, like the rest of the program, were privately funded. In the end, they touched 45 out of 58 California counties.

Let's talk about school suspensions. In the 2018 school year, 9% of black students, 7.5% of Native American students, and 3% of white students were suspended one or more times. So, black students were three times more likely to be suspended and Native American students were more than twice as likely as white students to be excluded from classes.

### **Tony Thurmond**

That tells us that the issue of race and implicit bias has a factor in how some students are suspended. The reality is that everyone has bias. We just have to learn to check our bias at the door. And so right now, the California Department of Education is engaged in initiatives to provide implicit bias training to educators, because unfortunately, there's a sad reality that sometimes our children as young as preschool grades find themselves being suspended and expelled and that this can put them on a trajectory to be pushed out of the classroom and into the criminal justice system.

We've had a lot of success in this area and Keeping Kids in School is a big part of that success. We still have some work to do as a system and as a nation to challenge our biases, to make sure that our interactions with students keep them connected to school. The moment we push kids out of school, what are we pushing them towards? We're pushing them towards outcomes that could be very negative.

**Julia Scott**

Implicit bias doesn't always look or act like what it is. It may take the form of a teacher who notices a student acting out and punishing them when another one does the same thing with no consequences. Or not giving all students an equal number of chances.

**Tony Thurmond**

I think children, especially young children, you know, we're taught to trust authority. And so, when you're a young child and your teacher tells you that [when] you're turning around to look at another student, you're doing something wrong and that you're going to get suspended for that. Those kinds of messages have to reinforce some really negative things to make you think that, am I doing something wrong?

And just to be honest, many times the people providing that treatment aren't even aware of it. Our biases can be so subtle that we're not even aware that they are having an effect on us, and [were it] not for the fact that we now have data that shows there are disproportionate suspensions for African American students and especially African American boys. It is this data that has now put a spotlight on the need for us to look at our own practices in our systems so that we don't inadvertently send messages to children that say, you are wrong, you are doing something wrong.

Children are going to be playful. They're going to do things that children do. And the way we react is powerful as part of the conversation that we have about what happens in schools.

**Julia Scott**

Superintendent Thurmond has directed funding toward California schools for restorative justice and implicit bias training, two powerful tools that keep suspension numbers low when used correctly.

**Tony Thurmond**

The California Department of Education is providing implicit bias training to a number of school districts. We've offered grants for training for professional development to provide what we call education to counter hate, because we understand that sometimes things come up and that there have been acts of hate that have occurred in the nation and we want to address them.

**Julia Scott**

And restorative justice is an alternative method for disciplining students. It can help students resolve conflicts on their own and in small groups, learn to make amends, and reintegrate them into the classroom.

### **Tony Thurmond**

You know, restorative justice is a proven intervention. You know, years ago, I worked in one district where we used restorative justice, and we reduced suspensions by over 27% in one year because we had the conversation that said we have to look for alternatives to suspension. The California Department of Education has now made more than \$90 million worth of grants to school districts to have programs focus on things like restorative justice, and they are proven to work.

I would simply just say that we've made a lot of gains, but as a society, we still have to address the issues of disproportionate suspensions in this country. And so, if we're only punishing, then we have to reconsider. Can we find a better way by using conduct and structures that can allow for learning? We all make mistakes.

### **Chief Justice Tani Cantil-Sakauye**

I concur in all of that. And what I would also say is that when young children are disciplined, particularly in what may be an irrational overreaction, maybe understandably, by an exhausted teacher, I think the takeaway can always often be shame and humiliation and a feeling of being different. And none of that is good in any possible way about a child in an educational environment, and especially to be singled out amidst one's peers for something innocent, for an act that otherwise outside the classroom is not a crime, is an understandable, curious reaction or a cultural reaction that is not understood by the instructor or the administrator.

And so, I think we need to really think and teach and train and raise the awareness of children's natural reactions and appropriate responses that could be teaching responses that can explain the behavior, why it shouldn't exist, but not treat it so harshly. And I can't say that it's the fault of any one or collective, but it is a problem, as the Superintendent has pointed out, and it's a problem that has solutions or certainly can be improved.

And it's our responsibility to do that. And it's our responsibility to do that collectively because it benefits our children, and it benefits our future.

### **Tony Thurmond**

You know, this isn't about blaming anyone. We all experience things in different ways and we have great educators in the state and in this country. And many times, our educators work under extreme circumstances where they come into environments where they get very little support and very little coaching, and they mostly just get blame. And so, we owe it to our education workforce to provide them with training and support on everything from classroom management, how to engage students, and training that allows us to address bias.

### **Julia Scott**

It's one thing to stop suspending students; it's another to deal with the root causes of behavior issues. KKIS trainings have a special emphasis on social and emotional health. Instead of asking, "what's wrong with you?" when a student has inappropriate behavior, teachers could ask, "what has happened to you?" The conversation that flows from that question could very well open the door to getting other caring adults involved in that child's well-being.

### **Tony Thurmond**

We see our kids coming to school. They're hungry. Many are homeless. They're experiencing the impacts of poverty. And there's so many socioeconomic barriers that get in the way of students' success. And then teachers have high classroom caseloads. It's hard for them to do all the things that they have to do. Another way that we can create the outcomes that we want and that Keeping Kids in School is working towards, is just addressing some of these socio-economic challenges that so many of our students face.

We can't ask our teachers to be teacher and counselor. We have to address those issues, provide more counseling, provide more mental health programs and social, emotional learning programs. And at the end of the day, try to address these issues that are affecting many of our children and their families in the first place. I know that it can make a difference,

I know that it can because, you know, I'm somebody who grew up, you know, as a student on the free lunch program; my family used food stamps. I was raised by a cousin when my mother was too sick to raise us. And I'm grateful that I had so many teachers stand up for me and they basically said education will change the direction of your life. And they were right. But it's hard for some families to get access to all the programs that are needed. And so, I just think that we have a responsibility to provide training to our teacher workforce and provide resources to address the socioeconomic things that get in the way of students' success.

## **Julia Scott**

Those social and economic challenges are often greatly amplified when it comes to keeping foster children in school. In many counties across California, foster youth perform significantly worse in school than non-foster children, even those from other disadvantaged student populations. Foster kids are more likely to have disabilities and special needs, but less likely to receive special education services for them.

The Chief Justice has long argued for judges to take a more active role in advocating for the education of foster youth under their care.

## **Chief Justice Tani Cantil-Sakauye**

Foster children are the court's children. They belong to the court. The responsibility for a foster child is with the court, and that's where the rubber meets the road. That's where we are so heavily invested. And foster children succeed best when two things happen, frankly, when they're in a safe and stable environment and home environment and when the juvenile judge is invested in their future and in their outcome. They have a duty to always touch upon the foster child's educational progress and needs.

But the foster program in and of itself is difficult because children may move from family to family for reasons that have little to do with the child. But for what the Superintendent has talked about, particularly of late, economic instability, family instability, job loss, a number of things that affect families everywhere, of all levels of society, affect foster families, and the foster child, and the placement there has to be reassessed. It's not uncommon for foster children to move and have different foster families. How on earth, under those circumstances, do we expect a stable and consistent educational program?

## **Julia Scott**

More than any other group of school age children, foster youth often struggle with school changes, attendance gaps and a lack of consistent support from caring adults who want them to have the best education. Juvenile court judges have the power and responsibility to intervene in school changes, special education services, helping foster youth get across the high school finish line, and helping them plan for post-secondary education or work.

## **Chief Justice Tani Cantil-Sakauye**

Mastering K through 12 concepts is really, frankly, difficult enough, but we also need to ensure that the child has a social and emotional education and upbringing

and a place where they're welcome and they feel that they belong, like in school, because the foster system is unstable. They literally are sharing a home with likely other foster children. And so, if they have any behavioral issues, the question really becomes, well, is that really the child's fault?

It can't possibly be. They're a child. They're a product of their environment. Their environment has been unstable. And so, we have to think about the best ways to protect them and the best way to invest in their future. We need judges to be proactive. We need the community to be proactive for the foster children.

### **Tony Thurmond**

The Chief Justice has really put this issue in context for us: the youth. And it's not unusual. You know, I know that in my own social work career, I have met young people who were in foster care, who told me that they may have sort of bounced around to like 20 different schools in their academic career. It is so easy to lose footing, to struggle to get the foundation, and to have success.

And just think about it: if you are also homeless and you don't have a roof over your head, you know how hard it is under normal circumstances to be successful in school. And just imagine how hard it is when you don't have stability, or you're living in a shelter, as some foster youth do. And then just how hard it gets for young adults when they transition out of foster care.

Even though California has laws that allow students to essentially stay in the foster care system past 18 so they can receive certain supports, sometimes it's just not enough. You know, I would invite us all to think about our own experiences being anywhere between 14 and 25 and not having someone that we could turn to for support, for housing, for food, for financial support.

You know, trying to learn under those conditions is very, very difficult. And so, yes, there is this nexus, this correlation between young people who are in foster care and young adults who end up in the criminal justice system. Thankfully, in California, we've had many systems that work closely together that recognize this, and work closely together to try and prevent this sort of co-occurrence of foster youth ending up in the criminal justice system.

### **Julia Scott**

Much of what we talked about today has been exacerbated by the COVID-19 pandemic. Kids may not be acting out in class in the same ways, but learning remotely has put them even farther out of reach from teachers, mentors, and

administrators who might have their back. And it hasn't solved the school suspension problem either, according to Superintendent Thurmond.

### **Tony Thurmond**

There's no question that the pandemic has had all kinds of negative impacts on our students, even on suspension rates. If you think about, you know, if everyone is learning through a computer and that means students sometimes find themselves getting in trouble if they don't turn on their computer. And we hear stories of students being suspended in the pandemic because they didn't turn on their computers.

There may be reasons why a student doesn't turn on their computer. You know, everyone's home life is different. You know, when you're working in small spaces, whatever it might be. There are times when a student just can't turn on their computer, or at least I shouldn't say turn on the computer, but turn on their video. We asked them to have their computers on, but sometimes they can't turn on their video and this has been a reason that some students have been suspended during the pandemic. So obviously, the pandemic has taught us we need to do a much better job of digital literacy, making sure that people have computers and Internet to work with. We have a task force on closing the digital divide that's working to address the million students who do not have a computer and while distance learning has given us a way for students to learn safely during the pandemic, we know it also has had unavoidable impacts for some students.

We've seen just challenges in math and other subjects, and we're working with our educator workforce. We're working with our students and our families to figure out ways to make distance learning more successful until we can get schools open for in-person instruction every single day.

### **Chief Justice Tani Cantil-Sakauye**

I have just two comments to make. I agree with all that's been said, but I fear that [in] the pre-pandemic learning, there was a gap, but after the pandemic, it will be an abyss. But I'd say that California stands ready—all three branches of government—to ameliorate that gap. And it's going to take more than a year.

It's going to take years to get back to where we can build that foundation with students who lost it during the pandemic.

### **Tony Thurmond**

We have to talk about these issues more than ever, because as the Chief Justice points out, these gaps have only grown since the pandemic. They were already issues that we were working towards; they've grown since the pandemic.

### **Julia Scott**

The Keeping Kids in School and Out of Court initiative will sunset this year. Statewide school suspension rates have come down every year since it launched seven years ago as the result of its efforts and the efforts of other committed advocates all over the state. The relationships and collaborations it built in individual counties and statewide will long outlast the program and help keep kids in school for many years to come.

### **Chief Justice Tani Cantil-Sakauye**

We are all at a heightened awareness, thanks to more knowledge about chronic absenteeism, the pandemic, the challenges of families. And leaders in California, at all levels, are mobilized and aware and informed, and all of us are taking and have mandated unconscious bias training and knowing that our children are our future and our investment. And so going forward with KKIS, I'd like to think that we were part of raising the awareness, part of convening the teams and the networks.

That won't go away just because KKIS is no longer, but that we all stand ready to do our part and to participate and be there to start things where certain counties may need additional help or where the Superintendent needs a lift from the Judicial Council, or the judicial branch, we'll be there because we have this existing relationship.

### **Julia Scott**

To learn more about Keeping Kids in School and download resources for your community, visit [www.courts.ca.gov/KKIS.htm](http://www.courts.ca.gov/KKIS.htm). Thanks for joining us for this episode of the Judicial Council of California Podcast. This episode was co-produced by me, Julia Scott, with Sound Design and Engineering by Chris Hoff. Special thanks to Chief Justice Tani Cantil-Sakauye and State Superintendent Tony Thurmond for the great conversation, and to Christine Cleary and Tracy Kenny at the Judicial Council Center for Families, Children, & the Courts.