Positive Youth Outcomes Committee Education Series

Special Education in Juvenile Correctional Settings: The Law and Practice
Guidelines and Housekeeping

• Audio through phone – use pin #
• Everyone muted
• Type questions anytime. Questions will be answered during the Q&A session at the end of webinar
• Webinar is being recorded – link to audio recording and PowerPoint presentation will be sent following the webinar
Executive Leadership

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Agenda

- Prevalence: Children with Disabilities in Juvenile Corrections
- Federal Laws and Entitlements for our Students with Disabilities
- Major Components of These Laws We Need to Know and Follow
- Child Find
- IEPs
- Transition
What The Data Tell Us – Our Population (1, 2)

~ 30–80% rates of disabilities among incarcerated youth

~ 13% in public schools
What The Data Tell Us – Our Population

• Youth in custody...

- SLD 7X
- E/BD 6X
- ADHD ~up to 50%
- 3X eligible for special education services - high % of youth never identified/misidentified

LARGEST PERCENTAGE
As compared to those in general population (2, 3, 4, 5, 6)
What is IDEA?

• The Individuals with Disabilities Education Act (IDEA) is a law that makes available a free appropriate public education (FAPE) to eligible children, youth and young adults with disabilities throughout the nation in the least restrictive environment and ensures special education and related services to those individuals, designed to meet their unique needs and prepare them for further education, employment, and independent living.

• The IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, youth and young adults with disabilities.

• Part B. Children and youth ages 3 through 21 receive special education and related services.

• To ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services
What is Child Find and Major Elements

- Public Awareness
- Interagency Coordination
- Referral and Intake
- Screening of Young Children
- Identification of Young Children
- Eligibility Determination
- Tracking
- Eligible for IDEA services
What is FAPE and the IEP?

• **FAPE** = Free Appropriate Public Education
  - The meaning of “appropriate” has changed in lieu of the Supreme Court decision in *Endrew F. v. Douglas County School District RE-1*

• **IEP** = Individual Education Program
FAPE Mandate

Defined as special education and related services that:

- Are provided at no cost to parents
- Meet state standards
- Include appropriate education
- Conform with the Individualized Education Program (IEP)
Components of a FAPE: (Free Education)

- Districts cannot deny FAPE based on cost of services
- Cost can be considered when several options available
- Needs to be “reasonably calculated in light of the child’s circumstances” to allow the child to “meet challenging objectives”
- Reimbursement from other agencies acceptable
- Can charge for fees charged to students without disabilities
Components of a FAPE: State Standards

- Special education and related services must meet state standards
- Must meet, or exceed, federal standards set in the IDEA
- Teachers must meet licensure and certification requirements for the state
Components of a FAPE: (Appropriate Education)

- FAPE is delineated in the Individualized Education Program (IEP)

- IEP developed in collaboration with child’s parents

- IEP describes student’s needs, details special education and related services to be provided, and lists student’s goals

- School authorities must have a “cogent and responsive explanation for their decisions” that the IEP is ‘reasonably calculated” for the child to progress

- Transition services can be included as early as age 14 and must be included by the time a student turns 16.
Related Services

- Defined as supportive services needed for student to benefit from special education – individual basis
- Must be included in the IEP (including transportation needs)
- Provided at no cost to parents
- Excludes medical services provided by a physician and medical devices
- May qualify as a special education service (e.g., speech therapy, physical therapy, occupational therapy)
Graduation and FAPE

• Regular high school diploma = termination of services
• Certificate of attendance = services until student ages out (e.g., 21 years old)
• IEP team (including parents/youth) should review IEP goals, provide written notice to parents, and provide summary of student achievement and performance at graduation
• When a child displays inappropriate behavior, such as violating a code of student conduct or disrupting the classroom, this may indicate that behavioral supports should be included in the child’s IEP; this is especially true when the child displays inappropriate behavior on a regular basis or when the behavioral incidents result in suspensions or other disciplinary measures that exclude the child from instruction.
If a child displays inappropriate behavior despite having an IEP that includes behavioral supports, this may indicate that the behavioral supports in the IEP are not being appropriately implemented, or the behavioral supports in the IEP are not appropriate for the child. In these situations, the IEP Team would need to meet to discuss amending the current IEP to ensure that the interventions and supports in the IEP can be implemented, or to revise the behavioral interventions and supports that are currently in place.
• IDEA requires that needed behavioral supports in the IEP, whether provided as special education, related services, or supplementary aids and services, be based on peer-reviewed research to the extent practicable. The supports chosen should be individualized to the child’s needs.
• To facilitate the transition for a child described in paragraphs (e) and (f) of this section— (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled (IDEA, 2006, 34 C.F.R. 71. Sec. 300.323(g)(1))

• “The State must have in effect policies and procedures to ensure that— (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services” (IDEA, 2006, 34 C.F.R. 71. Sec. 300.311(a)(2)).
Child Find: Record Exchange

• Issues needing attention
  – Reasonable steps = standardized policies and procedures by dedicated staff to complete procedures
  – State policies and procedures are not adapted for the JJ facility setting and “practical” guidance is not provided
Child Find: Requires General Education Interventions

• Instruction
  – Research-based instruction in the general education classroom is necessary for all students (see IDEA, 2006, 34 C.F.R. 71. § 300.309(a)(1-2)).
  – State level policies: (typically, about 5.5-6 hours of instruction daily)

• Issues needing attention
  – Sole reliance on worksheets are neither instruction nor evidence-based
  – Instructional time is often less than state requirements and further reduced by issues with CO’s bringing students late (or not at all) and lack of substitute teachers
Child Find: Requires General Education Interventions

- Instruction: Issues needing attention
  - Teachers must teach in area of expertise (2006, 34 C.F.R. 71. Sec. 300.309(b)(1-2))
  - Documentation of student academic and behavioral progress (collection or analysis of student data, subsequent interventions, or evaluation of interventions to identify if changes should be made to the interventions of a student requires special education evaluation) is required (IDEIA, 2006, 34 C.F.R. 71. Sec. 300.309(b)(1-2))
  - Direct observations in the general education classroom must be part of the process to document problems (IDEIA, 2006, 34 C.F.R. 71. Sec. 300.310(a))
Child Find: Requires General Education Interventions

• Curriculum
  – State level policies: Number of credits and required courses identified
  – State or district policies: Adopted textbooks

• Issues requiring attention
  – Required courses must be offered, particularly with regard to electives, technical education (vocational courses), languages, laboratory sciences
  – Course availability should not be based on teacher availability
Child Find: Requires General Education Interventions

• Curriculum: Issues requiring attention
  – Textbooks and materials must align with district and state policies
  – GED preparation should be provided as an elective, rather than for up to ½ of the school day
  – Vocational courses must supplement and not supplant the general education curriculum
Child Find: Oversight

• Requirements: IDEA (2006, 34 C.F.R. 71. Sec. 300.111(a)(1)(i)), “requires that the state must have in effect policies and procedures to ensure that—(i) All children with disabilities residing in the State…regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated.”

• Issues requiring attention
  – State-level policies and procedures are needed to ensure compliance
  – State policies and procedures must be adapted for the JJ facility setting
Individualized Education Program (IEPs): Oversight

• “The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. Further, the state is responsible for monitoring and enforcement of special education services at the district (local education agency) and public agency (school) levels using quantifiable indicators.

• Issues requiring attention
  – Rarely is the state observed to provide monitoring or enforcement to ensure JJ facilities have educational programs consistent with public schools.
IEPs

• IDEA (2006, 34 C.F.R. 71. Sec. 300.323(e)) identifies that the facility is responsible for providing services comparable to those described in the child's IEP from the previous public agency, as appropriate.

• Issues requiring attention
  – Past & current IEPs lack alignment (Compared to public school IEPs)
  – Services noted are a function of services available and not individual student need
  – IEPs are commonly the same or very similar (e.g., number of minutes special education) within a given facility
IEP Implementation

• “(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include—(2)(i) A statement of measurable annual goals, including academic and functional goals designed to—(A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum” (IDEA, 2006, 34 C.F.R. 71. Sec. 300.320(a)(2)(i)(A)).
IEP Implementation

• Issues requiring attention
  – Students must earn credit for courses while incarcerated (ESSA, 2015).
  – Students with disabilities are guaranteed and provided the same number of instructional minutes per day and week as nondisabled students (IDEIA, 2006, 34 C.F.R. 71. Sec. 300.11)
  – Measurable annual goals are often repeated on IEPs within a facility regardless of individual student need
  – There is often insufficient link between goals and how they will promote access to the general education curriculum
IEP Implementation

• Issues requiring attention
  – Need to provide rigorous and relevant curricula aligned with State academic and career and technical education standards that utilize instructional methods, tools, materials, and practices that promote college and career readiness (U.S. Department of Education & U.S. Department of Justice, 2014).
  – For students with disabilities, teachers must provide evidence-based instructional adaptations as per student IEPs (IDEA, 2006, Sec.300.39(b)(3)(i-ii))
  – All students, including those with disabilities and segregated students must be provided the number of instructional minutes per day and week that are required by the state (IDEA, 2006, 34 C.F.R. 71. Sec. 300.11)
Transition Services

• IDEA (2006, Sec. 300.43) “requires a coordinated and consistent set of activities that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes-- (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation”
Transition Services

• Issues requiring attention
  – IEPs commonly assert “will explore job interests” and do not include a coordinated and consistent set of activities
  – Career readiness (developing a resume) courses are confused with vocational education (i.e., learning actual technical skills)
  – Vocational courses
    • Are rarely provided
    • Prerequisites may exclude students with disabilities
    • Courses may not include scope and sequence
Transition

• Issues requiring attention
  – Dedicated staff needed to support student transition
  – Need for formalized cross-agency collaboration and plans for shared databases
  – Written procedures and transition-related forms are needed for students entering (Form to evaluate needed coursework) and exiting (Portfolio to take to next school) a facility
  – Cross agency agreements, Memorandum of understanding, shared databases
References


Question and Answer
Q & A Facilitator

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