



June 2006

Juvenile Justice and Students with Disabilities: State Infrastructure and Initiatives

by *Eve Müller*

According to data collected in 2003 by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), just over 96,000 youth were incarcerated in juvenile correctional facilities throughout the United States (not including those being held in detention).¹ An additional 10,000 youth were in state prisons or adult jails during the same time, according to the Bureau of Justice Statistics.² A recent study found that at least 37 percent of incarcerated youth are eligible for services under the Individuals with Disabilities Education Act (IDEA), (Quinn, Rutherford, Leone, Osher & Poirer, 2005), compared with less than nine percent of the overall public school population,³ indicating that youth in the juvenile justice system are significantly overrepresented in special education. The purpose of this document is to describe infrastructures and initiatives at the state level for serving students with disabilities who are already in the juvenile justice system or at risk for entering the juvenile justice system. For the purposes of this document, “students in the juvenile justice system” refers to children and youth facing juvenile delinquency charges, placed on probation by juvenile court, confined in juvenile correctional facilities, paroled from a juvenile correctional facility and/or in adult prison as youthful offenders. Project Forum conducted this analysis as part of its cooperative agreement with the U.S. Department of Education’s Office of Special Education Programs (OSEP).

Data Collection

Project Forum, in collaboration with the Center on Education, Disabilities and Juvenile Justice (EDJJ) and the National Disability Rights Network (NDRN), developed an interview protocol addressing issues pertaining to states’ approaches to serving students with disabilities in the juvenile justice system.⁴ This survey was disseminated in November 2005 to all states and non-

¹ These data represent the total number of incarcerated youth at a single point in time, not a cumulative total for the entire year. These and other statistics can be found at the OJJDP website:

www.ojjdp.ncjrs.org/ojstatbb/cjrp/asp/State_Facility.asp.

² These and other statistics can be found at the BJS website: www.ojp.usdoj.gov/bjs/abstract/pjim03.htm.

³ These data come from the following OSEP website: www.ideadata.org.

⁴ Project Forum thanks Peter Leone, Director of EDJJ and Judith Storandt of NDRN for their assistance in developing the interview protocol, as well as reviewing an earlier version of this document.

state jurisdictions. By January 3, 2006, Project Forum had received a total of 43 responses from state education agencies (SEAs). Survey findings are reported in the following section of this document.

Survey Findings

State-level Staff

Of the 43 survey respondents, 31 SEAs reported that there is at least one state-level staff responsible for addressing issues related to the education of students with disabilities in the juvenile justice system. Of these, 13 reported that this staff person(s) is also responsible for addressing issues related to students *without* disabilities in the juvenile justice system. Another two of these 31 SEAs reported that they employ two separate staff to handle issues relating to the juvenile justice system – one of whom is responsible only for students with disabilities and the other of whom is responsible for students both with and without disabilities.

All but one of the 31 SEAs with staff responsible for juvenile justice issues provided information on full-time equivalency (FTE). Five SEAs reported that they have exactly one (1.0) FTE staff person handling these issues. Seventeen reported that they have less than 1.0 FTE (ranging from .05 FTE to .95 FTE) and eight reported that they have more than 1.0 FTE (ranging from 1.3 FTE to 3.0 FTE).

All 31 states also provided information on source of funding for the position(s). Seventeen specify that federal funds are used (e.g., IDEA Part B); three use state funds; nine use a combination of federal and state funds (e.g., IDEA Part B combined with state truancy and dropout funds); one uses a grant awarded to the state Department of Corrections; and one uses legislative funds.

All 31 SEAs provided information on responsibilities associated with the position. Most commonly, responsibilities include:

- serving as liaison between the SEA and the state’s Department of Juvenile Justice (26 SEAs);
- convening taskforces/workgroups (26 SEAs);
- responding to inquiries from parents (26 SEAs);
- examining data (25 SEAs);
- providing technical assistance (TA) to correctional facility staff (24 SEAs);
- coordinating with other governmental agencies (23 SEAs);
- facilitating a continued connection between local education agencies (LEAs) and students with disabilities in the juvenile justice system (22 SEAs);
- coordinating professional development efforts (18 SEAs);
- assisting students with disabilities as they transition in/out of the juvenile justice system (16 SEAs);
- developing handbooks or other publications (13 SEAs);

- working with parent centers (12 SEAs); and
- monitoring activities (4 SEAs).

Additional responsibilities mentioned by no more than one SEA include coordinating efforts with institutions of higher education (IHEs) that have correctional education programs; participating on the state Juvenile Parole Board; ensuring that sessions specific to students with disabilities are included at the annual Juvenile Justice Education Institute; and program supervision and implementation in regional and local juvenile detention homes.

Monitoring

Forty survey respondents reported that the SEA conducts monitoring activities in juvenile correctional facilities and three reported that the SEA does not. Of the 40 that do, 23 reported that monitoring of juvenile correctional facilities is part of the SEA's formal monitoring process (e.g., Continuous Improvement Monitoring Process [CIMP], Continuous Improvement Monitoring System [CIMS] or Monitoring for Continuous Improvement and Results [MCIR]). Two exceptions to this are an SEA that reported monitoring juvenile correctional facilities as part of its licensure process and another that described a quality assurance review process funded as a discretionary project and implemented by the state's Juvenile Justice Education Enhancement Project. Four SEAs reported that monitoring is also conducted in response to any complaints received related to IDEA compliance. One state noted that monitoring in the form of site visits also takes place through other federal Department of Education programs such as funding for neglected and delinquent youth, some of whom also have disabilities. SEAs most frequently reported that monitoring of juvenile correctional facilities was conducted cyclically (ranging from two- to seven-year cycles).

Several SEAs reported that they monitor juvenile correctional facilities as part of the school district (LEA) in which each facility is located. Other SEAs reported that the Department of Juvenile Justice is treated as its own LEA or that each juvenile correctional facility is treated as its own LEA.

Information Exchange

All 43 survey respondents described the process for exchanging information between the school system and the juvenile justice system. Most SEAs reported that the receiving facility is responsible for requesting educational records, including individualized education programs (IEPs), from the student's LEA of origin, and several noted that this is not always a smooth process. A few SEAs exchange—or plan to exchange—records electronically. For instance, one state will soon implement a web-based student information system that will allow the automatic transfer of assessment data and all required special education forms between the Department of Education and the juvenile justice system. In another state, the juvenile detention center provides a “commitment roster” each week to an automated IEP vendor. A turnaround document is then provided to the juvenile detention center indicating the electronic address of each student record. More frequently, however, records are exchanged via fax or mail. In the case of one SEA,

records are picked up and delivered by hand via the court counselor. Two other SEAs reported that records are exchanged during IEP team meetings.

One SEA reported that there are two full-time clerks whose sole responsibility is to facilitate the exchange of special education information between LEAs and state juvenile justice facilities; and another two SEAs reported that juvenile justice facilities hire educational liaisons to gather IEPs and assessment data from LEAs of residence. Three SEAs noted that due to the Family Educational Right to Privacy Act (FERPA), a release must be signed in order to share educational information. Four SEAs described interagency agreements or memoranda of understanding (MOUs) to ensure efficient exchange of information between the education system and the juvenile justice system.

Several SEAs noted that there is a specific timeline for the exchange of materials (i.e., anywhere between two and 30 days after a request is made), but several SEAs noted that the timely exchange of records remains a significant challenge.

One SEA explained that information exchange varies based on the type of correctional facility. For example, a juvenile justice facility education program administered by an LEA will have a different process for obtaining information than a facility administered by the Department of Health Services (DHS) or the Department of Corrections.

Prevention Programs

Twenty-eight SEAs reported that they are involved in one or more prevention programs designed to keep students with disabilities out of the juvenile justice system. However, all of the programs they described target students both with *and* without disabilities. Fourteen SEAs described the use of positive behavioral interventions and supports (PBIS), sometimes within the juvenile justice system as well as within the education system. Two additional SEAs described similar programs focusing on behavior management. Other programs described by SEAs included:

- anti-bullying programs;
- day programs serving students at risk of detention placement;
- school-based mental health programs;
- mental health “systems of care”;
- drop-out prevention;
- extended-day programming (e.g., 21st Century Community Learning Center programs);
- school assistance teams;
- safe schools programs (e.g., Safe and Drug Free Schools programs);
- academic intervention services;
- high school and middle school reform initiatives; and
- adolescent literacy programs.

Discharge Planning

Twenty-nine SEAs reported that the state has specific policies and practices regarding discharge planning for students with disabilities. In many cases, these policies and practices appear to be the same for students *without* disabilities. Several SEAs noted that the juvenile correctional facility is responsible for notifying LEAs of a student's release within a certain timeframe (e.g., 30 days prior to discharge). Facilities are then responsible for transferring educational records to the receiving LEA (e.g., discharge plan, results of district/state assessments, IEP and transcript).

Eight of the 29 SEAs described their mandatory discharge or "transition" plans.⁵ These plans include information such as: the assignment of parole officers and social workers; plans for continued education and vocational training; and provisions for community support. Several SEAs noted that, in the case of students with disabilities, these transition goals are incorporated into the student's IEP. Discharge planning meetings frequently include representatives from both the facility and the receiving LEA, as well as representatives from other state agencies such as vocational rehabilitation or the department of health and human services. In some cases, interagency cooperation is mandated by law or interagency agreement. Four SEAs reported having either a designated transition coordinator or reintegration team responsible for overseeing the student's discharge and transition process.

Several SEAs described efforts to improve and/or streamline the discharge process. In one case, Minnesota is piloting a "reintegration" framework at one site to help with the process. The framework has been in place for nine months and an additional three pilot sites will be added in 2006. New Mexico has developed a "Transition Services and Interagency Linkages" form that is completed by a student's designated education transition consultant and the reentry transition coordinator. New York has an interagency taskforce in place to address issues related to successful discharge and transition.

Two of the SEAs that reported that the state does *not* have any specific policies or practices noted that the quality of discharge/transition activities varies considerably from facility to facility.

SEA Programs and Initiatives

Twenty-nine SEAs reported having one or more programs or initiatives in place to support students with disabilities in the juvenile justice system and 13 SEAs reported that they had no such programs. Examples of programs/initiatives specifically targeting students with disabilities include:

- transition consultants (e.g., Arkansas' Postschool Outcomes Intervention for Special Education [POISE] team);
- comprehensive review of special education services in correctional facilities;

⁵ SEAs with mandatory discharge and/or transition plans include Arizona, California, Florida, Illinois, Maine, New Jersey, Ohio and Tennessee.

- professional development for correctional education staff on how to correct and prevent areas of IDEA noncompliance;
- an SEA contract with a local IHE to provide technical assistance to the state's department of juvenile justice;
- PBIS training for both SEA staff and department of juvenile justice staff;
- representation by the director of education for the department of juvenile justice on statewide special education taskforces and/or advisory panels; and
- a request to the state legislature to increase special education funding in adult correctional facilities.

Most programs described by SEAs target students both with *and* without disabilities. They include, for example:

- professional development for officers on school campuses;
- literacy initiatives;
- SEA representative on juvenile parole boards to ensure community safety and successful community transition;
- a pilot project to transfer students from more to less restrictive settings, including students in juvenile justice programs;
- the establishment of a new department of juvenile justice that separates juvenile from adult correctional facilities;
- instructional decision-making (IDM) model that assists students prior to a determination of eligibility for special education services;
- a statewide behavioral alliance;
- an interagency juvenile justice transition taskforce;
- professional development for discharge/transition planning for all correctional education teachers;
- a jail-to-community transition pilot; and
- tutorial services for eligible incarcerated students.

Additional details about initiatives designed to serve students with disabilities in the juvenile justice system will be available in Project Forum's companion document, *Juvenile Justice and Students with Disabilities: Profiles of Several State Initiatives* (Müller, forthcoming) on the Project Forum website at www.projectforum.org.

Non-SEA Programs and Initiatives

Twenty-two SEAs described programs or initiatives in the state targeted to students with disabilities in the juvenile justice system being conducted by other entities, although—as with the SEA-sponsored programs described above—most target *all* students, not just those with disabilities. Agencies most often mentioned by the respondents were the state's division of youth services and the department of juvenile justice. Other entities sponsoring programs include the state legislature; public agencies (e.g., department of health and human services, department of mental health and hygiene); IHEs; OSEP-funded technical assistance (TA) Projects (e.g., Parent

Advocacy Coalition for Educational Rights [PACER], EDJJ); and private foundations (e.g., Annie E. Casey Foundation, McArthur Foundation). Many SEAs described programs/initiatives involving collaboration between one or more of these entities. Programs and initiatives addressed issues as varied as:

- mental health;
- community “reintegration”;
- IDEA compliance;
- wrap-around services;
- juvenile justice program reforms;
- literacy;
- prevention of foster care placements;
- mentoring and transition planning;
- balanced and restorative justice; and
- professional development for correctional facility education staff.

Barriers

Thirty-three SEAs identified one or more barriers to schools partnering with the juvenile justice system to better serve students with disabilities. Most commonly, SEAs described resistance on the part of the receiving LEAs to working with recently released juveniles due to concern that these students pose a significant risk to school and community safety (8 SEAs) and lack of effective interagency collaboration (8 SEAs). Other commonly mentioned barriers included:

- difficulty securing and retaining qualified special education personnel within juvenile correctional facilities (6 SEAs);
- inadequate transition/discharge planning (6 SEAs);
- lack of commitment on the part of the education and juvenile justice systems to make education of students with disabilities a priority (6 SEAs);
- lack of adequate resources for providing special education and related services to students with disabilities in correctional facilities (5 SEAs);
- need for improved recordkeeping on the part of the juvenile justice system, as well as for timely transfer of educational records back and forth between LEAs and correctional facilities (4 SEAs);
- the high mobility of the population (4 SEAs);
- a lack of parental involvement (3 SEAs);
- a lack of meeting time for interagency collaboration (3 SEAs);
- confidentiality concerns (3 SEAs);
- statewide assessment scores and adequate yearly progress (3 SEAs); and
- financial disincentives for LEAs to keep students in schools (3 SEAs).

No more than two SEAs cited the following barriers:

- lack of understanding on the part of SEA and LEA staff regarding the structure of the juvenile justice system;
- under-identification of students in correctional facilities requiring special education services;
- unwillingness of LEAs to take “ownership” of juveniles recently released from correctional facilities;
- lack of awareness on the part of probation officers of services available to students with disabilities;
- location of juvenile justice system under a separate branch of government from education;
- lack of community-based juvenile correctional facilities;
- lack of local aftercare committees and mental health services;
- unwillingness on the part of high schools to accept transfer credits from correctional facilities; and
- high rates of recidivism.

Summary and Conclusions

Most SEAs responding to this survey reported having one or more state-level staff dedicated to handling issues related to students with disabilities in the juvenile justice system and described a variety of policies/procedures for monitoring juvenile correctional facilities, handling information exchange, discharge and prevention. Furthermore, the majority of responding SEAs reported that they are involved in one or more programs/initiatives pertaining to this population, although many of these target students both with *and* without disabilities. These data indicate that most SEAs are both aware of—and responsive to—the unique needs of students with disabilities in the juvenile justice system. At the same time, however, most SEAs identified significant barriers to serving this population, including attitudinal, institutional, procedural and financial barriers. In order to ensure that students with disabilities in the juvenile justice system receive the support they need and deserve, it is essential that SEAs and other stakeholder agencies work to improve services for this population, particularly via interagency collaboration.

Reference

Müller, E. (2006). *Juvenile justice and students with disabilities: Profiles of several state initiatives*. Alexandria, VA: Project Forum at the National Association of State Directors of Special Education.

Quinn, M., Rutherford, R., Leone, P., Osher, D., Poirer, J. (2005). Youth with disabilities in juvenile corrections: A national survey. *Exceptional Children*, 71(3), 339-345.

This report was supported by the U.S. Department of Education (Cooperative Agreement No. H326F000001). However, the opinions expressed herein do not necessarily reflect the position of the U.S. Department of Education, and no official endorsement by the Department should be inferred.

Note: There are no copyright restrictions on this document; however, please credit the source and support of federal funds when copying all or part of this material.



This document, along with many other Forum publications, can be downloaded from the Project Forum at NASDSE:

<http://www.projectforum.org>

To order a hard copy of this document or any other Forum publications, please contact Carla Burgman at NASDSE, 1800 Diagonal Road, Suite 320, Alexandria, VA 22314
Ph: 703-519-3800 ext. 312 or Email: carla.burgman@nasdse.org