

NATIONAL JUVENILE JUSTICE NETWORK

Federal Guidelines on Correctional Education

TALKING POINTS

DECEMBER 2014

On December 8, 2014, the U.S. Department of Justice (DOJ) and the U.S. Department of Education (DOE) jointly released guidance on correctional education for youth. Letters are being mailed to every superintendent in the country, all state attorney generals, and to the state heads of juvenile justice departments, as well as to any parent training centers funded by the DOE.

The following are basic talking points for use with journalists and policymakers.

What Youth Are Affected?

- Nationally, more than 60,000 youth receive education in confinement each year.¹ These youth are held in detention centers, group homes, camps, ranches, and state training schools. (For numbers of confined youth in your local area, see [Easy Access to the Census of Juveniles in Residential Placement: 1997-2011](#).)
- Many youth in the justice system are “developmentally behind their peers, and are more likely to have learning disabilities. More than half of youth in detention have not completed the eighth grade. Some estimate that as many as 70% of youth involved in the juvenile justice system have learning disabilities.”²

¹ Elizabeth Seigle, Nastassia Walsh, and Josh Weber, *Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System* (New York: Council of State Governments Justice Center, 2014), 31.

² Ashley Nellis, “Back on Track: Supporting Youth Reentry from Out-of-Home Placement to the Community” (Washington, DC: Youth Reentry Task Force of the Juvenile Justice and Delinquency Prevention Coalition, 2009), 15.

Why Quality Education for Youth Confined in the Justice System Matters

- **The state is responsible for youth well-being and rehabilitation.** A court has removed these youth from their homes and families; the state is obligated to provide for their overall well-being. Furthermore, one of the primary purposes of confining youth is to rehabilitate them and prepare them for successful, law-abiding adulthood. Education is a key part of that.³
- **Education for youth in the justice system protects the public.** At least one study has found that male adolescents committed to a state correctional facility who were behind in math or reading were twice as likely to commit new crimes as those who were not.⁴ Other studies have found that finishing high school is often a key turning point for youth in the justice system and that effective educational interventions reduce recidivism.⁵
- **The public supports youth rehabilitation.** A 2007 Zogby poll conducted for the National Council on Crime and Delinquency found that 91 percent of voters believe that rehabilitative services and treatment help prevent future crimes; and over 80 percent believe that investing in these will save tax dollars in the long run.⁶
- **Youth who drop out of high school are condemned to a life of poverty.** “During the first half of the 20th century, a young person who got into trouble, quit high school, and did not seek higher education could still find jobs that earned a decent income. But, by 2012 the high school dropout’s median family income had declined to only 30 cents for every dollar earned by a college graduate.”⁷
- **Educational attainment means better long-term health – and therefore, less burden on the health system.** Higher levels of education is correlated with lower rates of chronic illness and with longer life expectancy.⁸ Contributing to the health of youth in custody should translate into long-term savings in public health costs.

³ Peter Leone and Lois Weinberg, *Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems* (Washington, DC: The Center for Juvenile Justice Reform, May 2010), 7.

⁴ See T. Archwamety, and A. Katsiyannis, “Academic remediation, parole violations, and recidivism rates among delinquent youths” *Remedial and Special Education*, 21 no. 3 (2000):161–70.

⁵ Steve Suitts, Katherine Dunn, and Nasheed Sabree, “Just Learning: The Imperative to Transform Juvenile Justice Systems Into Effective Educational Systems” (Atlanta: The Southern Education Foundation, May 2014), 27-29, <http://bit.ly/1BelYm0>.

⁶ Barry Krisberg, and Susan Marchionna, “Attitudes of US voters toward youth crime and the justice system” (Oakland: National Council on Crime and Delinquency, February 2007), <http://bit.ly/1vxm1WA>. See also Gerstein, Bocian and Agne Strategies, “Campaign for Youth Justice System Survey” (October 2011), <http://bit.ly/11c2alt>.

⁷ Suitts, Dunn, and Sabree, 11.

⁸ Leone and Weisberg, 5.

What's Wrong with the System Now?

- **Students in state custody are not learning.** Federal data show that “[l]ess than half of these students in the age range for attending high school in 2009 earned one or more course credits attending state juvenile justice schools across the nation. Twenty five percent of all longer-term students were enrolled in a local school district. Nine percent of these students between the ages of 16 and 21 earned a GED certificate or a high school diploma, and two percent of them were accepted and enrolled at a two or four-year college. Most of these indicators of student achievement in 2009 showed little or no improvement from the prior two reported years, 2007 and 2008.”⁹
- **Substandard education for youth in custody is not a new problem.** “During the past 30 years, advocates and the U.S. Department of Justice have brought class-action cases and have filed complaints about the adequacy of education services and supports for incarcerated youth.”¹⁰

What Barriers Exist to Improved Educational Outcomes?

- **Youth mobility.** Youth in the foster care system for 11 years or more experience an average of eight foster care placements. Youth in the justice system can experience frequent stays in detention; committed youth stay longer. These moves entail changes in school environments – frequent changes are associated with dropout and school failure.¹¹
- **Educational records are incomplete: missing records, credits, and lengthy delays in transferring them.** Youth in the system spend significant amounts of time out of school. “Confidentiality of juvenile education records is mandated by the Family Education Rights and Privacy Act (FERPA, 34 CFR, Part 99). However, this legislation, which was designed to protect children from unauthorized disclosure of school records, is frequently interpreted incorrectly and is cited as a reason why agencies do not transfer school records”¹² Lacking accurate records, school administrators frequently are unable to place them in appropriate classes.

⁹ Suitts, Dunn, and Sabree, 15-16.

¹⁰ Quote from Leone and Weisberg, 7. For a summary of litigation 1978-2005 compiled by the National Center on Education, Disability, and Juvenile Justice (EDJJ), see the “Class Action Litigation Involving Special Education Claims for Youth in Juvenile and Adult Correctional Facilities,” at <http://bit.ly/1u1jn7q>. The EDJJ notes on the summary can be found here: <http://www.edjj.org/Litigation/>. The website has not been updated since 2007.

¹¹ Leone and Weisberg, 15-16.

¹² Ibid, 16.

- **Enrollment in community-based schools is often delayed or blocked.** Delay can mean that youth are unable to enroll in classes they need for graduation. Enrollment of formerly incarcerated youth is often blocked.¹³
- **Agencies rarely coordinate or collaborate to ensure students are able to smoothly continue their education when transitioning into or out of custody.** Confidentiality concerns (often unfounded) and adversarial relations between education and foster care or juvenile justice agencies interfere with youth success.
- **Youth needs are often not accurately identified.** Youth with special needs may not be assessed for them; at the same time, schools can over-identify youth as having special needs as a way to obtain additional services and supports.
- **Youth with special learning needs spend more time in solitary confinement – further limiting their access to special education services.**¹⁴
- **Youth do not receive training in “soft skills” needed for successful employment.** “Young people in the delinquency system often lack both the ‘soft’ or employability skills (also known as 21st Century Skills)—such as interviewing, problem solving, and anger management—and the technical training needed to compete for a shrinking pool of jobs. Teaching and supporting such skills helps young people to develop career paths and to understand the connection between education/training and living wage employment.”¹⁵

Why are the Guidelines Being Issued?

The DOJ and DOE named these principles for the release of the guidelines:

1. Facilities should prioritize education and have social and behavioral supports.
2. There should be adequate money and resources for education in facilities.
3. Facilities should recruit and retain good teachers.
4. Students should have access to all relevant enhancements (job training, etc.) available to students on the outside.
5. There should be formal procedures, MOU’s etc. to ensure reentry back to home schools.

Why the Guidelines Matter in Your State

The guidelines matter because:

- Not knowing the law is no longer an excuse for not complying.
- The guidelines apply to every recipient of federal funds.

¹³ Leone and Weisberg, 18-19.

¹⁴ See Leone and Weisberg, 19-22, for discussions of agency coordination, and the mismatch of youth needs and services provided.

¹⁵ Juvenile Law Center, “Recommendations to Improve Correctional and Reentry Education for Young People” (November 2012), 5 n. 4, <http://bit.ly/12sTdUx>.

- The Office of Juvenile Justice and Delinquency Prevention (OJJDP) will start writing these procedures into grants and will hold states responsible.

What Steps Should Be Taken Next?

- **Avoid incarcerating as many youth as possible.** Incarceration should be used only as a last resort; reducing the number of youth in lockup will avoid some of the issues identified here.
- **Block the school-to-prison pipeline.** Adjust school climate and discipline policies to reduce the number of youth needlessly caught up in the juvenile justice system by overzealous disciplinary approaches.
- **Amend federal legislation.**
 - amend the Elementary and Secondary Education Act (ESEA) to include equity in correctional education and access to education upon reentry¹⁶; and
 - amend the Family Education Rights and Privacy Act (FERPA) to allow for education records to be shared with the appropriate youth or adult justice agency for the limited purpose of conducting research regarding the education of youth in the justice system, with re-disclosure of personally identifiable information prohibited for any other purpose.¹⁷
- **Measure outcomes.**
 - States and local jurisdictions should collect information specifically on the educational progress of youth in custody. Why? “There is no database in the United States or within any of the 50 states that documents the educational status and academic achievement of children and youth in the juvenile justice systems. Although the national No Child Left Behind Act (NCLB) does not provide an explicit exemption, the US Department of Education has permitted the states’ juvenile justice schools to forego meeting the federal law’s standards and reporting requirements.”¹⁸
 - Recommended: “Developing the data measures necessary to evaluate and improve the current rate of young people returning to school or other educational programs upon reentry from correctional facilities.”¹⁹
- **Make sure families know that their rights are protected.**
 - All of the parental rights spelled out in the IDEA are applicable for their children in correctional settings.

¹⁶ Juvenile Law Center, 11-12.

¹⁷ Juvenile Law Center, 11-12.

¹⁸ Suitts, Dunn, Sabree, 39.

¹⁹ Juvenile Law Center, 9.

- **Improved coordination between relevant juvenile justice, child welfare, and education agencies to focus on youth educational success in secure facilities.**²⁰

Even more recommendations:

- **Employ qualified educators to teach in juvenile facilities.** Juvenile justice agencies should partner with teacher training programs to develop specialized certification programs, recruit qualified candidates, and invest in supporting the professional development of facility teachers. Given the difficulty of teaching youth in a correctional setting, agencies will need to compensate teachers well in order to attract the most qualified candidates.
- **Provide learning environments that promote high standards and meet the specific educational needs of students in facilities.** Youth in facilities should have access to the same safe learning space, curricula, and technology-based learning tools, and be held to the same state standards, as youth in high-quality community-based schools. Given the particular educational challenges faced by youth under their supervision, juvenile justice systems are also advised to support sufficient services for youth with educational and other disabilities, credit recovery and alternative credentialing programs, and vocational certification programs aligned with industry standards and local workforce needs.
- **Require independent accreditation of correctional educational programs.** Finally, policymakers should require agencies to obtain accreditation for their correctional educational programs. Initially, agencies can participate in assessment and accreditation processes based on nationally recognized standards from the American Correctional Association or Council of Juvenile Correctional Administrators. Since these standards apply only in part to correctional education, juvenile justice systems should also strive for accreditation through one of the six nationally recognized regional education accrediting commissions.
- **Address enrollment barriers by hiring transition coordinators:** These individuals can work across the juvenile justice and education systems to facilitate youth's timely reenrollment in school.²¹

NJJN Resource Page

NJJN has created a web page with links to the new guidelines, the documents cited here, and additional resources. You can find it here: <http://bit.ly/12t2ImA>.

²⁰ Leone and Weisberg, 19-20; and 41-45.

²¹ These four bullets come nearly verbatim from Seigle, Walsh, and Weber, pp. 31-32.