

## Fact Sheet:

# NDTAC Fact Sheet: Youth with Special Education Needs in Justice Settings<sup>a</sup>

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## Introduction

Many youth involved with the juvenile justice system have education-related disabilities and are eligible for special education and related services under the Federal Individuals with Disabilities Education Act (IDEA). In most cases, the rates of disabilities in the court-involved youth population are much greater than those in the general youth population. This fact sheet explores the prevalence of these youth within justice settings and describes the characteristics and challenges of serving these young people.

## Prevalence of Youth with Special Education Needs Involved with the Juvenile Justice System<sup>b</sup>

- In 2012, approximately 5.8 million children and youth, ages 6–21, in the general population received special education and related services, which is about 13 percent of all public school students.<sup>2</sup>
- Generally, African American and Native American youth are more likely to be identified with disabilities than white youth.<sup>3</sup>
- Most often males make up approximately two-thirds of the special education population with higher percentages of both emotional/behavioral disorders (E/BD) and specific learning disabilities (SLD) relative to females.<sup>3</sup>
- Youth with E/BD and related disabilities are three times more likely to be arrested before leaving school, when compared to all other students.<sup>4</sup>
- Youth with E/BD and related disabilities are twice as likely to live in a correctional facility, halfway house, drug treatment center, or experience homelessness after leaving school, when compared to students with other disabilities.<sup>4</sup>
- Many youth with learning and related disabilities are referred to the juvenile justice system directly by schools.<sup>5</sup>
- Youth with learning disabilities are more readily referred to the juvenile justice system than non-disabled peers due in part to few community-level service options available to youth with educational needs and delinquent behavior.<sup>6,7</sup>
- Rates of disabilities among incarcerated youth are generally estimated between 30 and 80 percent, which greatly exceed the approximate 13 percent of youth with disabilities in public schools.<sup>2,8</sup>
- In 2012, students identified as having SLD and those with E/BD disturbances represented the largest percentage of students with disabilities in correctional settings.<sup>2,8</sup>
- The rate of youth with diagnosed SLD in juvenile justice custody has been observed at more than seven times that of learning disabilities in the general population.<sup>9</sup>
- Six times more incarcerated youth than youth in public schools have an E/BD.<sup>10</sup>
- A substantial proportion of incarcerated youth (up to 50 percent) may have diagnosed or undiagnosed Attention Deficit Hyperactivity Disorder, ADHD.<sup>11</sup>
- More than three times as many youth in custody are eligible for special education than youth in public schools.<sup>10,12</sup>

## Special Education and Title I, Part D

State and local agencies, facilities, and programs receiving Federal Title I, Part D funds are required to work with children and youth with disabilities in order to meet existing individualized education programs (Sect. 1414(c)(14)) and to ensure staff are trained to do so (Sect. 1425(5)). Part D recipients also are required to notify local schools of youth who are identified as in need of special education services while in custody (Sect. 1414(c)(14)(A) and Sect. 1425(2)) and to coordinate between programs working with students with special education needs (Sect. 1414(c)(8)).

<sup>a</sup> Whenever possible, the specific population of youth studied/reported on is included.

<sup>b</sup> "While available research corroborate the high prevalence of special education needs among incarcerated youth, heterogeneity of research methods and varying operationalization of 'disability' contribute to considerable variability in prevalence data."<sup>1</sup>



## Federal Programs for Youth with Special Education Needs<sup>c</sup>

- In the **2012 IDEA count**, more than 16,000 children and youth (ages 6–21) in correctional settings<sup>d</sup> were designated to receive special education services, of the more than 45 million youth eligible for services overall.<sup>13</sup>
- According to the **2012–13 Consolidated State Performance Report (CSPR)**, at least 22,500<sup>e</sup> youth (ages 3–21) served by Title I, Part D funds in *State-operated* juvenile detention and correctional facilities and adult correctional facilities (Subpart 1) were students with disabilities.
- According to the **2012–13 CSPR**, school districts supported at least 41,500<sup>e</sup> students (ages 3–21) with a disability in Title I, Part D programs in locally operated juvenile detention and correctional facilities (Subpart 2).
- According to a 2010 survey, less than one-half (46 percent) of youth with a *diagnosed* learning disability report participating in a special education program while in custody.<sup>9</sup>

## Characteristics of Youth with Special Education Needs and Challenges for Justice Settings

Youth with disabilities, when compared to their peers without disabilities, experience educational and related challenges, which can be even more pronounced for youth involved with the justice system.<sup>14</sup> Thus, “addressing special education needs within custody settings is a significant service planning concern for...educational professionals working within the juvenile justice system.”<sup>15</sup>

### *Youth with Disabilities in the General Population*

- Youth with disabilities in the general population are characterized by a gap in school completion, post-school employment, and entry to higher education institutions.<sup>16,17</sup>
- Youth with disabilities may not read at levels proficient enough to gain basic information from passages.<sup>18–21</sup> They are typically behind peers in mathematics by as many as four academic years.<sup>20,22</sup>
- While in school, youth with E/BD, one of the most prevalent disabilities among youth who are incarcerated, typically have poor academic and social outcomes,<sup>23,24</sup> earning lower grades, failing more courses,<sup>25</sup> missing more days of school, and being retained more than youth in any other disability category.<sup>4</sup>
- Youth with E/BD in the population at-large commonly have significant communication-skills deficits in both expressive and receptive language that may affect both academic and social success.<sup>23</sup>
- Youth with E/BD also have the lowest graduation rates of all children with disabilities. According to 2011–12 IDEA Part B data, only 50 percent of students (ages 14–21) with E/BD graduated with a regular high school diploma, compared to approximately 64 percent of *all* students (in the same age range) with disabilities. Similarly, 38 percent of students (ages 14–21) with E/BD dropped out of school, compared to approximately 21 percent of *all* students with disabilities.<sup>26</sup>

## Federal Protections for Youth with Special Education Needs in Juvenile Justice Settings

According to federal disability law (i.e., Section 504 of the Rehabilitation Act of 1973, the Individuals with Disability Education Act (IDEA) of 2004, Title II of the Americans with Disabilities Act, all children and youth with disabilities, regardless of their custody, their placement, or their individual characteristics, are to be protected by a variety of disability-related services, including offering them specialized education. (Geib et al., 2011)

These protections and related rights extend to children and youth involved in the juvenile justice system. In fact, the U.S. Congress has stated explicitly that the rights and protections secured by IDEA and related regulations should remain in place even when youth are detained, incarcerated, in an alternative placement, or in other juvenile justice programs. These juveniles’ rights are protected and enforced by the authority of the U.S. Department of Justice as specified by the Civil Rights of Institutionalized Persons Act (CRIPA, 42 U.S.C. § 1997 et seq.) (Geib et al., 2011)

<sup>c</sup> Counts of youth served by various federally funded programs are conducted differently. Therefore, counts do not necessarily represent the same population of students during any given time period and may vary from each other.

<sup>d</sup> The number of children, based on snapshot counts on State-designated dates between October 1 and December 1, who received special education in correctional facilities. These data are intended to be an unduplicated count of all children receiving special education in short-term detention facilities (community-based or residential) or correctional facilities.

<sup>e</sup> The 2012–13 school year was the first year in which the number of students with disabilities served by Title I, Part D was collected. Additionally, not all States, including some States with large Part D populations, reported this data. Thus, this figure may not fully capture the number of students with disabilities served by Part D.