

# What Parents Need to Know About Teens with Disabilities and their Rights to Transition Services while Incarcerated



When compared to the rest of the population, youth with emotional, behavioral, learning, and developmental disabilities are overrepresented in the juvenile and the adult corrections system. Between 25% to 75% of all young offenders are known to have at least one disability. Many others are never identified or are misdiagnosed, and, as a result, do not receive the remediation and services that could help them. The most common disabilities identified in this population include attention deficit hyperactivity disorder, depression, learning disabilities, developmental disabilities, and conduct disorder. Often, youth have more than one disability. If they are undiagnosed, and inadequately treated the disabilities can be a continuing source of frustration and anger that perpetuate a cycle of failure and delinquency.

## Teens with disabilities in the delinquency system?

Many youth have contact with the juvenile justice system by the time they reach transition age. Youth who have entered the system at young age are more likely to continue to engage in delinquency. Youth with disabilities are more often suspended, expelled, or referred to court for disability related behaviors. Delinquency is associated with poor academic skills and school dropout. Youth ages 14-18 show a marked increase in school dropout rates. Often they drop out of school because of frustration with their school experiences.

Behaviors including poorly developed social skills, impulsive behaviors, risk taking behavior susceptibility to negative peer pressure, and greater difficulty learning in school are common to many young offenders.

African American youth are overrepresented in special education programs in the public schools and in the delinquency system. They are incarcerated at five times the rate for white youth, and they are less likely to have an attorney representing them in juvenile court proceedings.

## Transition services that should be provided in the juvenile justice system

Youth with disabilities ages 14-21 are eligible for transition (post high school) services under the Individuals with Disabilities Education Act (IDEA). They have the right to a free, appropriate public education (FAPE) including special education and related services, wherever they live or attend school. This includes juvenile correctional placements and with certain exceptions, adult correctional facilities.

If your son or daughter has never been identified as having a disability, but is experiencing frustration in school, is truant, or has other difficulties, you can ask in writing for an evaluation. The correctional facility is obligated to consider your request and to determine if your child has special needs.

It is important that your child's educational records including the Individual Education Program (IEP) or section 504 (of the Rehabilitation Act of 1973) plans be forwarded to the correctional facility other rights to be aware of:

- Parent involvement remains a basic principle of the IDEA, even if the youth is incarcerated.
- Until age 18 parents/guardians of incarcerated youth should be involved in the development of their child's Individualized Education Program (IEP).
- After age 18 parents or guardians can remain involved with the permission from the young adult.
- When parents or guardians are not able to attend IEP meetings in a correctional facility, they can participate through telephone conferencing. When parents or guardians are not available to participate in the IEP process, surrogate parents can be appointed.
- The surrogate parent cannot be an employee of any agency that might have a conflict of interest with the provision of special education services. (probation officer, special ed teacher).

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- If a youth has dropped out or changed school districts repeatedly, a new IEP or 504 plan must be developed to replace outdated programs.
  - When a youth is transferred to a correctional facility, an IEP or 504 plan that identifies the transition services he or she needs in the correctional facility must be developed.
  - Licensed personnel including special education teachers, psychologists, social workers or mental health professionals, should provide transition (post high school) services.
  - Services in a transition plan can include academic programs, vocational or technical training, life skills programs, substance abuse and mental health treatment.
  - Whenever possible, it is preferable that the IEP meeting include representation from the student's home school district. If a representative of the home district cannot come to the IEP meeting, the district can provide input by phone, mail, or fax.
  - If a youth in a correctional facility is not receiving appropriate transition serviceshe or she has have the same rights under the IDEA to mediation and due process that are afforded to families whose youth attend school in the community.

### **Services that should be provided after a youth leaves a correctional facility**

When a youth leaves a correctional facility, he or she will need an aftercare plan. Ideally, planning for release back into the community should begin when a child enters the facility. An aftercare plan for a transition aged youth should include strategies to stay out of trouble, academic goals, incentives for school attendance, vocational and job skills training, mentors, ongoing mental health services, substance abuse classes, and meetings with a probation officer.

The aftercare plan should be similar to and may be coordinated with the Transition Plan.

### **Youth with disabilities sent to adult correctional facilities are entitled to services**

Most youth with disabilities under the age of 22 and incarcerated in adult correctional facilities are entitled to special services under the IDEA if they were identified as eligible and were already receiving transition services through an IEP *prior to* their incarceration. Youth with disabilities in adult correctional facilities may also be entitled to services under the Americans with Disabilities Act (ADA) or 504. Parents should:

- It is easy to be intimidated by the corrections but parents continue to have the right to be involved with their child's education.
- Contact the staff in the correctional facility to let them know that your child is entitled to special education and related services.

### **For more information:**

- The National Center on Education, Disability, and Juvenile Justice is a collaborative research, training, technical assistance and dissemination program designed to develop more effective responses to the needs of youth with disabilities in the juvenile justice system or those at-risk for involvement with the juvenile justice system. Visit [www.edjj.org](http://www.edjj.org) or
  - Contact the Juvenile Justice project of the PACER Center, [www.pacer.org](http://www.pacer.org), or **1-800-537-2237**.
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