

CHAPTER 10

EXCEPTIONAL STUDENT EDUCATION (ESE) ISSUES IN JUVENILE JUSTICE EDUCATION

10.1 Introduction

QAR data indicates that there are nearly 3,000 students in Florida juvenile justice commitment programs who have been identified as in need of ESE services. Historically, the provision of ESE services has been difficult in public schools and has been even more difficult in juvenile justice facilities. Juvenile justice programs throughout the nation have been challenged by multiple impediments hindering the implementation of appropriate ESE services. Consequently, these programs have been slow to respond to legislative mandates requiring the provision of ESE services to all youth, including incarcerated juveniles. Many juvenile justice programs continue to provide inappropriate or inadequate services to incarcerated students with special needs. It is crucial that juvenile justice program administrators and educators understand the legislative mandates and follow the guidelines in providing educational services to incarcerated youths with disabilities, to afford this population those educational services that can improve their prospects for successful community re-integration.

According to the Federal DOE, prior to 1975 approximately one million children with disabilities were shut out of schools and hundreds of thousands more were denied appropriate educational services. With the recognition of these inequalities, an effort to alter current practices was initiated. ESE is a result of several pieces of legislation beginning in the 1970s. These include section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act (IDEA) in 1975 (PL 94-142 Education for All Handicapped Children Act) with revisions in 1990 and 1997, and the Americans with Disabilities Act in 1990. Although all three mandates impact juvenile justice education, of particular importance is IDEA, which focuses solely on educational services.

IDEA is a federal mandate entitling all persons, ages 3 to 21 who have disabilities, access to free and appropriate public education. As this is an entitlement program, everyone who meets the program eligibility criteria must be offered appropriate services. This entitlement extends to eligible students with disabilities who are assigned to juvenile commitment facilities. The 1997 revision to IDEA emphasizes the need for all involved in the lives of youth with disabilities – parents, administrators, teachers, and each level of government offices and officials – to assume greater responsibility for improving educational opportunities for these children.

Chapter 228, F.S., Pertaining to Special Programs, Public Education: General Provisions defines the term “exceptional student” to mean any child or youth who has been determined eligible for a special program in accordance with rules of the Commissioner of Education or the SBE. The term “exceptional students” includes students who are gifted, and students

with disabilities who are mentally handicapped; speech and language impaired; dual sensory impaired; physically impaired; emotionally handicapped; specific learning disabled; hospital and homebound; autistic; developmentally delayed, ages birth through five years; or those with established conditions, ages birth through two years.

This same statute defines “ESE services” to mean instruction and related services as are necessary for the student to benefit from education. Such services may include diagnostic and evaluation services; social services; physical and occupational therapy; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices and other specialized equipment; and other services as approved by regulations of the state board.

There are many juvenile commitment models in place including long-term, short-term, detention, public provider and private contractor. Regardless of who is responsible for administering the commitment program, it is ultimately the responsibility of the local school district to ensure that every student in ESE programs, who is in detention or committed to a juvenile facility within their district, is provided with appropriate ESE process and service delivery, within the legal time frame established by state and federal guidelines.

A focus in current correctional educational research has been on the ESE needs for youth within juvenile facilities. What emerges as a predominant concern is whether students identified as in need of ESE services are being served appropriately while incarcerated. Currently, the difficulties encountered in meeting the educational needs of incarcerated youth are due to problems inherent in the design and administration of educational programs for all juvenile offenders. Additionally, “the educational needs of handicapped youth in detention will not be adequately addressed until appropriate educational services are available for all incarcerated youth” (Leone et al., 1986:9). At present, there is no consensus as to how to best serve the incarcerated population in general, much less how to provide ESE services to disabled youths in these facilities. Yet, it is imperative to target what seems to be effective programming before implementing these practices. In considering various aspects of ESE in juvenile justice facilities, it is important to consider the types of students being served, programming needs, and the most effective way to provide these services to juveniles in correctional facilities.

This chapter focuses on the importance of providing ESE services to incarcerated youths with disabilities, and specifically, what is presently occurring in Florida’s juvenile facilities. Section 10.2 discusses legislation that mandates the appropriation and provision of ESE services to all students in need. Section 10.3 provides description of the characteristics of juvenile offenders who are in need of ESE services. Section 10.4 outlines the educational components to effectively serve the needs of these students. Section 10.5 presents a content analysis of four of the QAR indicators found in Standard One (Transition) and Standard Two (Service Delivery). The chapter concludes with suggestions for successful ESE programs in juvenile justice facilities.

10.2 Special Education Legislation

The provision of ESE services to any student including those in juvenile justice facilities is a result of several legislative initiatives that began in the 1970s. These include section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act (IDEA), originally implemented in 1975 (originally PL 94-142 Education for All Handicapped Children Act), with revisions in 1990 and 1997, and the Americans with Disabilities Act (ADA) of 1990. These legislative efforts are discussed in relation to their requirements for the provision of educational services to all students, including those in juvenile justice facilities.

Section 504 of the Rehabilitation Act—The Rehabilitation Act was enacted in 1973. Section 504 of this act prohibits discrimination against any person with a disability in a program or activity that receives federal funding. With regard to educational services, this provision includes both regular and ESE services. Section 504 requires that all children with disabilities be provided a free, appropriate public education in the least restrictive environment. The law also requires identification, evaluation, provision of appropriate services, notification of parents, an individualized accommodation plan, and procedural safeguards for students and families. Additionally, the act mandates all persons with disabilities be provided equal access to vocational education programs, which is particularly applicable to the incarcerated population.

IDEA—IDEA was enacted in 1975 and was originally named the Education for All Handicapped Children Act. In 1990, it was revised and renamed IDEA. It was again revised in 1997. This legislation deals solely with the education of students with disabilities, and provides federal financial assistance to state and local education agencies to guarantee ESE and related services to all eligible students. Students ages 3 to 21, who have 1 or more of 13 specific categories of disabilities and require ESE and related services are covered under this Act. The law requires that these students be provided a free and appropriate public education. Additionally, the law requires that a written IEP be developed. The IEP must contain specific content information, and certain persons must be present at the IEP meeting. Revisions in 1990 included that children should be educated in the least restrictive environment, meaning that children with disabilities should be educated with non-disabled peers, except in cases where this is not possible because of the nature of the disability. These additions also included services for serving at-risk youth from birth to 2 years, and programs to assist students with transition from school to post-school activities. In 1997, additional amendments were added to specifically improve the *quality* of ESE for students with disabilities. These improvements were inclusion, parent empowerment, IEP agendas, and school administration/personnel improvements. The purpose of inclusion is to increase the frequency of including students with disabilities with non-disabled peers. Congress further stipulated that by increasing the support from parents reinforces the student's education. Additions to the requirements of the IEP included whether a child needs assistive technology, what behavioral intervention will be used, Braille instruction needs, communication needs, and limited English proficiency (LEP) needs. Finally, the inclusion of all students with disabilities into state and district-wide educational testing is required.

ADA—The ADA prohibits discrimination of persons, in employment, public services, and accommodations because of their disability. Although the law covers many areas including public transportation, access to buildings, etc., it also requires that no student be discriminated against in receiving educational services.

Limitations of Legislative Mandates in Juvenile Justice Facilities— Many authors have stated that correctional ESE programs in juvenile justice facilities have been slow in complying with these various laws (Grande and Koorland 1988; Leone, 1991; Leone et al., 1991). These programs had little experience with ESE and had to develop methods for screening, identifying, assessing and teaching (Henderson, 1995). Correctional educational programs, for a number of reasons, were the last to respond to the mandate to provide a free and appropriate education (Leone et al., 1991). Although there have been numerous advancements in correctional ESE since the passage of these laws, many hindrances continue to be a challenge. The obstacles juvenile facilities encounter in providing quality educational services to exceptional students include governance and standards of correctional education programs, difficulties due to mobility of students, lack of collaboration between correctional and public school systems, increased concern with confinement and safety resulting in less emphasis on education, funding issues, and the lack of appropriately trained personnel to work with this diverse population (Grande and Koorland 1988; Leone, 1991). These impediments have made it difficult for correctional facilities to develop a system of appropriate educational programming that will meet the individual needs of students.

10.3 Characteristics of and Services Provided to Youth with Disabilities

Although there is no one profile of the student in an ESE program in the juvenile justice system, several authors have cited certain common characteristics of this population. Cook and Hill (1990) examined 220 disabled and non-disabled adjudicated youth to draw findings about backgrounds prior to involvement with the juvenile justice system. They assessed sex, race, family type, placement at time of evaluation, and types of offenses to draw a profile of the pre-placement and educational status of ESE offenders in the juvenile justice system. The authors found that the disabled and non-disabled students were similar in that they were mainly male, came from single parent households, were placed in residential settings, and were about 50% African-American and 50% white. The most prominent finding; however, was that 69% of all students were being served in regular educational programs with little or no ESE support. This is especially problematic because 48% of the subjects were identified as having some kind of disability. More specifically, only 25% of learning disabled students and 50% of mildly mentally handicapped students were receiving ESE services. Moreover, 29 additional students were identified as slow learners, but were not receiving any additional education other than regular educational services. These findings suggest several common characteristics of disabled youths that should be addressed in juvenile justice educational programming.

Further research was conducted by Rincker, Reilly and Braaten (1990) regarding academic and intellectual characteristics of juvenile offenders. These authors looked at academic achievement, intelligence scores, educational category, sex, socioeconomic status, behavioral offenses, and type of charges. What emerged as particularly noteworthy were their findings regarding students' educational categories. Researchers used five categories for educational classification, including regular education, learning disabled, behaviorally disordered, educable mentally handicapped, and remedial or vocational students. Over half of the sample appeared to be eligible for ESE services, but were not receiving them. Moreover, this does not even account for those students in need of services who have not been identified. These authors further suggest that incarcerated ESE students are among the most neglected populations. What becomes salient from these studies are the lack of appropriate education services, as well as the extremely high prevalence of students in need of ESE services in juvenile justice facilities.

Incarcerated Youth Requiring ESE Services—Bullock and McArthur (1994) suggest that the most common disabilities among juvenile offenders are mental retardation, learning disabilities, and behavioral disorders. There has been considerable disparity between the estimates of the number of exceptional students served in the juvenile justice populations in various states. The importance of identifying the prevalence of these disorders in juvenile facilities is critical if the facilities are to provide effective programming for this population. Rider-Hankins (1992b) found that between 30% and 75% of delinquent youth in the United States are disabled in some way; Leone et al., (1991) have indicated that 29% of incarcerated youth have been identified as having a disability; Bullock and McArthur (1994) found approximately 23% of the total juvenile offender population had disabilities; Gemignani (1992) has identified that as many as 40% of these youth have some form of learning disability; and Leone (1997) has identified a disabled population of 30%. Although there is disparity in these numbers, the estimates still range from four to five times greater than the general public school population, which is reportedly between 6.5% and 13.7%. (Forbes, 1991; Rider-Hankins, 1992b). The high prevalence must be considered to effectively program for youth in juvenile justice facilities who are in need of ESE services.

Another important area in which literature is sparse is the breakdown of the types of disabilities present in juvenile justice facilities. This information is particularly important in providing specific services for individual offenders. Moran (1991) found that emotionally disturbed offenders made up the largest group at 16.3%; learning disabled was the second largest group with 10.6%, and mildly mentally retarded was third with 7.7%. Clearly, the specific disabilities of offenders must be considered in developing a responsive educational program for these youths.

10.4 Educational Components

Because of the unique environment of a juvenile justice facility, provision of ESE services can be difficult. However, with specific components in place these services can be adequately provided to incarcerated youths. Gemignani (1992) argues that assessment of deficits and learning needs, a curriculum that meets each student's needs, vocational training

opportunities, transitional services, a continuum of educational and related services, and effective staff training are essential components of a correctional ESE program. Functional assessments serve the purpose of providing information about current levels of academic, social and behavioral functioning. This information should be used to develop the student's IEP (Rutherford, Nelson, and Wolford, 1985). Furthermore, a functional curriculum is one that focuses on a youth's individual levels of performance in the areas of academic, social, and vocational skills. Assistance with student transition to the next placement or for return to the home community is essential for ESE students. Finally, the need for professional development among correctional special educators is crucial. Currently, there is a shortage of trained ESE teachers working in juvenile justice settings (Bullock and McArthur, 1994; Grande and Koorland, 1988; Leone, 1991; Norton and Simms, 1988). As a result, teachers in this setting are generally inexperienced and ill prepared to teach this population effectively. With these components in place, better ESEal opportunities should be available.

Implications for Juvenile Justice ESE Programs—A recent task force was developed, namely Project FORUM, at the National Association of State Directors of Special Education (NADSE). In a collaborative effort with the Office of Special Education Programs of the U.S. DOE, staff members from its Office of Special Education Programs, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention, in addition to the Center for Effective Collaboration and Practice (CECP), and the Office of Special Education and Rehabilitative Services (OSERS) together have considered correctional ESE. The focus of the task force was to identify problematic areas in juvenile justice ESE and to develop strategies to resolve these issues. The task force identified 11 pertinent issues including:

1. Lack of compliance with the legislative mandates in the juvenile justice system (IDEA, ADA, Section 504 of the Rehabilitation Act of 1973).
2. A need for increased awareness and training for workers in the juvenile justice system (judges, probation officers, police officers, public defenders), the educational system (teachers and educators in public school and correctional facilities), and mental health system regarding education of students with disabilities in the juvenile justice system.
3. Research needs to identify best practices and programs for preventing delinquency, serving youth with disabilities in the juvenile justice facilities, and reducing recidivism.
4. Research of differential treatment, the adequacy of information about cultural factors and the understanding and value of differences in relation to race.
5. A consistent and coordinated continuum of services for youth with disabilities across educational, juvenile justice and other agencies including transition procedures.
6. Need to disseminate information about what is as well as what is not a promising practice, in order to facilitate the implementation of best practices.

7. More prevention and early intervention efforts to decrease the number of youth involved with the juvenile justice system.
8. Parent and family involvement in juvenile justice programs.
9. Adequate coordination between educational and residential programs.
10. Need to link educational services for disabled students in juvenile justice programs with the larger issues of educational and institutional reform in order for meaningful change to occur.
11. Ongoing support for teachers and staff in the juvenile justice system.
(NASDSE, 1999).

Service Delivery Models—There are various methods of service delivery for ESE. Among the most common are the self-contained, pullout, consultative, inclusion and full inclusion (Fulk, Mushiski, and Hirth, 1994). The self-contained model is a classroom in which students receive 100 percent of their education with students with similar disabilities. The pullout programs consist of students with disabilities being removed from a regular education classroom for a portion of the school day to receive individualized instruction in particular areas of need (Fulk, Mushiski, and Hirth, 1994). Consultative models consist of a ESE specialist providing consultative assistance every few weeks or on an as needed basis to the classroom teacher. Inclusion consists of students being mainstreamed into a regular classroom setting for as much time as they can and participating in all the same activities as their non-disabled peers. Full inclusion consists of students with disabilities being completely included into a regular education setting with a ESE teacher in the classroom in addition to the regular education teacher.

In public educational settings, a variety of these models are being used; however, the uniqueness of the juvenile justice setting makes provision of using different models difficult. The options in juvenile justice education are limited. Additionally, offenders with special needs are most frequently placed in the regular educational classroom (inclusion) with one teacher and do not receive appropriate individualized instruction to meet the needs of their disability. Each of these models can be effective if used appropriately. Juvenile justice facilities must consider the number of staff, classroom space, and the disabilities that students have in order to decide which of these models is most appropriate for this particular group of students.

Summary—Currently, it is evident that ESE services in juvenile justice education are lacking. The reasons for this include lack of qualified staff, misunderstanding of these students' needs, and misconceptions about how to best implement services. A ESE program for these youths must include a continuum of services from intake through program exit and community re-integration. The curriculum should be fitted to each student's abilities, as determined by assessments. Additionally, educators and staff need to be familiar with the

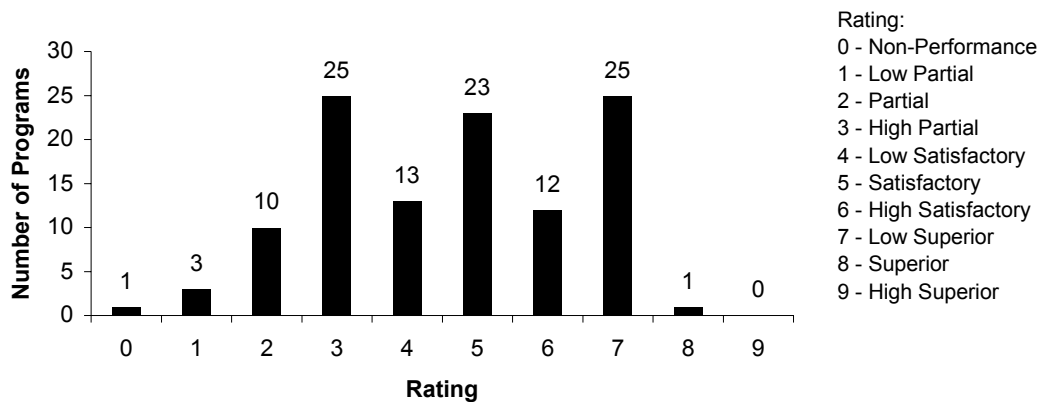
special needs of students. This requires appropriate certification and training for teachers. Finally, a model of ESE service delivery must be developed that fits with the educational program at the juvenile justice facility, but also meets the needs of the students.

10.5 ESE Services in Florida’s Juvenile Justice Facilities

The following descriptions are derived from results of QARs for 113 long-term commitment programs. Although 147 long-term commitment programs were reviewed in 1995, only 113 reports contained sufficient information for this analysis.

E1.03 On-site Transition (Student Planning) – Development and review of IEPs for students assigned to ESE programs within 11 days of student entry to the program—This indicator requires that there is an up-to-date IEP for each child that is in accord with state and federal law. The IEP should include a statement of the student’s present levels of educational performance; measurable annual goals, including benchmarks and short-term instructional objectives; accommodations and services needed; and the anticipated frequency, location, and duration of those services and modifications. The scores from the 1999 QAR cycle were examined to determine if IEPs are being reviewed and developed within a timely manner, and if IEPs are addressing academic needs, vocational skills, personal/social skills, community/family involvement, and transition activities in Florida’s juvenile justice programs.

Figure 10.5-1: Frequency of 1999 QAR Ratings for Indicator E1.03 On-site Transition (Student Planning)

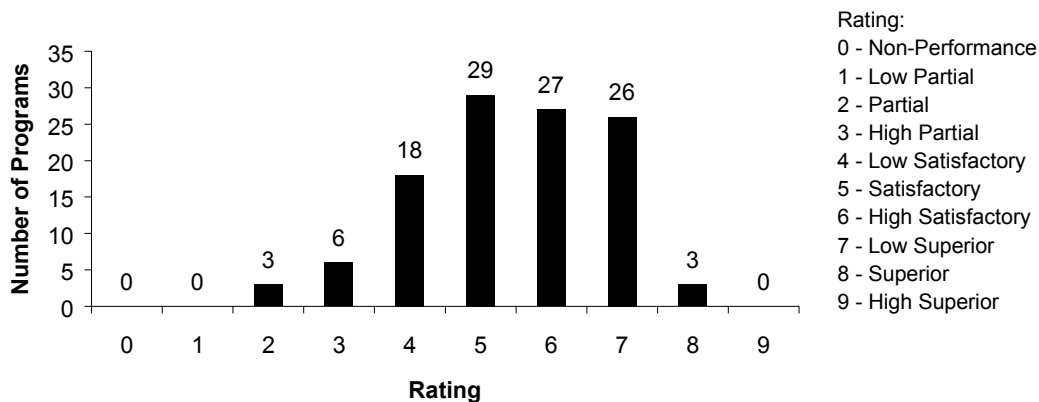


The average score for this indicator for all long-term programs within all counties is 4.6, within the marginally satisfactory range. Federal and state legislation mandates that students designated in need of ESE services who do not have an IEP, have an IEP developed within 11 days of entry to a commitment program. JJEEP data indicate that these mandates are not being met in a consistent basis throughout the State of Florida. Additionally, JJEEP data

indicates nearly 32% of the youth in commitment programs being designated in need of ESE services making it essential that no program receive a score of partial or below in this area. All programs that received a score of partial were subject to a corrective action plan developed in conjunction with Department of Education and have or are in the process of correcting documented deficiencies.

E2.01 Curriculum (Academic) – Modifications and accommodations as required for students with disabilities—This indicator requires that the short-term instructional objectives, accommodations and services needed to ensure academic and vocational progress are being provided as specified within the IEP. Scores from the 1999 QAR cycle were examined to determine if appropriate modifications and accommodations are being made within the administered curriculum as identified in a student’s IEP.

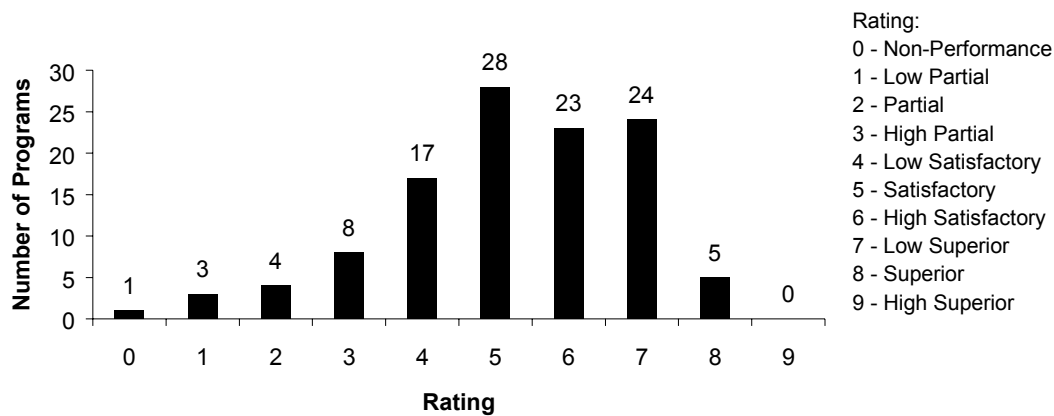
Figure 10.5-2: Frequency of 1999 QAR Ratings for Indicator E2.01 Curriculum (Academic)



The average score for this indicator for all long-term programs within all counties is 5.4. This indicates that performance for this indicator is in the satisfactory range and demonstrates that programs are making determined efforts to apply modifications and accommodations as required for students with disabilities. However, these data also indicate that there are nine programs performing in the partial to high partial range, in which many were not making all of the necessary modifications and accommodations for ESE students that are required by law. The nine programs that received a partial score in this indicator were subject to a corrective action plan developed in conjunction with DOE. There were an additional 18 programs scoring in the low satisfactory range that must be particularly attentive to ESE needs.

E2.03 Instructional Delivery – Individuals delivering educational services have access to IEPs for students assigned to ESE programs—This indicator requires that the individuals who are delivering educational and vocational education services to students are using the IEP as a working document to incorporate the necessary accommodations and modifications within the taught curriculum. Scores from the 1999 QAR cycle were examined to determine whether instruction is individualized and delivered through a variety of instructional techniques to address the goals and objectives, including remedial strategies contained within the IEPs in Florida’s juvenile justice educational programs.

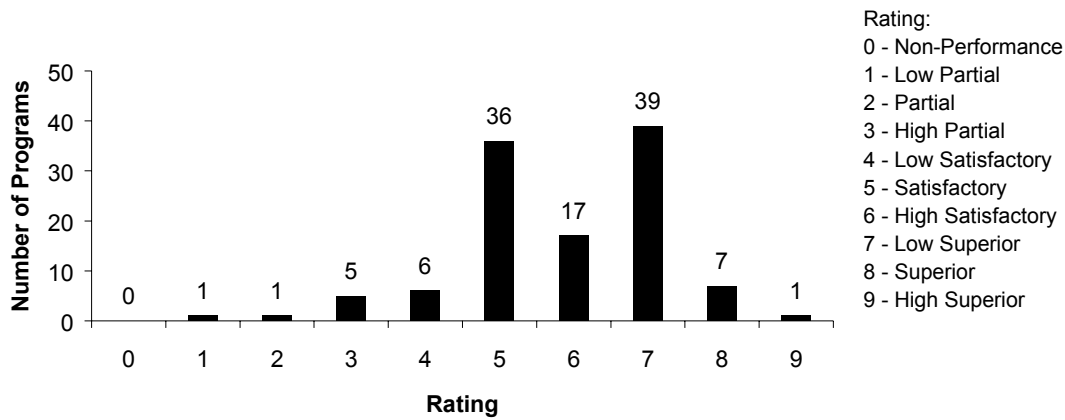
Figure 10.5-3: Frequency of 1999 QAR Ratings for Indicator E2.03 Instructional Delivery



The average score for this indicator for all long-term programs within all counties is 5.2, mid-satisfactory range, and indicates that instructors delivering ESE services to students generally have access to student’s IEPs. One program is out of compliance and 15 programs scored in the low to high partial range, and many are delivering educational services to ESE students without access to IEPs. This implies that instructors do not know what the educational plan and remedial strategies are for their special needs students, and therefore, these students are not being served. The IEP should be readily available to all teachers so that appropriate educational services can be provided to this population.

E2.04 Support Services – Student support services are available and include ESE services—This indicator require that all support services and support personnel necessary to carry out the IEP are being utilized. Scores from the 1999 QAR cycle were examined to determine adequate support services are being offered to meet the needs of students receiving ESE services and if support is being provided for those individuals delivering specific ESE instructional services in Florida’s juvenile justice programs.

Figure 10.5-4: Frequency of 1999 QAR Ratings for Indicator E2.04 Support Services



The average score for this indicator for all long-term programs within all counties is 5.9. These data are not limited to ESE support services, and include all support services offered to all students. This indicates that support services to all students, including those in the ESE program, are in the satisfactory range. Six programs rank in the low to high partial range. However, what emerges as particularly promising from these data is that 47 programs rank in the low to high superior range.

10.6 Summary

There are currently nearly 3,000 students in juvenile justice commitment programs identified as in need of ESE services within the State of Florida. A predominant concern that is emerging is whether ESE services are being delivered appropriately to these youth. Yet, there is no consensus on how to best serve this population.

A review of the current literature reveals that there are many disparities between the estimates of the number of exceptional students served in the juvenile justice populations in various states. Although there are disparities in these estimates, the numbers are four to five times greater than in the general population. This high prevalence must be considered in order to effectively program for youth in juvenile justice facilities that are in need of ESE services.

The literature is also inconclusive with regard to the breakdown of the types of disabilities present in juvenile justice facilities. For the purposes of educational program design and appropriate service delivery, it is imperative that specific disabilities be identified.

The existing literature emphasizes the importance of establishing specific components of educational service delivery for all students. These components include a meaningful assessment, a functional curriculum that meets each student's needs, vocational training opportunities, transitional services that include a continuum of education and related

services, and effective staff training. The literature also indicates that strong transition processes with follow-up services are essential components for student success. The information gathered during each phase of the process will form the basis of the IEP for each special needs student.

There is currently a shortage of trained ESE instructors. This makes it imperative that there is a clear educational process in place that includes all of the noted components. There needs to be ongoing professional development among instructors within juvenile justice facilities that is specific to delivering appropriate educational services to disabled students.

A review of QAR scores indicates that long-term commitment programs within the State of Florida are providing satisfactory services to disabled youth. The information reveals that many programs are still lagging regarding timely review and development of IEPs. The IEP is the core of any educational program that is developed for the special needs student. It is not likely that any special needs student who does not have an operational IEP is receiving appropriate educational services.

The QAR scores reveal that overall program performance for modifications and accommodations in the curriculum as required for students with disabilities falls in the satisfactory range and demonstrates that programs are making determined efforts to apply modifications and accommodations as required for students with disabilities. It is imperative that all programs score at least in the satisfactory range to ensure that students with disabilities are being served appropriately.

Data also reveal that instructors in 15 long-term commitment programs do not have access to IEPs to use in the development of lesson plans. IEPs must be available to all academic and vocational instructors in the program in order to provide appropriate educational services to each student.

Data does indicate that the majority of the long-term commitment programs and school districts are providing support services and support personnel to deliver services outlined within existing IEPs. However, the discrepancy in the number of support personnel and the number of instructional personnel having direct access to IEPs raises serious concern. Questions that must be addressed include: Are support personnel being utilized as prescribed by the IEP? Are the services provided matching the individualized academic, vocational and personal needs of the special needs student? Are support personnel working closely with instructional personnel to support and enhance daily instruction and remediation?

To ensure that all students in need of ESE services are receiving appropriate educational services, the process of obtaining past educational records, reviewing current IEPs and developing revised IEPs must be a priority of the educational program. The IEP must be a document that is used throughout the student's entire educational program. It should be utilized as the primary transition planning document, influence the curriculum that is taught, instructional strategies used, assessment procedures and support services and personnel needed. It is a guiding document that must be used by all instructional personnel.

To expand our knowledge regarding the depth and quality of services being provided to special needs students within commitment programs, it is necessary for DOE and JJEEP to collect data concerning the handicapping conditions of students within programs, service delivery models, and the quality of IEPs, including the inclusion of a transition component. Additionally, DOE and JJEEP should continue to provide technical assistance and, when necessary, corrective actions in order to ensure that students in ESE programs are receiving appropriate services.

