

CHAPTER 6

SPECIAL EDUCATION SERVICES IN JUVENILE JUSTICE EDUCATION

6.1 Introduction

The proportion of youths with disabilities in juvenile justice programs is estimated to be three to five times greater than in public school settings. Currently, 23% to 75% of youths incarcerated in a juvenile facility are in need of special education services (Bullock & McArthur, 1994; Gemignani, 1992; Leone, 1997; Rider-Hankins, 1992). The provision of special education services continues to be difficult in public schools and even more so in juvenile justice facilities. Programs have been slow to respond to legislative mandates requiring the provision of special education services to all youths, including incarcerated youths (Blomberg, Waldo, & Yeisley, 2001). Special education mandates place significant duties on the juvenile justice system, yet it also provides important and needed resources to those working in the system. Many juvenile justice programs continue to provide inappropriate or inadequate services to students in need of special education services.

To illustrate, 20% of students with emotional disturbances are arrested at least once before they leave school, as compared with six percent of all students (Chesapeake Institute, 1994). By the time youths with emotional disturbances have been out of school for three to five years, 58% have been arrested. Likewise, by the time youths with learning disabilities have been out of school for three to five years, 31% have been arrested (SRI International, Center for Education and Human Services, 1997).

Florida continues to incarcerate large numbers of youths with disabilities. Juvenile Justice Educational Enhancement Program (JJEED) research focuses on assessing the quality of educational services provided for these incarcerated youths. Clearly, effective educational services are essential to this population of students. These students are typically below grade level and have higher rates of retention, absenteeism, suspension, and expulsion than their peers (Chesapeake Institute, 1994; Leone, 1997; SRI International, Center for Education and Human Services, 1997). The purpose of this chapter is to assess how Florida programs have performed on quality assurance (QA) standards related to special education. Such an assessment enables JJEED to identify weak areas and to develop strategies and/or policies to correct those identified areas.

This chapter includes five subsequent sections. Section 6.2 provides a selected review of current special education literature and review of best practices. Section 6.3 contains an overview of federal legislation for youths with disabilities, current litigation involving adjudicated students with disabilities, and the overall prevalence of youths with disabilities in Florida's juvenile justice facilities. Section 6.4 discusses the over-representation of youths

with disabilities in the juvenile justice system and current research addressing this problem. Section 6.5 presents a content analysis of QA indicators related to special education and a two-year comparison of program performance in Florida's facilities. Section 6.6 provides a summary discussion of future implications for the provision of special education services in Florida's juvenile justice education programs.

6.2 Literature Review

The Individuals with Disabilities Education Act's (IDEA's) comprehensive system of identification, evaluation, service delivery, and review has special relevance for juvenile justice professionals. The purpose of the special education system, like the juvenile justice system, is to provide individualized services designed to meet the needs of each youth with a disability. The enhanced behavioral intervention and transition service needs requirements in the 1997 IDEA amendments bring special education goals even closer to those of the juvenile court (Burrell & Warboys, 2000). Furthermore, the careful documentation of service needs and ongoing assessment of educational progress required by IDEA bring valuable informational resources to juvenile justice professionals.

The speedy time frame for juvenile court proceedings may provide for limited opportunities to comprehensively assess a youth's prior educational history. Juvenile justice professionals must be alert early for indicators of the youth's special education status or existing unidentified disabilities. This process, which should become part of the standard operating procedure, includes carefully interviewing the youth and his or her parents, routinely gathering educational records, obtaining examinations and assessments by educational and mental health experts, investigating educational services at potential placement facilities, and coordinating juvenile court proceedings with the youth's individual educational plan (IEP) team (Burrell & Warboys, 2000).

Juvenile justice professionals can learn to recognize disabilities by carefully reading the legal definition of each disability. It is important to understand that youths may have a variety of impairments, which are not immediately apparent. A school psychologist or an evaluation specialist may use numerous checklists and screening instruments that are available to help recognize characteristics of disabilities and to determine eligibility for special education services by the IEP team (National Council of Juvenile and Family Court Judges, 1991).

Many juvenile justice professionals have encountered cases in which a youth enters the juvenile justice system for a relatively minor offense and his or her stay escalates into a long-term incarceration because of the youth's inability to succeed in programs designed for low-risk delinquent youths. This may happen either because the disability-related behavior makes it difficult for the youth to understand or comply with program demands or because his or her behavior is misinterpreted as showing a poor attitude, lack of remorse, or disrespect for authority (Burrell & Warboys, 2000).

Unfortunately, youths with disabilities are detained disproportionately (Leone et al., 1995). Researchers argue that one reason for this is that many youths with disabilities lack the

communication and social skills to make a good presentation to arresting officers or intake probation officers. Behavior interpreted as hostile, impulsive, unconcerned, or otherwise inappropriate may be a reflection of the youth's disability. This is another reason why it is important to establish the existence of special education needs or suspected disabilities early in the juvenile justice process.

Juvenile justice professionals should ensure that youths with disabilities receive services in accordance with their IEPs, and these provisions should be considered and ordered at disposition. As part of this process, juvenile justice professionals should ensure that the youth's special education rights under IDEA are being protected. When modification of the disposition plan is needed, they should coordinate its development with the youth's IEP team. Juvenile justice professionals should respond appropriately to evidence of such disabilities by ensuring that appropriate medical, mental health, and other services are provided as required (Burrell & Warboys, 2000).

6.3 Special Education Legislation

Current special education services are based on several pieces of legislation, including section 504 of the Rehabilitation Act of 1973, the IDEA 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) in 1990. Each of the three legislative acts affect juvenile justice education with IDEA being of particular importance as it relates solely to the provision of educational services for students from birth to 21.

The ADA

The ADA (1990) prohibits discrimination of persons in employment, public services, and accommodations because of their disabilities. Although the law covers many areas, including public transportation, and access to buildings, it also requires that no student be discriminated against in receiving educational services.

Section 504 of the Rehabilitation Act

The Rehabilitation Act (1973) 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 regular education and special education services. Section 504 requires that all children with disabilities be provided a free, appropriate public education 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. The law also requires identification, evaluation, provision of appropriate services, notification of parents, an individualized accommodation plan, and procedural safeguards for students and their 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 (1975). 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 special education services to all eligible students. Students whose ages range from birth to 21, with one or more of 13 specific categories of disabilities that require special education 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 the provision that children should be educated in the least restrictive environment to the maximum extent appropriate. In 1997, amendments were added specifically to improve the quality of special education services for students with disabilities. These amendments address inclusion, parent empowerment, IEP agendas, discipline, behavioral issues, and school administration/personnel improvements. The purpose of inclusion is to increase the frequency of including students who have disabilities with non-disabled peers in education activities. Congress further stipulated that increasing support from parents reinforces the student's education. Added requirements of the content of the IEP include determining whether a child needs assistive technology, what behavioral interventions are necessary, Braille instruction, communication services, and Limited English Proficiency (LEP). Finally, the inclusion of all students with disabilities into state and district-wide educational testing is required.

Definition of Disability

To be eligible under IDEA, a youth must have one or more of the disabilities listed in the statute and implementing final regulations and, because of that disability, require special education and related services [IDEA, section 1401(3)(A)]. The range of qualifying disabilities is broad, including

- Specific Learning Disabled (SLD)
- Emotionally Handicapped (EH)
- Severely Emotionally Disturbed (SED)
- Mentally Handicapped (MH)
- Speech or Language Impaired (SLI)
- Visually Impaired (VI)
- Deaf and Hard of Hearing (DHH)
- Visually Impaired (VI)
- Orthopedically Impaired (OI)
- Physically Impaired (PI)
- Traumatic Brain Injury (TBI)
- Other Health Impaired (OHI)

- Autism
- Multiple Disabilities

Disabilities that occur frequently among delinquents include SLD, EH, MH, OHI, and SLI. The two most common disabilities of youths in the juvenile justice system are SLD and EH. SLD is defined as “a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. It may include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia but not a learning problem that is primarily the result of environmental, cultural, or economic disadvantage” [IDEA, section 1401(26)(B)]. Emotionally handicapped is defined as

(i) a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression;
- A tendency to develop physical symptoms or fears associated with personal or school problems;

(ii) EH also includes schizophrenia. EH does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance

[IDEA, section 1401(26)(B)].

Free Appropriate Public Education (FAPE)

Every youth with a disability, as defined by IDEA, is entitled to a “free and appropriate public education” (FAPE). This entitlement exists for all eligible children and youths, including those involved in the juvenile justice system “[b]etween the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school” [IDEA, section 1412(a)].

Section 1412 of IDEA also requires that, “to the maximum extent appropriate,” youths with disabilities, including those in public and private institutions or other care facilities, are educated with youths who are not disabled. Placement in special classes, separate schooling, or other removal from the regular education environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. This provision is often referred to as the student being served in the “least restrictive environment”.

Identification, Referral, and Evaluation

IDEA requires school districts and other public agencies to seek out all youths who may have a disability. States and local education agencies (LEAs) must identify, locate, and evaluate all youths with disabilities and implement a system to determine which ones are currently receiving special education and related services. This is often called the *child find obligation*.

To determine eligibility for special education and related services, states must notify parents, obtain parental consent to evaluate, use a variety of assessment tools which are administered by knowledgeable personnel and appropriate to the youth's cultural and linguistic background, and provide for reevaluation [IDEA, section 1414(a)-(c)]. State policies and procedures typically set time limits for each step in the notice, consent, and evaluation/reevaluation process. Reevaluations must occur at least once every three years, but a child's parents and/or teachers may request it at any time [IDEA, section 1414(a)(2)].

The IEP

Under the amendments in IDEA, section 1414, a local education agency (LEA) is required to have an IEP in effect at the beginning of each school year for each youth with a disability in its jurisdiction who has a disability. Federal regulations call for no more than 30 days to pass between the determination that a child needs special education and related services and conducting the meeting wherein an IEP is developed for the child. A team that includes the following people develops the IEP.

- The child's parents
- At least one regular education teacher of the child (if the youth is or may be participating in a regular education environment)
- At least one special education teacher of the child or, if appropriate, at least one special education provider of the child
- A qualified representative of the LEA
- An individual who can interpret the institutional implications of evaluation results
- Others (at the discretion of the parents or the LEA) who have knowledge or special expertise regarding the youth, including related service personnel as appropriate, including (at the discretion of the parents or the LEA) probation officers, institutional staff, or other service providers with knowledge or special expertise regarding the youth
- The child with the disability (if appropriate)

IDEA requires each IEP to include the following basic elements.

- A statement of the child's present levels of educational performance.
- A statement of measurable annual goals, including benchmarks or short-term objectives.

- A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to the child.
- An explanation of the extent, if any, to which the child will not participate with nondisabled peers in the regular class and in extracurricular and other nonacademic activities.
- A statement of any individual modifications in the administration of state or districtwide assessments that are needed in order for the child to participate in the assessment. If the IEP team determines that the child will not participate in a particular state or district wide assessment of student achievement (or part of an assessment), a statement of why that assessment is not appropriate for the child and how the child will be assessed is needed.
- A projected date for the beginning of services and modifications and the anticipated frequency, location, and duration of these services and modifications.
- A statement of how the child's progress toward the annual goals will be measured and how the child's parents will be regularly informed of their child's progress which must be at least as often as parents are informed of their nondisabled children's progress toward the annual goals, and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

IDEA also requires IEPs to include

- A statement of transition service needs of the student that focuses on the student's courses of study if the youth involved is 14 years old (or younger if determined appropriate by the IEP team). The statement must be updated annually.
- A statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities of any needed linkages for transition services if the youth is 16 years old (or younger if determined appropriate by the IEP team).

Finally, the 1997 IDEA amendments require the IEP team to consider special factors in developing the IEP. Accordingly, the amendments direct the IEP to include

- In the case of a child whose behavior impedes his learning or the learning of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
- In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
- In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

- Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child’s language and communication needs, opportunities for direct communication with peers and professional personnel in the child’s language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child’s language and communication mode; and
- Consider whether the child requires assistive technology devices and services. [IDEA, section 1414(d)(3)(B)].

Special Education Related Services

Under IDEA, section 1401, special education means “[s]pecifically designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.” It includes “instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education.” IDEA also requires that related services be provided to help youths with disabilities benefit from special education services. These services include

[t]ransportation, and such developmental, corrective, and other supportive services as are required to assist the child with a disability to benefit from special education... (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only).

The term also includes social work services in schools and parent counseling and training.

Due Process

Section 1415 of IDEA discusses the importance of parental participation in the IEP process. Parents should be involved to the maximum extent possible. They should be provided with a full range of procedural safeguards, including the right to examine records, receive written notice of proposed actions (or refusal to take requested actions), and participate in meetings relating to the identification, evaluation, and educational placement of their child and the provision of FAPE to the child. Federal law also requires states to provide an opportunity for parents to initiate due process proceedings and the mediation of disputes with respect to identification, evaluation, and educational placement of their child and the provision of FAPE to the child.

Current Litigation

Nationally, the provisions of IDEA cover all state and local juvenile and adult criminal corrections facilities. A facility failing to comply with IDEA may be challenged through administrative proceedings, individual lawsuits, or class action civil rights litigation. Over

the years, federal court and administrative decisions have applied IDEA's protections to youths in juvenile detention centers and training schools and to those in jails and prisons (Youth Law Center, 1999). Dozens of federal decisions, rulings, and consent decrees address a range of issues, including identification of youths with disabilities, access to educational records, evaluation, IEP development, service delivery, staff qualifications, and timelines for compliance with required components in the special education program (Puritz & Scali, 1998; Youth Law Center, 1999). Additional decisions address such remedies as compensatory education for failure to provide special education services to youths in institutions.

There have been a number cases brought against juvenile justice facilities in the past several years. Most of the cases are based on students not being provided services mandated by IDEA.

In Andre H. v. Sobol, 84 Civ. 3114 (DNE) (1984), a suit was brought against New York City's Juvenile Detention Center, on behalf of all juvenile offenders in need of special education services because the facility had no screening process for identification, held no meetings to determine eligibility, and made no attempt to obtain records from schools previously attended. A settlement was reached in 1991 that required the detention center to provide services as mandated through IDEA. (Youth Law Center, 1999).

Nick O. v. Terhune, Case No. CIVS-89-0755 RAR-JFM (1989) was a class action challenging the failure of defendants to provide appropriate special education and related services to all current and future residents who have educational disabilities and are in need of special education and related services at the Northern Reception Center Clinic and nine other California Youth Authority (CYA) institutions. Defendants failed to properly identify, evaluate, and assess special education needs and develop IEPs in a timely manner and failed to provide needed special education or related services in violation of the IDEA, section 504, and the due process and equal protection clauses of the 14th Amendment. A settlement was reached in 1993 and stipulated the defendants to: ensure all class members are provided with a free appropriate public education, including special education and related services, in the least restrictive environment consistent with their unique needs in compliance with federal and state law; develop and implement procedures and policies to promptly identify youths entering the CYA facilities who have or may have disabilities as defined by federal law; fully assess and evaluate youths who have or may have special education needs; develop and implement appropriate IEPs; provide education in the amount and type specified in each youth's IEP; ensure that there are adequate numbers and qualified staff to provide these services; and fully protect the due process rights of youths and their families. (Youth Law Center, 1999).

W.C. v. DeBruyn, CAUSE No. IP 90-40-C (1990) was a civil rights class action on behalf of students who were confined to the Indiana Boys' School. Plaintiffs alleged violations of IDEA due to no educational services being provided to students. Under the consent decree, defendants agreed to the following conditions: To allow students to receive educational services; provide a continuum of services to students who were removed from school to an intensive treatment unit, and limit the removal up to 10 days or less unless an all parties

provided consent or held a case conference; offer a free and appropriate education to all students; identify all children who may have disabilities, and evaluate all identified children; convene case conferences on any child identified as a child with disabilities and provide all procedural protections required by federal law, with notice to the parents at the case conferences; develop an IEP for each student identified as a child with disabilities; provide related services as necessary and appropriate; have sufficiently trained staff to provide the free and appropriate education required by the IEP, as well as the related services; re-evaluate each IEP at least annually; and comply with all requirements of the IDEA. (Youth Law Center, 1999).

United States v. Puerto Rico, Civil Action No. 94-2080 (1994) was a civil rights action brought by the U.S. Attorney General, pursuant to the rights enumerated in the Institutionalized Persons Act, to enjoin the Commonwealth of Puerto Rico from depriving youths confined in its residential detention and training facilities of their constitutional rights, privileges, or immunities. Allegations related to special education include inadequate classification, inadequate education and special education services, and lack of due process. According to the settlement agreement, defendants agreed to provide academic and/or vocational education services to all youths confined in any facility for two weeks or more, equivalent to the number of hours the youths would have received within the public education system; to employ an adequate number of qualified and experienced teachers to provide these services; to abide by all mandatory requirements and time frames set forth under the IDEA, section 1401 et seq.; to screen youths for physical and learning disabilities; if a youth has been previously identified as having an educational disability, to immediately request that the appropriate school district provide a copy of the student's IEP; to assess the adequacy of the student's IEP and either implement it as written if it is an adequate plan, or if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP; to provide appropriate services for youths eligible for special education and related services; to provide each youth with educational instruction specially designed to meet the unique needs of the student, supported by such services as are necessary to permit the youth to benefit from the instruction, and to coordinate such individualized educational services with regular education programs and activities; and youths are not to be excluded from educational services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. (Youth Law Center, 1999).

Ashland School District v. New Hampshire, 681 A.2D 71 (1996). The Supreme Court of New Hampshire held that the school district must pay for the special education costs of the educationally disabled fifth grade student who was placed in a state residential facility under the state's delinquency statute. (Youth Law Center, 1999).

The above cases illustrate landmark decisions whereby juvenile justice facilities operated in violation of IDEA's mandates and were noncompliant in serving the educational needs of youths with disabilities. More specifically, the cases highlight discriminatory practices toward youths with disabilities who are committed to juvenile justice programs.

The federal requirement that special education students be educated, to the fullest extent appropriate, with students who are not disabled applies in the juvenile institutional context,

as well (IDEA, section 1412). Institutions may not provide a generic special education program and force all youths with disabilities to attend. Students may be placed in special education classes only as specifically called for in each IEP. As in the outside community, youths must be served with nondisabled students to the maximum extent appropriate. In addition, officials must include parents in the IEP process. Unless a court expressly limits their rights, parents of youths in juvenile justice facilities have all the rights that are accorded to parents of youths who are not in out-of-home placements [34 C.F.R., section 300.122(a)(2)]. If a youth is committed far from his or her parent's residence, teleconferencing may be essential. The burden is on the facility to keep all parties, especially parents, involved in the IEP process (Burrell & Warboys, 2000).

Litigation raises many issues related to special education services. In some cases it has helped to establish special education services where none existed. It has addressed the question of who is ultimately responsible for the provision of these services within varied juvenile justice facilities. The question of rehabilitation, least restrictive environment, and incarceration are areas where much research continues to be focused.

6.4 Over-Representation of Students with Disabilities in DJJ Educational Programs

While 8.6% of public school students have been identified as having disabilities that qualify them for special education services (U.S. Department of Education, 1998), youths in the juvenile justice system are much more likely to have both identified and undiscovered disabilities. For example, youths with learning disabilities or an emotional disturbance are arrested at higher rates than nondisabled peers (Chesapeake Institute, 1994; SRI International, Center for Educational Human Services, 1997), and studies of incarcerated youths reveal that as many as 70% suffer from disabling conditions (Leone et al., 1995).

A large number of incarcerated youths have experienced failure at school and are either marginally literate or illiterate (Center on Crime, Communities, & Culture, 1997). There has been no significant research that demonstrates a cause and effect relationship between disabilities and delinquent behavior. Various theories for the overrepresentation have been presented in literature. Some researchers view school failure as a possible link between delinquency and disability. Behavior problems and academic failure have been linked to both disability and delinquency. Another theory contends that students with disabilities are predisposed to delinquent behavior because they exhibit a lack of impulse control, poor reception of social cues, and have a diminished ability to learn from experience (Fink, 1990). A final theory is that youths with disabilities in the juvenile justice system are treated differently from other youths who engage in the same delinquent behaviors (Santamour, 1987).

Related to these theories are studies that have shown that youths with disabilities commit more acts of delinquency than their nondisabled peers (Keilitz & Dunivant, 1986). It has also been found that youths with learning disabilities were more likely to use marijuana and

alcohol, commit violent acts, and experience problems with school discipline (Bryan et al., 1989).

Over-representation most frequently occurs among youths with emotional and behavioral disorders, learning disabilities, and mild mental retardation (National Center on Education, Disability and Juvenile Justice, 2001). In Florida’s juvenile justice facilities, the over-representation problem is apparent in comparing the state average with the juvenile justice average.

Table 6.4-1 illustrates that the percentage of students with disabilities in Florida is approximately 2% higher than that of the national average for school years 1998-1999 and 1999-2000. In addition, students with disabilities who are adjudicated to juvenile justice facilities in Florida encompass 37% of that total student population in 1999-2000; compared to 36% of students during the 1998-1999 school year. These data demonstrate a continual overrepresentation of students with disabilities in juvenile justice programs in the State of Florida.

Table 6.4-1: Percentage of Children (ages 6-17) Served Under IDEA, Part B During the 1998-2000 School Years

School Year	% of ESE Nationwide*	% of ESE in Florida	% of ESE in Florida DJJ
1999-2000	11.26%	12.90%	37%
1998-1999	11.09 %	12.72%	36%

*Includes all 50 states and Washington, D.C. (U.S. Department of Education, Office of Special Education Programs, Data Analysis System)

Data regarding the overall prevalence of students with disabilities and the prevalence of specific types of disabilities for which students in the juvenile justice facilities are receiving special education services were collected from each of the 203 programs reviewed by JJEPP during the 2001 QA review cycle. For data collection purposes, the categories consisted of SLD, EH, SED, MH, and other (e.g., OHI, SLI). Table 6.4-2 illustrates these data.

Table 6.4-2: Number of Students with Specific Disabilities in Florida’s Juvenile Justice Programs During the 2001 School Year

Disability Type	Number of Students Receiving Special Education Services	Percentage of Students Receiving Special Education Services *
SLD	1,321	36%
EH	1,151	31%
SED	684	20%
MH	304	8%
Other **	260	7%
TOTAL	3,696	37%

* Percentages are calculated by dividing the number of students receiving special education services for a specific disability by the total population of students receiving special education services during the time of the QA review, which was 3696.

** Other indicates the following: Other ESE students [e.g., OHI] (97), SLI (94), DHH (26), gifted, (21), VI (14), and PI (8).

In Florida's 203 programs reviewed by JJEEP, there were approximately 10,048 students on any given day. Of these, 3,696 (37%) were identified as students with disabilities. Specifically, 1,321 (36%) were identified as SLD, 1,151 (31%) were identified as EH, 684 (20%) were identified as SED, 304 (8%) were identified as MH, and 260 (7%) were identified as having other disabilities.

6.5 ESE Services, Targeted QA Ratings, Case Studies, And Outcomes

ESE Services

In the most recent review of Florida's juvenile justice facilities, JJEEP has found that the quality of the services within the programs is affected by many variables. Those variables include whether the program is public or private, the type of facility in which the youth is being served, and if there is an ESE certified teacher on staff.

Public and Private Programs

Literature suggests that providing youths in juvenile justice facilities with quality educational services may improve their likelihood of living productive and crime-free lives (Brunner, 1993; Spellacy & Brown, 1984; Traynelis-Yurek & Giacobbe, 1989). In Florida, some facility providers are public (administered by DJJ), and some facilities are operated by private providers on a contractual basis. Some of the private providers are for-profit organizations, and some are not-for-profit organizations. The educational programs may also be operated by either public school districts, or for-profit or not-for-profit private providers.

Public education services are provided by the local or host school district (i.e., those school districts that provide funding, oversight, and assistance to DJJ programs). Public school districts should assimilate the juvenile justice programs within their educational structure, as with any school in their district. Please refer to Chapter 11 of this report for further detailed information.

ESE Certified Teachers

High quality personnel produce results and are an integral part of effective special education programs. High quality personnel are those teachers who understand and can deliver quality instruction. Good teachers need not know and utilize all effective instructional interventions, but they do possess a clear understanding of the philosophy and practices of specific interventions (Center for Resource Management, 1986). Furthermore, good teachers hold higher expectations for students with disabilities and respect them and their families (NICHY, 1993).

For as long as special education has existed, there have been shortages of qualified personnel, and these shortages have long been an impediment to the design and operation of effective special education programs (McLaughlin, Smith-Davis, & Burke, 1986). Table 6.5-1

illustrates current information regarding teacher certification issues in Florida. Of particular note, the recent status of special education certification is included.

Table 6.5-1: Comparative Analysis of Teacher Certification Status in Florida

	Total Number of Teachers	Number of Teachers Not Fully Certified	Percentage of Teachers Not Fully Certified	Number of Teachers Not Fully Certified, With Content Expertise	Percentage of Teachers Not Fully Certified, With Content Expertise
Florida Totals	107,607	3,692	3.43%	1,470	39.82%
Special Education- All Levels	20,776	1,019	4.91%	377	37.00%

*This information was provided by the Florida Department of Education as a partial submission for the 2000 Title 2 Annual Report, Washington, D.C.

Of Florida’s 107,607 teachers, 102,445 are fully certified. The 3,692 teachers who are not fully certified are those who currently are not listed in the Bureau of Educator Certification database, but who may be certified at a later “count” or who may be teaching under Rule 6A-1.0502, FAC, (i.e., expert in the field), or who may be temporary or full-time substitutes. The 1,470 teachers not fully certified, but with content expertise, are teachers who hold temporary certificates based upon completion of content knowledge, but without professional preparation.

The percentage of teachers who are not fully certified in special education is 4.91%. Non-certified special education teachers rank second to career/technical education teachers who include 22.27% of the total population of teachers who are not fully certified in their area of instruction. Thus, the need for certified special education teachers continues to remain a critical shortage area throughout Florida, as well as in its juvenile justice programs. (For further detailed information on teacher certification, please refer to Chapter 16).

Targeted QA Ratings

The following comparisons are drawn from results of QA scores from the last two years. The QA priority indicators E1.03 and E2.05 were selected because they include special education documentation, processes, and implementation of educational opportunities and related services (e.g., counseling, SLI, occupational and physical therapy).

E1.03 On-Site Transition (Student Planning)

This indicator requires that there be a current IEP for each student with a disability, which is in accordance with state and federal law. Documentation of provision of special education services must occur within 11 days of student entry into the facility, including obtaining current IEPs and reviewing and determining whether the IEP is appropriate. If the IEP is not appropriate, an IEP meeting must be convened in a timely manner. IEPs must be used by all

instructional personnel to assist in providing individualized instruction and educational services and placed in student files.

The QA scores from the 2001 cycle were examined and compared with the previous year. The comparison is to better identify the status of the provision of educational services for students with disabilities in regards to IEP development and implementation in a manner that is specific to each student.

E2.05 Support Services

This indicator is presently classified as indicator E2.04 for detention centers. The indicator requires that support services be available to students and include special education services for students with disabilities that, at a minimum, consist of regularly scheduled consultative services and instruction that is consistent with each student’s IEP. The QA scores from the 2001 review cycle were examined and compared to scores from the 2000 QA cycle. The comparison was to determine the quality of support services that are being offered to meet the needs of students with disabilities. Table 6.5-1 shows the mean QA scores for indicators E1.03 and E2.05 (which include ESE processes and service delivery) for 2000 and 2001. In addition, the table shows the total mean QA scores of all indicators for 2000 and 2001.

Table 6.5-1: Mean QA Scores for Indicators E1.03 and E2.05 During the 2000 and 2001 QA Review Cycles

QA Indicators	2000	2001
E1.03 *	4.58	4.60
E2.05 **	5.60	5.05
Mean QA Scores ***	5.33	5.42

*E1.03 may be scored as follows: Superior – 7,8,9; Satisfactory – 4,5,6; Partial – 1,2,3; or Nonperformance – 0

**E2.05 may be scored as follows: Full Compliance – 6; Substantial Compliance – 4; or Noncompliance - 0

***Overall mean QA scores for all key indicators

Table 6.5-1 illustrates that there was a minimal increase in the mean score for indicator E1.03 from the 2000 to 2001 review cycle, but this increase is not significant. Consideration should be given to the fact that indicator E1.03 encompasses both general education and special education services (e.g., IAP and IEP development). Thus, this score is not representative of only special education services. There was a marked decrease in the overall scores for indicator E2.05 in the year 2001, which suggests that more problem areas were identified in special education services. Conversely, indicator E2.05 exclusively identifies special education and related service provisions to students with disabilities. The need for additional training in the area of special education regulations, practices, and implementation of service delivery continues to be an area of need in Florida’s continued effort to implement best education practices throughout it’s juvenile justice detention and commitment facilities.

Case Studies

A representative sampling of DJJ facilities with high satisfactory to superior QA scores, and documented quality programming for youths with disabilities were selected to identify and

analyze correlates of exemplary special educational services for students with disabilities. To provide a comprehensive comparison of educational programming for students with disabilities in a variety of juvenile justice programs, detention centers, group treatment homes, preventative programs, wilderness camps, and residential facilities were selected. The variables were: DJJ commitment level, education provider, gender, maximum capacity, percentage of students with disabilities, ESE teacher certification, class size, mean QA score of all key indicators, indicator E1.03 score, indicator E2.05 score, service delivery models, and curriculum as noted below in Table 6.5-2 through Table 6.5-6. Please refer to Chapter 3 for further explanation of these variables.

Table 6.5-2: Case Study Analysis of a Preventive Female Juvenile Justice Program in Florida

DJJ Program/ County	Level	Pro-vider	Gender	Max. Capa-city	ESE Pop. %	ESE Teacher Certified	Class Size	Mean QA Score	E1.03 QA Score	E2.05 QA Score
PACE Collier	2	Not for Profit	Female	30	17%	No (0/4)	7:1	7.11*	8.00	6.00 Full Compliance
Service Delivery Model:	GE: Heterogeneous grouping; one-on-one; CAI; assistive technology; research projects; remedial, tutorial, and advanced; hands-on. ESE: ESE specialist (S.D.F.): daily resource, individualized, consultation, home visits. IEPs have strong parental involvement.									
Curriculum:	Individualized instruction in mathematics, English, social studies, science; Plato software; GED prep; SMARTgirls curriculum; "Ready, Set, Read" curriculum.									

*Signifies deemed programs. The recorded data were selected from the previous review's QA scores.

Table 6.5-3: Case Study Analysis of a Preventive Male Juvenile Justice Program in Florida

DJJ Program/ County	Level	Pro-vider	Gender	Max. Capa-city	ESE Pop. %	ESE Teacher Certified	Class Size	Mean QA Score	E1.03 QA Score	E2.05 QA Score
Eckerd Leadership Program Pinellas	2	Not for Profit	Male	26	19%	Yes (1/2)	13:1	7.62*	8.00	7.00**
Service Delivery Model:	GE: CAI; one-on-one, thematic units; hands-on; group projects; problem solving; and experiential learning. ESE: 1 / 2 certified teacher (+) part-time ESE specialist									
Curriculum:	Mathematics; English; science; social studies; career awareness; peer counseling; cultural diversity; substance abuse; Plato software; CAI; GED; experiential learning; life skills; employability skills.									

**Eckerd Leadership Program's E2.05 score was documented before its last two years' deemed status when this QA indicator was not a compliance indicator but was rated from 0-6.

Table 6.5-4: Case Study Analysis of a Group Treatment Home in Florida

DJJ Program/ County	Level	Pro-vider	Gender	Max. Capa-city	ESE Pop. %	ESE Teacher Certified	Class Size	Mean QA Score	E1.03 QA Score	E2.05 QA Score
ACTS GTH 1&2 Hillsborough	4	Public	Male	16	81%	Yes (2/2)	8:10	7.00	8.00	6.00 Full Compliance
Service Delivery Model:	GE: Thematic Units; CAI; hands-on; experiential; independent reading; small & large groups; peer tutoring; and writing projects. ESE: 2/2 ESE certified teachers (+) part-time ESE specialist. (S.D.F.) : one-on-one, small & large groups, consultation.									
Curriculum:	Thematic units in all subjects; employability skills; intensive reading; tutorial, remedial & literacy instruction; vocational – experiential community-service oriented.									

Table 6.5-5: Case Study Analysis of a Residential Treatment Center in Florida

DJJ Program/ County	Level	Pro-vider	Gender	Max. Capa- city	ESE Pop. %	ESE Teacher Certified	Class Size	Mean QA Score	E1.03 QA Score	E2.05 QA Score
Dozier Washington	8	Public	Male	191	63%	Yes (2/13)	15:1	7.0	6.0	6.0 Full Compliance
Service Delivery Model:	GE: Individualized; CAI; and performance-based. ESE: One ESE certified teacher and one ESE case manger, on-site resource consultation and support. EH students have BIPs.									
Curriculum:	GED; core curriculum; advanced coursework; reading and math remediation; employability skills; CAI; vocational-exploration, building trades, and maintenance; vocational and work experience programs.									

Table 6.5-6: Case Study Analysis of a Detention Center in Florida

DJJ Program/ County	Level	Pro-vider	Gender	Max. Capa- city	ESE Pop. %	ESE Teacher Certified	Class Size	Mean QA Score	E1.03 QA Score	E2.05 QA Score
Orange Detention Center Orange	Deten- tion	Public	Male/ Female	154	33%	Yes (1/11)	12:1	7.19	7.00	6.00 Full Compliance
Service Delivery Model:	GE: Lectures; CAI; discussion; interactive role-playing; teamwork; and assistive technology. ESE: One certified teacher, 3 full-time ESE aides, and part-time ESE specialist. (SDF): all ESE students are assigned to self-contained CAI classroom. Students are mainstreamed as appropriate. Support staff is in regular classrooms as needed.									
Curriculum:	GED; school-to-work; literacy course for reading and mathematics; reading, writing, science, social studies, and mathematics instruction; CAI.									

Vocabulary Used in Tables:

GE – general education, including students with disabilities

ESE – exceptional student education

IEP – individual educational plan

SDF – school district funded (e.g., an ESE specialist is provided by the host school district to serve the educational needs of students with disabilities per their IEPs)

CAI – computer-assisted instruction (CAI)

GED – General Education Development (GED)

BIP – behavioral intervention plan

Outcomes: Comparison of Case Studies

The cases presented were chosen as representative samples of programs providing quality special education services. A review of these five case studies has identified the following findings as key elements in the programs’ successful delivery of educational services to incarcerated youths with disabilities.

- The degree of individualization in all of these programs is evident. The curriculum is competency-based and individualized for each student using work packets and CAI. All of the programs place significant emphasis on a curriculum that addresses academics, vocational skills, employability skills, social skills, and life skills. Additionally, GED programs are offered to those who do not plan to complete high school. Curricula also focus on remediation and literacy skills.
- All the programs employ a variety of instructional strategies, such as CAI, group instruction, lecturing, class discussion, individual reading, group projects, hands-on learning, games, and one-on-one assistance.

- ESE services are provided on a daily basis. These support services are provided by all programs through an inclusion model, pullout model, or consultative model.
- All the programs have small class sizes and a low student-to-teacher ratio. The student-to-teacher ratio never exceeds 15:1 for any of the programs. This small number of students allows for increased success in the areas of behavior modification and academic individualization. Additionally, the small ratio allows teachers to be fully knowledgeable about each student's academic level, vocational interests, and treatment needs.
- All programs have adequate educational and support staff to carry out the operations of the program, which enables them to effectively meet individual treatment and educational needs of all students.
- All teachers, support staff, administrators, and community participants display a program-wide dedication to carrying out the mission and philosophy of the programs.
- There is no significant difference in the quality of special education service delivery dependent on provider type.
- The collaborative efforts between the programs and the school districts are strengths of all of these programs, without exception. These efforts foster healthy learning environments for the students and allow for more comprehensive programming. Additionally, teachers receive needed support, which creates a positive work environment, which in turn can contribute to reducing teacher turnover.

6.6 Summary Discussion

Special educators, administrators, and parents are exploring ways in which special education services might be enhanced to help students with disabilities achieve the outcomes desired for all students, namely, completion of high school and meaningful participation in post-secondary employment or education (NICHY, 1993).

Currently, 37% of all students in Florida's juvenile justice programs are eligible to receive special education services. These students tend to be the most vulnerable for school failure. Programs and school districts have historically been slow to respond to legislation aimed to protect these students from school failure. Many program personnel do not have complete knowledge of special education policies and, therefore, do not adequately provide needed services to students.

Review of the most current literature continues to confirm that students' educational histories are not adequately addressed during hurried juvenile court proceedings. It also indicates that students with disabilities tend to spend more time in juvenile justice facilities because their disability prevents them from successfully completing the programs. These two issues should be addressed to ensure that students with disabilities are placed in programs that are designed to meet their needs.

The review of current court cases indicates that students, parents, and teachers are becoming more aware of their rights under such laws as ADA and IDEA. Advocates are beginning to call on the juvenile justice system more frequently to demand that appropriate educational services be provided to all eligible students. Litigation will likely continue to grow as we see the overrepresentation of special education students in the juvenile justice system.

Special education services are being provided in many of Florida's juvenile justice programs. The quality of services ranges from superior to the complete absence of services in some instances. Most programs attempt to provide all necessary services, while others go beyond the minimum that the law requires. We need only to look at quality programs, such as those mentioned previously in the case studies, to see what is effective in providing services to students in these programs. It may be possible in the future to design a model program for the delivery of special education services based on research literature, law, and expert advice.

As special education services continue to be reviewed, new ways to enhance the process will be sought. The creation of an indicator or standard area that exclusively focuses on special education may be possible as soon as 2003. For the 2002 QA review cycle, the data collection process will now include the type of service delivery model used by each program. In addition, JJEEP staff will receive additional training on special education laws, service delivery, and best practices. JJEEP will continue to work closely with DOE and the Florida Inclusion Network (FIN) to provide training opportunities for school district and facility personnel.

Special education services are critical for students with disabilities. JJEEP seeks to continue to find ways in which programs and school districts can provide quality services within the limitations of juvenile justice system. By increasing knowledge and awareness in this area, JJEEP continues to strive toward the goal of ensuring that *all* students are provided with a quality education while in Florida's juvenile justice facilities.

