

## COLLABORATING TO MEET THE NEEDS OF STUDENTS WITH DISABILITIES

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#### **KEY TOPICS & OVERVIEW**

- Understanding the Educational Needs of Youth who are System-Involved
  - Students in dependency and delinquency systems disproportionately underserved
- Special Education Rights of System-Involved Youth
  - Rights of students with disabilities
  - Common issues and remedies in residential placements
  - Role of State coordinators
- Collaborating Across Systems
  - Within and outside the education system
  - State examples
- Discussion, Questions, and Conclusion



### ROLE OF STATE COORDINATORS

Planning: State plan should address how state will meet the needs of students with disabilities specifically, how they will measure performance and assess program effectiveness.

Funding: Applications include how SEAs and LEAs will collaborate to serve students with disabilities in residential placements. These students face unique challenges in residential settings, impacting their ability to learn.



## ROLE OF STATE COORDINATORS (CONT'D)

Monitoring: In accordance with State plans, state and local programs must comply with statutory and regulatory provisions, including program evaluation and monitoring transition activities. Monitoring includes how grantees will improve programming for students with disabilities based on review of outcome data. The data reported to ED should be used to plan and improve subsequent programs.

Transition: Coordinators play a key role in supporting grantees to revise, develop, and implement policies, protocols, and procedures to effectively serve students with disabilities and ensure their seamless reentry to their community schools.



## EDUCATIONAL NEEDS OF YOUTH WHO ARE SYSTEM INVOLVED

- Youth in the justice and child welfare systems are among the most underserved of all student populations:
  - Often excluded from school, beginning as early as preschool
  - More likely to be underfunded under resourced schools
  - High rates of school mobility and absenteeism
  - More likely to be academically behind and need remedial support
  - Far more likely to need special education services and often "misidentified"
- Specifically, studies show:
  - <u>50-70% of students in the juvenile justice</u> system are students with disabilities (NCLD, 2022)
  - <u>35-40% of students in foster care</u> are students with disabilities (Shea et al., 2024)



#### INITIAL GOALS FOR STUDENTS WITH DISABILITIES

#### Accurate Identification

Ensure that a student is being properly evaluated to determine if they have been properly identified

•We will explore this in-depth in upcoming slides

#### Appropriate Services

Ensure that students receive supports for academic, behavioral, and socio-emotional needs

 Example: a student identified as having emotional disabilities was never evaluated academically and only received behavioral assessments

#### Center Student Strengths

Do not reinforce negative language to describe the student or IDEA parent

"unmotivated," "not invested,"
 "appears older, "more mature," and inappropriate descriptions of a student's body or physical development

**Remember:** Records follow a student in school, in court, in SSI determinations, and in important other contexts (e.g., college 504 Plans)



## EDUCATIONAL RIGHTS OF STUDENTS WITH DISABILITIES: LEGAL LANDSCAPE

- Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et. seq.
  - Rights of students with IEPs who need "specially designed instruction"
  - Includes the right to be identified and served, the right to a FAPE, the right to be educated in the least restrictive environment with non-disabled peers, and protections in the school disciplinary context (e.g., right to manifestation determination review)
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
  - Rights of students with qualifying disabilities to be free from discrimination and to receive accommodations in school to access the curriculum
- Americans with Disabilities Act, 42 U.S.C. 12101-12131 et. seq.
  - Rights of individuals to be free from discrimination
- State laws applicable to students with IEPs and Section 504 Plans
- State School Code laws and regulations



#### **IDEA BASICS**

- All children suspected of having a disability must be evaluated to determine eligibility for special education: "Child find"
- Eligible students:
  - Have a disability <u>AND</u>
  - Require individualized instruction
- IDEA requires:
  - Appropriate classroom placement to receive specially designed instruction
    - Adaptations to what is taught
    - How content is taught in
    - Least Restrictive Environment
  - Supports and services
    - Related services: OT, PT, behavioral support, and counseling





### DISABILITY CATEGORIES UNDER THE IDEA

Specific Learning Disability (SLD)

Hearing Impairment Other Heath Impairment (OHI) (includes ADHD) Visual Impairment (includes blindness)

Emotional Disturbance

Deafness

Intellectual Disability (ID)

Deaf-Blindness

Autism Spectrum
Disorder

Orthopedic Impairment

Traumatic Brain Injury

Multiple Disabilities Speech or Language Impairment



## Bill of Rights for Students with Disabilities

- 1. Identification ("Child Find")
- 2. Evaluation (ER)
- 3. Free and Appropriate Public Education (FAPE)
- 4. Least Restrictive Environment (LRE)
- 5. Individual Education Program (IEP)
- 6. IDEA Parent
- 7. Prior Written Notice
- 8. Comparable Services
- 9. Graduation and Transition Planning
- 10. The Right to Disagree



#### A PARENT-DRIVEN SYSTEM BY DESIGN

IDEA parent is entitled to "meaningful participation" throughout the process LEA must undertake and document "reasonable efforts" to ensure parent participation

- One attempt to call a parent is NOT enough
- Parents do not receive notice of meetings, only told they cannot participate via phone or they merely receive a completed Notice of Recommended Educational Placement (NOREP) via mail after the meeting
- They do not receive report cards, monitoring reports etc. and are unable to determine if child is receiving a FAPE.

#### Remedy:

- Upon entry, provide notice to parent of right to participate and how they will participate; Obtain accurate information and "back up" contact info
- Be clear about what is provided to parent: IEP, Eval, NOREP, Positive Behav. Support Plan, Progress Reports, Manifestation Determination Review, Notice of Restraints if Used
- Protocol for engaging parent and documenting efforts to ensure parent participation
- Protocol for discharge meeting and plan for educational placement following exit



## WHO CAN BE AN "IDEA" PARENT (§ 300.30)

## For special education, a <u>parent</u> is defined as:

- (1) A biological or adoptive parent of a child;
- (2) A foster parent (unless prohibited by state law, regulation, or contractual obligation)
- (3) A guardian generally authorized to act as the child's parent or to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a parent with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) Surrogate parent as appointed by a school district (LEA)
  - People in this role must meet certain criteria established by § 300.519





## Rights of Children in Special Education

#### **Child Find:**

Schools have a special duty to identify "wards of the state"

• All children with disabilities residing in the state, **including children or are wards of the state** and who are in need of special education and related services, must be "identified, located, and evaluated." 20 U.S.C. §1412(a)(3); 34 C.F.R. §300.111(a)(1), (c)(2).

Students who are neglected and delinquent are often belatedly identified: history of absences, frequent school moves, delays in conducting evaluations, lost IEPs etc. contribute to failure of a child to be *properly* identified. Current caregiver may have limited information

#### **Remedy:**

- Warning signs: truancy, behavior, discipline, disability diagnosis, past IEP
- Collaborate with child welfare agency to obtain information
- Establish system to obtain records promptly



## Rights of Children in Special Education

#### Evaluations

- All children suspected of having a disability must be evaluated within 60 days of consent by parent
- Children who are in the foster care and JJ system often experience delays and are misidentified

#### Remedy

- Highly mobile students should receive "expedited evaluation" within 30 days
- Consider ALL areas of suspected disability and changing learning needs
- Consider evaluations conducted by child welfare system and providers
- Beware of missing assessments, incomplete tests, and lack of engagement
- Recognize that current caregiver may not know the student



### **EVALUATIONS: SPECIAL CONSIDERATIONS**

**Evaluation Timeline**: Highly mobile children evaluated within 30 days.

Letter to State Directors of Special Education on Ensuring a High-Quality Education for Highly Mobile Children. OSEP Policy Support 22-02 (November 10, 2022)

https://sites.ed.gov/idea/idea-files/letter-to-state-directos-of-special-education-on-ensuring-a-high-quality-education-for-highly-mobile-children-november-10-2022/

Letter From Office of Special Education and Rehabilitative Services to State Directors of Special Education Re Highly Mobile Children With Disabilities (July 19, 2013)

https://schoolhouseconnection.org/wp-content/uploads/2024/02/OSEP-letter-19-July-13.pdf



#### REEVALUATION TIMELINES

- A student is entitled to a reevaluation, at least every three years but often needs to be MORE frequent for some students:
  - States may also require more frequent evaluation timelines for students with disabilities
  - Due to any change in the child's learning needs
  - Changes due to frequent hospitalizations





#### REVIEWING THE EVALUATION/REEVALUATION

Make sure that the data and findings match the recommendations

• Example: a 1:1 is consistently recommended throughout the report by both the evaluator and the teachers, but the report's recommendations rule out the need for a 1:1

Make sure that all areas of need are met with robust recommendations

Ensure needed related services (transportation, OT, PT, etc.) are mentioned

#### Consider what other recommendations can be added to support the student or parent

- Coaching on specific skills
- Consults with specialized personnel
- Set meeting times
- Points of contact
- Communication plan (use if there are many tensions with the school)



### **ENSURE A THOROUGH EVALUATION**

## Check the PTRE/PTE a

# Make sure a thorough evaluation was performed

- Beware the "records review" reevaluation
- If there was a "records only review" request a new reevaluation

#### Get Teacher Input

## Be sure teacher input is current

 The school should seek input from teachers in classes where things are going well and where things are more challenging

## Consider Outside Evals

## Consider outside evaluations

 The school's evaluation should also consider private evaluations or evaluations conducted by the child welfare agency or juvenile justice facility

#### "All Areas"

Diagnoses from prior schools may be wrong if evaluation has not been done



a PTE = Permission to EvaluatePTRE = Permission to Re-Evaluate

#### RIGHTS OF ELIGIBLE STUDENTS

- Students must receive an Individualized Education Program (IEP) that provides them with a
  free appropriate public education (FAPE) in the least restrictive environment (LRE) that
  enables them to make meaningful progress
  - An IEP is like a contract, students have a right to the supports included in their IEP
  - All IEPs must be revised at least annually and address all areas of need
- Additional rights in the school discipline context
  - A student generally cannot be subject to a change in placement for behaviors caused by their disabilities or by the school's failure to implement a student's IEP
    - Change in placement = 10 days of exclusion or pattern of exclusion defined by state law
    - Important exemptions apply in some narrow circumstances
- Remedies if youth are deprived of a FAPE
  - Compensatory education ("comp ed") awarded to students for "educational purposes"
  - Comp ed provided to youth until they graduate or age out (e.g., turn 22)
  - Comp ed can be used for years after graduation by agreement (e.g., age 26)
  - Two-year statute of limitations extended under "knew or should have known" standard



### **DEVELOPING AN APPROPRIATE IEP**

- Then, an IEP should be created <u>within 30 days</u> of the completed evaluation
  - The IEP should include:
    - information specific the student
    - all of the services a student should receive
    - how progress will be measured
    - annual measurable goals that address the student's specific educational needs
      - These goals must be understandable
  - A student does not need to have a diagnosed disability in an area to have a goal created
    - e.g., a student may not qualify for a specific learning disability in math, but the Team may still provide a math goal
  - Explain that if a parent doesn't challenge something, it will become part of the IEP after 10 days.





### ANATOMY OF AN IEP

Highlighted sections are important to check! (More practice tips on the next few slides.)

#### COVER SHEET

- Student information
- Modifications and specially designed instruction (SDI)
- Related services
- FIRST PAGE AND SECTION I
  - Student information
  - Revisions
  - IEP Team and signature
  - Special considerations
- SECTION II: PRESENT LEVELS OF ACADEMIC ACHIEVEMENT
  - Can include assessment data, behavior observations, teacher reports, grades, strengths and challenges, recommendations, transition goals, parent input
- SECTION III: TRANSITION SERVICES (age 16+ or in accordance with state requirements)



### ANATOMY OF AN IEP

Highlighted sections are important to check! (More practice tips on the next few slides.)

- SECTION IV: PARTICIPATION IN STATE AND LOCAL ASSESSMENTS
- SECTION V: GOALS AND OBJECTIVES
  - Measurable annual goals and reports of progress toward those goals
- SECTION VI: SPECIAL EDUCATION / RELATED SERVICES / SUPPLEMENTARY AIDS AND SERVICES / PROGRAM MODIFICATIONS
  - Modifications and specially designed instruction (SDI)
  - Related services
  - Supports for school personnel
  - Gifted support services
  - Extended school year (ESY)
- SECTION VII: EDUCATIONAL PLACEMENT
  - Questions for IEP Team
  - Type of support (full-time, supplemental, itinerant)
  - Location of program
- SECTION VIII:- EDUCATIONAL ENVIRONMENT
  - Percent of time inside regular classroom OR type of placement and name of school/facility



#### TIPS FOR REVIEWING THE IEP

- Check for **Transition Services** (IDEA's age for this is 16, but some states have lower ages)
  - Make sure there are specific, objective, and robust goals for post-secondary education, training, employment, AND independent living. There must be specific activities to effectuate those goals
- Check for eligibility for Extended School Year beginning mid-year
  - If the student is ineligible, it is important to investigate why as many eligible children are erroneously deemed ineligible
- Check for appropriate **transportation** 
  - Will the transportation provided allow the student to get to and from school safely?
- Include a 30-minute monthly meeting at the school's or parent's request to address educational
  concerns in-real time
- Consider adding quarterly consultations with a **Board-Certified Behavior Analyst**, if a student's behaviors are interfering with their learning, or that of others



## Rights of Children in Special Education

## **COMMON ISSUES**

Until a new IEP is developed, child is entitled to "comparable services" listed in the current IEP - including related services, etc.

A <u>legally authorized decisionmaker</u> must participate in IEP meetings (cannot be a caseworker or someone involved in the care or education of child.)

Residential school <u>cannot change youth's disability designation</u> unless there is an IEP meeting and NOREP issued and all proper procedures are followed.

IDEA parent must consent in writing to change in placement and services.

Student is entitled to progress monitoring, transition planning, positive behavior support plan.

Youth has the same right as youth living with a family to use the special education procedural safeguard system



#### PROVIDING A FAPE IN RESIDENTIAL CONTEXT

#### Remedy: Education programs should provide

- Full-time emotional support [Note: There can be no change to a child's IEP to itinerant support without a NOREP and written consent]
- Access to related services
- Requisite special ed teachers
- Autism services
- 1:1 aids

Consistent progress monitoring to identify progress

Functional Behavioral Assessments & Positive Behavior Support Plans

Transition plans must be individualized and detailed

Credit acquisition and graduation planning



#### PROGRESS TOWARDS GRADUATION

Ensure a high-quality transition plan and monitor the plan

Ensure that youth's graduation requirements are clear and a path to a diploma is mapped out for each student.

Prior to graduation, get summary of academic achievement and functional performance:

- Required by IDEA
- Completed when student graduates from high school
- summarizes individual abilities, skills, needs, and limitations
- provides recommendations to support transition to adult living, learning, working
- Useful for creating a 504 Plan for postsecondary education or training, treatment or day program plan



# PROVIDING FAPE FOR STUDENTS WITH DISABILITIES IN FACILITIES

IDEA extends to students in residential placements and juvenile justice facilities (and their IEPs still apply)

Interagency Collaboration: Providers must assist in obtaining education records, facilitating IEP meetings, engaging parents, providing programs that meet the needs of students with disabilities

#### **Important Rules:**

- Behavior in placement cannot impact youth's education
- Behavior that is a manifestation of a disability cannot be used to penalize/discipline youth in an educational setting
- Youth have a right to everything listed in their IEP
- Youth must be educated in the least restrictive environment
- Youth must be offered "individualized" education programs modified to meet their needs.
- Virtual is often denial of FAPE



### TIPS FOR SPOTTING A NEED FOR COMP ED

#### The IEP was old or inappropriate

- No current IEP
- The current IEP did not meet the student's needs
- Goals were missing/inappropriate/the same for several years
- Present level data is very old or wrong (ie present level states a child is learning letter sounds, when they are able to read)

#### The IEP was not implemented as written

- Services and supports were not provided
- This includes if a school does not/cannot provide adequate staffing for services

There were illegal delays or disruptions in services

A student was not able to attend school due to transportation barriers

Parents were deprived of the right to participate in the IEP meeting or development of an IEP

- They were not invited
- They were not provided needed interpretation services



## YOUTH WITH QUALIFYING DISABILITIES

Many youth also who have disabilities that interfere with living or learning should also be evaluated

Broad definition of "disability" under Section 504\*

Youth CANNOT be discriminated against

Parent and student must participate in Section 504 Team

Children <u>entitled</u> to accommodations in school accomplished through a "504 Plan" or "Service Agreement"

Least Restrictive Environment (LRE)

Procedural Safeguards & Due Process

Manifestation Determination Review ("MDR")

\*e.g., includes current alcoholism and recovery from drug addiction



## **EDUCATION PLANNING**

- Ensure students are given opportunities to think about life after high school
  - Assessments are key
  - Postsecondary education and training
  - Employment
  - Independent living
  - Expungement, if needed





#### REENTRY CHALLENGES

"It's like the bottom dropped out...I fell further and further behind, just when I thought things would be different in school."

Students who return to school from placements often learn that:

- They are not doing well academically in "regular" school
- They are below grade level in core subjects
- Credits earned in the JJ placement will not count; at best they have only earned partial credits due to fragmented learning
- They are not on track to graduate; overaged & under-credited

They often WAIT for an appropriate placement, miss school and can't catch up They are discouraged, overwhelmed & often drop out.



#### REENTRY: SCHOOL PLACEMENT CHECKLIST

#### Placement & Services

Is the student returning to his prior school or entering a new school? Safety plan needed?

Was the student newly identified for special education while in placement?

Any change is disability category? Any change in learning needs? What worked?

Was IEP changed due to limitations of residential placement? (placement & services)

Where can the IEP best be implemented in the least restrictive environment?

#### **Graduation and Transition Planning**

Did student make progress towards goals/graduation?

How will the student graduate: goals or credits?

What courses has the Student completed and which are needed to graduate?

Revise IEP in light of new assessments, changes in needs, and new school environment.



#### IMPORTANCE OF COLLABORATION & EXAMPLES

<u>Entry</u>: Interagency protocol regarding transfer of education records in 5 days, including IEP; schedule IEP meeting to review and develop program. Conduct assessments prior to IEP meeting. Identify tiers of responsibility for each collaborator.

<u>During Placement</u>: Continue interagency collaboration among designated points of contact to ensure adequate progress, course selection, identify interventions that are working, identify any additional or different educational needs and share with LEA, parent, child welfare, probation, etc.

<u>Exit</u>: Make a clear education record for student re completion of partial and full credits, coursework, employment experiences. Collaborate to develop common discharge plan for re-entry and hold interagency meeting to discuss where student will enroll, transition of IEP, coordinate transition planning, review any additional assessments and ensure an appropriate school placement within 5 days of exit.



### **COLLABORATION: STATE EXAMPLES**

#### Utah: Clearly defined rules and responsibilities

The program receiving the student is responsible for obtaining the student's evaluation records, and, where records are not current, conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

Youth in custody shall be admitted to classes within five school days following arrival at a new residential placement.

Educational services are sufficiently coordinated with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

Following a student's release from custody or transfer to a new program, the sending program brings all available school records up to date and forwards them to the receiving program.



## STATE EXAMPLE: UTAH

1=Most Resp.	Multi-Agency Statewide Transition Alignment														
2=2nd Resp. X=Participant	STUDENT NEEDS	TSS	ETCA	SC STAFF		Advo cate	C&C Ment or*	Edu catio n	Clinic ian	Voc Rehab		POs	Paren ts		
TRANSITION	Interagency Collaboration/Team Planning	1	Х		1	Х		Х	X						
PLANNING	Transition Plan/Exit Plan/CCR (ETCA)	Х	Х		1								X		
	TSS Weekly Group Class	1													
ASSESSMEN	TABE Scores		1												
TS	Career Assessments/Utah Futures		1												
	Identify Stability Factors/Needs/Risk	2			1			Х					Х		
	Mental Health Assessment								1						
	Youth has taken College Entrance Exam (ACT)/SAT/ACCUPLACER		2					1							
	Special Education Child Find		1					1					Х		
	Work Keys*	Х	Х	1	Х										



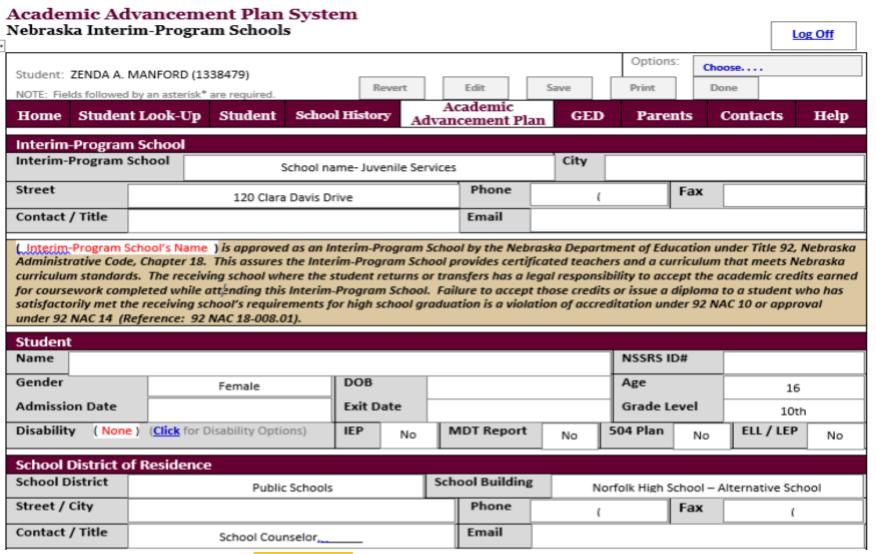
## STATE EXAMPLE: UTAH

1	Secure Care Programming, School and Transition Outcomes																					
2	Α	В	С	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
3	Student Names and Case Numbers	Placement Date	Entry Status	Credit deficient at	On track for graduation at release	School Related	Earned HS Credits	Earned HS Diploma	Enrolled in Pulbic K-12	Enrolled in ATC	Earned ATC Hrs \ Certs	Completed ACT	Enrolled in p-2ndary	Earned college credits	Voc Rehab registered	WIOA Registration	Short-Term Certs	Alive at 25	Fire Extinguisher	First Aid / CPR	Flagger (18)	Food Handlers Permit
4	Student #1 555a43-98			1	1	2	1	1									4		1	1		1
5	Example #2 4359898			1	1	3				1					1	1	4	1			1	



## **COLLABORATION: STATE EXAMPLES**

Nebraska: Common systems, training, and implementation





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