

Youth with Learning Disabilities in the Family Courts

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РЕНОВОТН БЕАСН





Court - Involved Youth

- Youth who become involved with the family courts have many common background risks.
- These risks are related to the:
 - Individual - trauma (abuse and neglect), early aggression, mental health problems, substance use, education deficits, special education disabilities, negative peer influences
 - Family - inconsistent parenting, family disruptions, and
 - Neighborhood - high levels of unemployment, residential instability. (Endnotes 1-2)

Delinquency Prevention Efforts

- Research over the past decade has explored how to ameliorate these risk factors, and because of this, today's family courts are increasingly focused on youth delinquency prevention and diversion.
- These efforts are important to continue because federal, state, and local budget difficulties are reducing support for the courts, making costly and more punitive dispositions more difficult to justify.
- In addition, most youth involved with the courts, outside a small number of serious offenders, can be rehabilitated within the community, in particular through treatment and coordination with other youth-caring systems (school systems). (3)

Learning Disabilities Link

- Learning disabilities have a clear link to youth delinquency, and are one of the most prevalent disabilities within family court populations. (4)
- Our purpose here is to:
 - A. Highlight the challenges that youth with learning disabilities (and related special education disabilities) present to the family courts
 - B. Summarize key components of special education disability law, and
 - C. Provide strategies to the courts in effectively working with these youth and families.

Okay, no Day Dreaming out there 😊



Prevalence – General Youth Population

- Youth with special education disabilities are not common in the general population.
 - A little over 9% of school-aged children and youth (ages 6 to 21) have been identified with a special education disability.
 - Of the 12 disability categories, the most common is the learning disability category affecting 4% of school-aged children and youth (ages 6 to 21).
 - 14% of all special education disabilities for youth ages 6 to 11 and
 - 26% of all special education disabilities for youth ages 12 to 17.

Learning Disabilities & Minority Youth

- Certain minority youth are at higher risk for learning disabilities:
 - Hispanics are 17 percent more likely (than Caucasians);
 - African-Americans are 43 percent more likely; and
 - American-Indians are 80 percent more likely.

Risk Factors for Learning Disabilities

- The risk factors that increase the likelihood of having a learning disability, and may help explain the disproportionate impact on minority youth, include
 - living in poverty,
 - male gender,
 - poor family functioning,
 - being adopted, and
 - lower household education attainment. (7-9)
- These are also risk factors for delinquency!

Prevalence –Family Court Population

- Youth with special education disabilities are much more common in family court populations, particularly in detention and incarceration facilities.
- It is estimated that between 28 and 43 percent of detained and incarcerated youthful offenders have an identified special education disability, a majority of these being learning disabilities. (10-12)
 - These rates have not varied significantly over the past two decades.

Why this Overrepresentation in the Courts?

- Why are youth with learning (and other) disabilities at significantly higher risk for court involvement?
 - The answer is both complicated and not fully understood.
 - There are three primary hypotheses, or explanations:
 - 1. School failure
 - 2. Susceptibility
 - 3. Differential treatment

1. School Failure Hypothesis

- The school failure hypothesis suggests that school failure for youth with learning disabilities is a precipitating step that leads to eventual juvenile and family court involvement or delinquency adjudication.
- These intermediate events may include rejection, lower self-worth, and school dropout outcomes that may lead to engagement with negative peers and delinquent activities.
- What is not clear, though, is whether the learning disabilities themselves are the reason for academic failure or if there are other factors influencing the failure. (13-14)

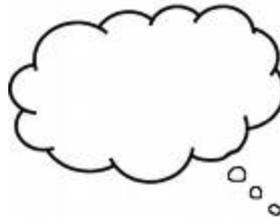
2. Susceptibility Hypothesis

- The susceptibility hypothesis proposes that youth with learning disabilities have cognitive, neurological, and intellectual difficulties that contribute to anti-social and delinquent behaviors.
- Thus, in addition to their learning disabilities, youth may also be afflicted with low social skills, impulsivity, hyperactivity, suggestibility, and lower ability to predict the consequences of their behaviors. (15)

3. Differential Treatment Hypothesis

- The differential treatment hypothesis suggests that while youth with learning disabilities are no more involved with delinquent activities than their non-disabled peers, they are more likely to be arrested and supervised by the juvenile and family courts.
- This explanation places the responsibility for this disparity on school, police, and juvenile court personnel's actions and reactions to working with youth with learning disabilities.
 - For example, school personnel may be more likely to be aware of these youth because of their learning disabilities, and if the youth act out via delinquent activities, they are more likely to take punitive action and refer them to the police and family courts whose personnel in turn may repeat this pattern. (16)

Really, no Day Dreaming out there 😊



Laws to Protect the Rights of Youth with Disabilities

- Prior to the 1970s there were no significant laws that protected the rights of people with disabilities. However, the shift from services for this population to political and civil rights occurred primarily because of four Federal laws:
(17)
 - The Rehabilitation Act of 1973 - Section 504
 - The Americans with Disabilities Act (ADA, 1990)
 - The Civil Rights of Institutionalized Persons Act (CRIPA, 1980)
 - The Individuals with Disabilities Education Act (IDEA, 1975)

Section 504 of the Rehabilitation Act

- Section 504 of the Rehabilitation Act was the first law, and predecessor to the ADA, to state that the exclusion of a person with a disability was discrimination, allowing class status for this group, mandating affirmative conduct, and requiring accommodations.
 - The law applied to all recipients of federal funds and to almost all public schools.
- This entitles children and youth with disabilities to an education comparable to that provided to children and youth who do not have disabilities.
 - Disabilities are broadly defined and can be demonstrated by both a record of this physical or mental impairment and the fact that this impairment substantially limits one or more major life activities such as walking, seeing, hearing, learning, speaking, working, caring for oneself, and performing manual tasks. (18)

Americans with Disabilities Act

- The ADA is a broad disability rights law that pertains to public accommodations, employment, transportation, telecommunication, and state and local government discrimination.
- Additionally, Title II of the ADA expanded the rights for those with disabilities (physical and mental) to include all activities of state and local governments, including services, programs, and public education, whereby Section 504 only applies to federally funded entities.
 - The ADA does not list specific disabilities or impairments covered, and the courts have been defining these disabilities over the past decade. (19-20)

Civil Rights of Institutionalized Persons Act

- The **Civil Rights of Institutionalized Persons Act** does not confer additional rights upon those with disabilities (adults and youth) but does authorize the U.S. Attorney General (Civil Rights Division) to investigate conditions of confinement in institutions, including juvenile detention and correctional facilities.
- This investigatory tool has been infrequently utilized.
(21)

Individuals with Disabilities Education Act

- The most important of these laws for youth is the **Individuals with Disabilities Education Act (IDEA)**, because it protects their educational rights.
- The original law, the **Education for All Handicapped Children Act (1975)**, established these rights, while subsequent amendments have made important changes and improvements:
- In 1997, substantial requirements were appended to focus on **behavioral assessments (more later, this is important!), transitional planning, and school discipline.**
- In 2004 increased focus was placed on **employment and independent living.**
- Rights under the previous discrimination laws (Section 504 and ADA) can be incorporated and included within the rights and services under IDEA.

IDEA – Disability Types

- The core educational right provided by the IDEA is that all students with certain defined disabilities – the 12 categories - should receive a free, appropriate, public education (FAPE) in the least restrictive environment (LRE). (22-23)
 - learning disabilities
 - hearing impairments (including deafness)
 - visual impairments (including blindness)
 - deaf-blindness
 - mental retardation
 - speech or language impairments
 - autism
 - serious emotional disturbance
 - orthopedic impairments
 - traumatic brain injury
 - multiple disabilities
 - other health impairments

IDEA – Identification/Evaluation

- All children and youth residing in the United States, including those in public and private schools, and those who are homeless and wards of the state, must be identified.
- Schools must locate and evaluate all children and youth with these disabilities and determine which are receiving special education services (the “**child find obligation**”).
 - Often, states have additional policies and regulations in place to designate who may refer children and youth for special education evaluation. (24-25)
 - Delaware Admin. Code Title 14, Sections 922-929:
 - http://www.doe.k12.de.us/infosuites/students_family/specialed/files/Special%20Education%20Regulations.pdf

IDEA – Identification/Evaluation

- To determine eligibility for special education services, states must:
 - First notify parents or guardians,
 - Obtain their consent to evaluate,
 - Use a number of validated assessment measures administered by knowledgeable personnel, and
 - Provide for reevaluation if not first determined to have a disability
.....
 - A reevaluation must occur at least every three years until age 21, but may be requested by the child or youth's parents or teachers at any time. (26-27)

IDEA – Identification/Evaluation

- State policies and regulations normally set time limits for:
 - notice,
 - consent,
 - evaluation, and
 - reevaluation time limits.
- Find this at Delaware Admin. Code, Title 14, Section 925(D)
<http://regulations.delaware.gov/AdminCode/title14/900/925.pdf>

Delaware Admin. Code, Title 14, Section 925(D) – Initial Evaluations

- 2.3 Procedures for initial evaluation: Within forty-five (45) school days or ninety (90) calendar days, whichever is less, of receiving written parental consent, the initial evaluation shall be conducted; and the child's eligibility for special education and related services must be determined at a meeting convened for that purpose.
 - 2.3.1 The initial evaluation shall consist of procedures to determine if the child is a child with a disability as defined in 14 DE Admin. Code 922.3.0; and to determine the educational needs of the child.
- 2.4 Exception: The time frame described in 2.3 of this section does not apply to a public agency if:
 - 2.4.1 The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
 - 2.4.2 A child enrolls in a school of another public agency after the relevant time frame in 2.3 has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability.
- 2.5 The exception in 2.4.2 applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

Delaware Admin. Code, Title 14, Section 925(D) – Reevaluations

- 3.0 Reevaluations
- 3.1 General: A public agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with 14 DE Admin. Code 925.4.0 through 925.12.0 if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation.
- 3.2 Limitation: A reevaluation conducted under 3.1 may occur not more than once a year, unless the parent and the public agency agree otherwise; and shall occur at least once every three (3) years, unless the parent and the public agency agree that a reevaluation is unnecessary. (Authority: 20 U.S.C. 1414(a)(2); 14 Del.C. §3110)

Learning Disabilities - Defined

- A learning disability is defined by federal statute 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.” (5)
- It may include related conditions such as brain injury, dyslexia, perceptual disabilities, minimum brain dysfunction, and developmental aphasia;
 - Specific Learning Disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, or mental retardation.
 - Also excluded are learning problems stemming from environmental, economic, or cultural disadvantage. (6)

Always Consult with an Expert 😊

Delaware Admin. Code, Title 14, Section 925(D)

- 9.0 Determining the Existence of a Specific Learning Disability.
 - 9.1 Subject to 6.4 and 6.11, the group described in 6.1 may determine that a child has a specific learning disability
- 9.1.1 Lack of achievement: The child does not achieve adequately for the child's age or to meet State approved grade level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State approved grade level standards as further described in 12.0:
 - 9.1.1.1 Oral expression.
 - 9.1.1.2 Listening comprehension.
 - 9.1.1.3 Written expression.
 - 9.1.1.4 Basic reading skill.
 - 9.1.1.5 Reading fluency skills.
 - 9.1.1.6 Reading comprehension.
 - 9.1.1.7 Mathematics calculation.
 - 9.1.1.8 Mathematics problem solving; and
- 9.1.2 Insufficient progress: The child does not make sufficient progress to meet age or State approved grade level standards in one or more of the areas identified in 9.1.1 when using a process based on the child's response to scientific, research based intervention as further described in 12.0; or
- 9.1.3 Pattern of strengths and weaknesses: The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 4.0 and 5.0; and
- 9.1.4 Rule out other conditions: The group determines that its findings under 9.1.1, 9.1.2 and 9.1.3 are not primarily the result of:
 - 9.1.4.1 A visual, hearing, or motor disability;
 - 9.1.4.2 Mental retardation;
 - 9.1.4.3 Emotional disturbance;
 - 9.1.4.4 Cultural factors;
 - 9.1.4.5 Environmental or economic disadvantage; or
 - 9.1.4.6 Limited English proficiency

Individualized Education Plan (IEP)

- If the evaluation determines that the child or youth has a disability and is in need of special education services, school districts are required to have an **Individualized Education Plan (IEP)** in effect at the beginning of each academic year for each child and youth with an identified disability.
- No more than 30 calendar days may pass between the determination that a child or youth needs disability services and an IEP-development meeting.
- Parents must be notified in advance and agree to a convenient time and place for the IEP team meeting. This must include notification of their consenting rights regarding others present.

Individualized Education Plan (IEP)

- The IEP team meeting must include:
 - the child's parents or guardians;
 - at least one regular education teacher of the child;
 - at least one special education teacher or service provider, if appropriate, of the child;
 - an individual who can interpret the evaluation results (school psychologist, speech/language pathologist, remedial reading teacher, etc.);
 - a qualified public school district representative;
 - the child, if appropriate; and
 - others, with parental consent, who have knowledge/expertise regarding the child or youth
 - may include service providers, probation officers, institutional staff, or others with specialized knowledge.

Individualized Education Plan (IEP)

- The team, when developing the IEP, considers
 - the youth's present level of educational performance,
 - special education needs,
 - services to be delivered,
 - objectives to be met,
 - timelines for completion, and
 - progress assessment. (28-31)

Mandatory IEP Provisions

1. A statement of present educational performance identifying how the youth's disability affects involvement and/or progress in the general school curriculum.

2. A statement of the special education and related services to be provided to the youth.

3. A statement of what program modifications or supports are to be provided for the youth so that they can be involved in the general curriculum (including extracurricular activities), can be educated with other youth with and without disabilities, and may advance toward annual goal attainment.

4. A statement of the degree, if any, that the youth will not participate with youth who do not have disabilities in the regular classroom and extracurricular/nonacademic activities.

5. A statement of modifications to state or district-wide achievement or standardized testing or a statement as to why this testing is not appropriate and alternatives to measuring progress.

6. A projected service initiation date (and projected modifications) and the anticipated location, frequency, and duration of services (and modifications).

7. A statement of annual measurable goals including short-term objectives on both how the youth will be involved within and progress toward general curriculum involvement, and meeting the youth's other disability-related educational needs.

This includes a statement of how the youth's annual goals will be measured and how the youth will meet these goals by the end of the academic year.

Mandatory IEP Provisions Important for Older Youth

1. Special education services include instructions in the classroom, home, hospitals, and institutions – including youth correctional facilities.
2. A statement of needed transition services for the youth's (age 14 and older) course of studies; for example, vocational services.
3. For youth age 16 and older this statement should also include, if appropriate, the inter-agency responsibility for linkages to these other supportive programs.
4. These services, with a focus on specific results, include vocational training (and supported employment), post-secondary education, specific adult services, independent living, adult continuing education, and community participation.

“Transition Services” Delaware Law –

Delaware Admin. Code, Title 14, Section 925(D)

- 20.2 Transition services: By the middle of the 8th grade, the IEP shall include the child’s strengths, interests, and preferences, postsecondary goals, high school courses of study needed to assist the child in reaching those goals, and plans to make application to high school and career technical education programs. Full transition services planning will apply by the end of the 9th grade, or prior to the child’s 15th birthday, whichever comes first, unless determined appropriate at a younger age by the IEP Team, and the IEP shall be updated annually and include:
 - 20.2.1 Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - 20.2.2 The transition services and activities (including courses of study) needed to assist the child in reaching those goals.

Individualized Education Plan (IEP)

- The implementation of the IEP must occur “as soon as possible” after the initial IEP team meeting.
- It must be reviewed by the team at least once per year and revised as needed per: (32)
 - progress made (or not),
 - reevaluation results, and
 - youth needs.

Due Process Protections – School Removal

- Youth with special education disabilities may be suspended for up to 10 days for actions for which a youth without a disability would be suspended for up to 10 days.
- Further, a youth with a disability may be removed to an interim, 45-day, alternative educational setting for carrying or possessing a weapon to school or school function, selling or soliciting the sale of controlled substances, or knowingly possessing or using illegal drugs.
 - Delaware has added “serious bodily injury” to this list (Section 926 30.9).
- This alternative placement may also be for other actions or behaviors that are substantially likely to result in injury to the youth or others.
 - Delaware Admin. Code Title 14, Section 926:
<http://regulations.delaware.gov/AdminCode/title14/900/926.pdf>

Delaware Admin. Code, Title 14, Section 926

- 30.0 Discipline Procedures Authority of School Personnel.
- 30.1 Case by case determination: School personnel may consider any unique circumstances on a case by case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.
- 30.2 School personnel under 30.0 may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 36.0).
- 30.2.1 After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency shall provide services to the extent required under 30.4 of this section.
- 30.3 Additional authority: For disciplinary changes in placement that would exceed ten (10) consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to 30.5, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in 30.4.

Due Process Protections – School Removal

- Disciplinary removal for more than 10 days, counted cumulatively for repeat suspensions, requires the school district to review the youth’s functional behavioral assessment and behavioral implementation plan, or, if there is not one in place, to mandate an IEP review to devise a plan.
- These procedural safeguards also apply to youth who have been identified by the school, in writing, as potentially having a disability, whether or not a formal referral and evaluation have been initiated. (33)

Due Process Protections - “Stay Put”

- It is important to know that **parents** may review all records, participate in all meetings, and initiate due process proceedings, as well as dispute mediation concerning the identification, evaluation, and educational placement of their children.
 - If the youth is a ward of the state, a surrogate parent is assigned to protect the youth’s educational rights.
- **Due process hearings** conducted by the state are available through parent initiation, whereby the officer (not employed by the state) conducts the hearing, and the parents, who have the right to legal counsel and to other individuals with specialized knowledge of their youth’s disability, present evidence, confront, cross-examine, and compel witness attendance.
 - During any due process proceedings the youth will maintain their current educational placement, commonly referred to as the “stay put” rule. (34-38)

Just because.....



Concerns at Court Intake

- A pivotal time for the youth with disabilities in the family court system is at intake.
 - Early identification of youth with learning disabilities and coordination with the school district are crucial for positive outcomes.
- Court personnel should be effectively trained in interviewing youth and families, gathering educational records, becoming familiar with local educational services at placement facilities (if potential exists), and coordinating the juvenile court activities with the youth's IEP team.
 - In particular, personnel should utilize standardized screening tools to help identify these disabilities, which are often not readily apparent.
 - However, few standardized screening tools are available.

Learning Disabilities Symptoms

- There are a number of common signs or symptoms of youth learning disabilities, including the following:
 - misspelling the same word within a single document
 - reluctance to take on reading or writing tasks, though this could also be a sign of illiteracy
 - trouble with open-ended questions
 - weak memory skills
 - difficulty in adapting skills from one setting to another
 - slow work pace
 - poor grasp of abstract concepts

Learning Disabilities Symptoms

- inattention to details, or excessive focus on them
- trouble with word problems
- slow or poor recall of facts
- difficulty making friends
- trouble understanding social cues of others
- frequent misreading of information
- trouble completing applications or forms
- easily confused by instructions
- poor organizational skills

Learning Disability Types

- There are more specific learning disability types that trained evaluators can identify through psycho-educational assessment and related testing:
 - Dyslexia - language and reading disability
 - Dyscalculia - problems with math and arithmetic concepts
 - Dysgraphia - writing disorder leading to illegibility
 - Dyspraxia - problems with motor coordination

Learning Disability Types

- There are more specific learning disability types that trained evaluators can identify through psycho-educational assessment and related testing:
 - Central auditory processing disorder - difficulty processing and remembering language-related tasks
 - Non-verbal learning disorders - trouble with non-verbal cues
 - Visual perceptual and visual motor problems - reverses letters, loses place, et al.
 - Language disorders - trouble understanding spoken language, poor reading comprehension

Concerns at Court Intake

- This information may indicate the need for an initial evaluation, reevaluation, or modification of existing IEP services.
- Courts would have to obtain parental consent to gain access to school records, followed by written requests to the school districts, as mandated by the Family Educational Rights and Privacy Act (FERPA).
 - If the parent does not consent, access is denied.
- If a school reports a crime by a youth with a learning disability (or other special education categories), then disability-related and discipline records should be made available as allowed under FERPA. (39-41)

Concerns at Formal Proceedings

- Once formal proceedings within the family court have been initiated, continued coordination with the school district is necessary.
- If at intake there are indications of learning disability problems, then working with the school district to pursue an evaluation is most important.
- Youth who are not properly identified by the school districts, and whose disabilities are therefore not being addressed, are at a higher risk for delinquent activities and family court referral.

Concerns at Formal Proceedings

- However, convincing school districts to evaluate secondary school-aged youth for learning disabilities, or other special education concerns, is much more difficult than younger children for a variety of reasons including cost, norms, and resources.
- Family court judges work largely with secondary school-aged youth and should be prepared to take aggressive steps (dispositions) to confront these barriers to accessing evaluations and services.
- However, if the youth is already identified with a learning or other special education disability, the school's responsibility will not change if the youth is formally charged, adjudicated, detained, or incarcerated by the family court. (42-43)

Concerns at Detention Placement

- Youth with learning disabilities are disproportionately detained, though the reasons for this are still not clear.
 - poorer youth presentation abilities might be a factor;
 - perhaps maladaptive behaviors are an outcome of the disabilities; or
 - perhaps juvenile court personnel react differently to these youth with learning disabilities.
- Whatever the reasons, extended detention will most likely not be helpful for these youth and may at some point be harmful because the detention experience itself is correlated to later reoffending and recidivism. (44-46)

What can the Family Courts do?

Nope, not visit Graceland – as tempting as that is.



Strategies for Intake/Probation Personnel

1. **Identify** as early as possible if a youth has existing learning disabilities and is attending school under an IEP.

This will allow the court to know quickly which public schools need to be contacted and appropriate coordination of services/decision-making undertaken.

Train personnel to obtain the necessary school IEP information and to recognize the indicator signs for learning disabilities.

2. If a youth does not have an existing IEP, but a **learning disability problem is suspected**, then use of a standardized screening tool is needed.

The *Children's Nonverbal Disabilities Screening Tool* (Goldstein, 1999) may be helpful as an initial learning disability screening tool.

Strategies for Intake/Probation Personnel

3. Because many youth involved with the family courts have **multiple problems and disabilities** (mental health, substance use, trauma), it is important to also use broader assessment instruments to identify these co-morbid concerns.

The *Youth Screening Instrument (MAYSI-2)* screens for possible mental health and related problems.

The *Youth Level of Service/Case Management Inventory (Y-LSI)* measures the youth's offense history, family circumstances/parenting, education (enrollment, suspensions, expulsions, grade level, grades in past year, special education/learning disabilities), peer relations, substance abuse, leisure/recreation, personality/behavior, and attitudes/orientation.

4. **Probation department reports** should capture the needs of youth identified with learning disabilities, coordinating dispositional planning with the public school districts personnel.

5. **Strengthen the role of parents** and ensure that families of these youth have meaningful opportunities to participate in the education at school and home.

Strategies for Family Court Judges

1. Develop a list of **school district contacts**, primarily special education directors, and develop relationships with these key stakeholders.

Find and develop relationships with other important local stakeholders:
attorneys specializing in special education cases,
local disability advocacy groups, and
other interested parties.

2. There are a number of **important questions** to ask when working with a youth already identified with a learning disability:
 - Is the IEP being implemented as written?
 - Has the youth received appropriate services under a current IEP?
 - Are the needs addressed in the IEP considered and integrated into the consequences determined by the juvenile court?
 - Is there a possibility that because of the learning disability the youth does not understand the charges or proceedings?

Strategies for Family Court Judges

3. It may be appropriate to refer a **first-time offender or low-risk youth** suspected of learning disabilities to diversion or informal supervision and encourage the school district to pursue evaluation and IEP status.

4. It may be appropriate to **defer formal involvement** pending any evaluative, due process, or disciplinary steps the school district may be pursuing.

5. Dispositions should show the court's review of the special education evaluation, goals (progress made), and services provided.

Strategies for Family Court Judges

6. At the **formal proceedings stage**, determine if the school district should provide service, rather than the court. Schools often have interventions and programming not available to the courts, including in-class behavioral plans, specialized school staff, learning specialists, and after-school programming.

If the court has established relationships with school districts' special education directors, then this process of information sharing and coordination may work relatively well. However, with resistant, new, or non-responsive school districts, more direct court action may be in order.

For example, a judge may need to appoint a local defense counselor who is experienced in special education representation and known to the local school districts as an attorney who will get things done to get the special education director into court or do whatever it takes for the youth.

Sometimes appointing a defense counselor advocate in this manner one time will bring resistant public school districts on board with the youth's team.

Strategies for Family Court Judges

7. If **placement** of the youth is necessary, the disposition should reflect the need to meet IEP goals and services within the facility.

8. **Oversee the transition of youth from correctional facilities, including longer-term detention stays, back to their public school districts; coordinating and enforcing the IEP service needs.**

For example, a court judge may face a situation where the IEP requires assistance upon release in the youth's application to a local community college or related vocational training program; or the youth may need services to and from training programs and independent living. The local school district is required to provide these transition services for youth through age 21, if all other assessment and team requirements are met. (47-49)

Behavioral Assessment Plans

- Many youth with learning disabilities involved with family courts also have other behavioral problems, mostly related to mental health. (50-51)

Mental Health Disorder	Juvenile Justice Population
Conduct Disorder	52-90%
Oppositional Defiant Disorder	12-28%
Anxiety Disorders/Phobias	24-29%
Attention-Deficit Hyperactivity Disorder	18-76%
Depression	15-25%
Substance Abuse Disorders	25-67%
Mood Disorders	10-25%

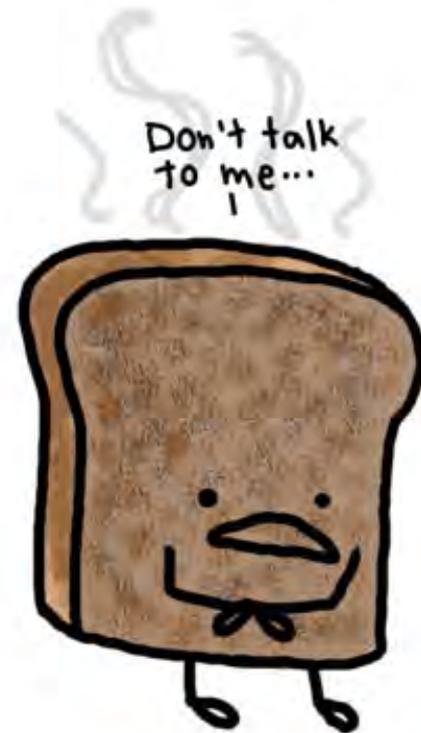
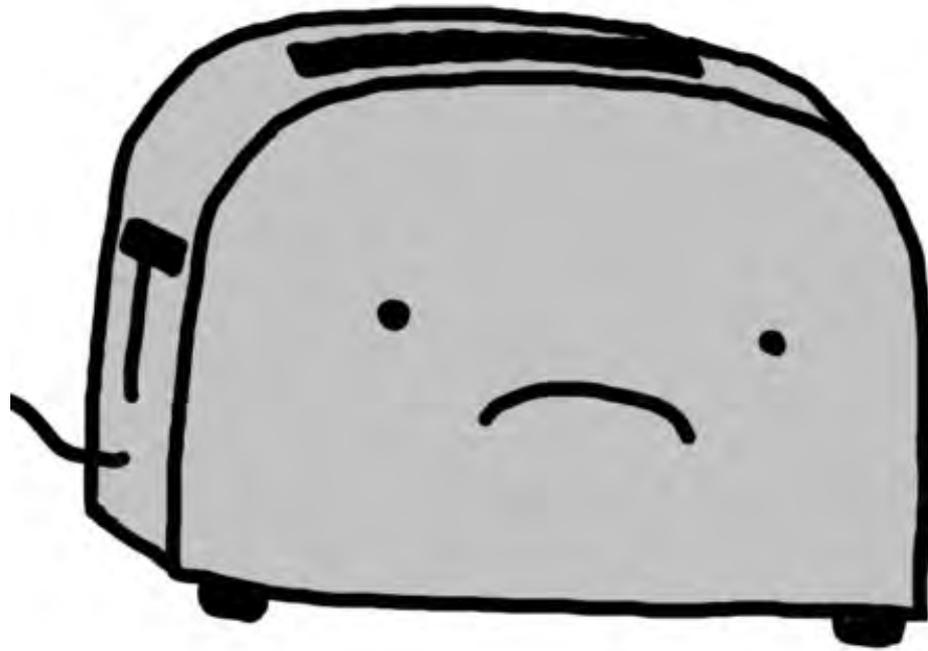
Behavioral Assessment Plans

- Family court judges can be particularly effective in making sure these youths' functional behavioral assessments are completed, as required under the IDEA.
- Today, many youth who could benefit from school district efforts do not because the districts have not designed appropriate behavioral plans or they are not working adequately, requiring an IEP reassessment.
- These assessments are used to identify specific behavioral problem areas and prescribe tailored interventions to help the youth. (52-53)

Conclusion

- Working with family court-involved youth with learning (and other) disabilities poses many challenges:
 - the significant number of youth with these problems,
 - the challenges in accurately identifying these disabilities,
 - school districts that do not always adhere to IDEA law, and
 - courts that are not always equipped with the knowledge or programming to effectively intervene.
- While juvenile courts must balance youth rehabilitation and accountability, ongoing evaluation and attention to youth with learning disabilities is important in reducing recidivism and subsequently improving community safety.

Discussion



Resources

- **Learning Disabilities Association** (<http://www.ldanatl.org/>) LDA is the largest non-profit volunteer organization advocating for individuals with learning disabilities and has over 200 state and local affiliates in 42 states and Puerto Rico. The membership is composed of individuals with learning disabilities, family members, and concerned professionals, and advocates for the almost three million students of school age with learning disabilities and for adults affected with learning disabilities.
- **Parent Advocacy Center for Educational Rights (PACER)** (<http://www.pacer.org/>) The mission of PACER is to expand opportunities and enhance the quality of life of children and young adults with disabilities and their families, based on the concept of parents helping parents.
- **The National Center on Education, Disability, and Juvenile Justice** (<http://www.edjj.org/>) EDJJ focuses on assisting practitioners, policymakers, researchers, and advocates identifying and implementing effective school-based delinquency prevention programs, education and special education services in juvenile correctional facilities, and transition supports for youth re-entering their schools and communities from secure care settings.
- **National Information Center for Children and Youth with Disabilities** (<http://www.nichcy.org/Pages/Home.aspx>) The National Information Center for Children and Youth with Disabilities (NICHCY) is a national information and referral center. NICHCY provides information on disabilities and disability-related issues for families, educators, and other professionals. At the NICHCY Web site you can access a list of state agencies, national agencies, toll free numbers, or read definitions and explanations on various disabilities.

Resources

- **Center for Effective Collaboration and Practice** (<http://cecp.air.org/>) It is the mission of the Center to support and promote a reoriented national preparedness to foster the development and the adjustment of children with or at risk of developing serious emotional disturbance. To achieve that goal, the Center is dedicated to a policy of collaboration at Federal, state, and local levels that contributes to and facilitates the production, exchange, and use of knowledge about effective practices.
- **TeamChild: Advocacy for Youth** (<http://www.teamchild.org/>) TeamChild makes a difference for youth in trouble by helping them receive the services they need to change their lives by addressing the underlying causes of juvenile delinquency through advocacy for education (including special education), mental and medical health services, safe living situations, and other supports.
- **Office of Special Education Programs (OSEP), Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education** (<http://www2.ed.gov/about/offices/list/osers/osep/index.html?src=mr>) The Federal agency responsible for oversight and direction of IDEA law.
- **National Clearinghouse on Families & Youth: Assessment and Screening tools for Measuring Mental Health, Substance Abuse, and Independent Living Skills** (<http://www2.ncfy.com/publications/satools/sa-table1.htm>)
- **Children's Nonverbal Disabilities Screening Tool (C-NLD)** (<http://www.nldontheweb.org/nldentrylevelreading/nldratingscale.html>)

Thank you for attending!

Next on the Agenda?



Endnotes

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- 24. 34 C.F.R. § 300.111
- 25. *Supra* note 23.

Endnotes

- 26. 34 C.F.R. § 300.304
- 27. 34 C.F.R. § 300.303. A reevaluation may not occur more than once a year unless the parent(s) and the public agency agree otherwise.
- 28. 34 C.F.R. § 300.323(c)(1)
- 29. 34 C.F.R. § 300.321
- 30. 34 C.F.R. § 300.322
- 31. 34 C.F.R. § 300.324
- 32. 34 C.F.R. § 300.323
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The End

