

Juvenile Reentry: Your Right to Education

A Manual for Youth
in the Juvenile Justice
System

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WORKING TOGETHER FOR JUSTICE

1 Common Problems to Look Out For

- ✦ **LOST RECORDS:** When police arrest a student and the county places the student in juvenile hall, it is the responsibility of the County Office of Education (COE) to request the student's school records and the responsibility of the student's old school district to transfer all of them. However, this does not always happen, and records get lost.
- ✦ **LOST CREDITS:** Lost records can include transcripts and documentation of coursework a student performed in their last school. Without this information, neither the local school district nor County Office of Education can award partial credit to the student for the work they completed up until the time the student was transferred.
- ✦ **RETAKEING COURSES:** When COE does not have the right educational information for a student, they might place them in classes they have already taken or force the student to relearn material he or she has already covered in their previous school, thus placing them at risk for not graduating on time.
- ✦ **LOST SERVICES:** Students, especially those with a Section 504 Plan or who receive special education and have an Individualized Education Program (IEP), got services or supports from their old school to help them learn – such as one-on-one tutoring, mental health counseling, a behavior intervention plan, and accommodations like preferred seating, breaks upon request, repeated instructions, or additional time on assignments. These services and supports should follow students, but COE does not always know the student needs them.
- ✦ **NO TRANSITION PLANNING:** Planning for a student's transition back to their former school should happen as soon after arrest as possible. Representatives of COE, the school district, Probation, the student, parent or guardian, the education advocate, and community-based service providers should meet regularly to plan where the student will re-enroll after juvenile hall and put in place supports that will help the student stay in school and graduate on time.
- ✦ **REENROLLMENT DELAYS:** If transition planning is delayed or never happens, a student coming out of juvenile hall might be delayed weeks or months before they go back to school or worse, drop out. In recent years, between a quarter and half of all students in California had not reenrolled in public schools within 30 days of exiting juvenile hall.¹
- ✦ **CONTINUATION/ALTERNATIVE SCHOOLS:** Too often, a COE will transfer a student to a county community school or a continuation or alternative school in the student's old district, even though going back to the same school or a comprehensive school is in the student's best interests.
- ✦ **LOST RECORDS, LOST CREDITS, RETAKING RECORDS** The challenges students face when they are rapidly transferred from one school district to the other are all the same when a student leaves juvenile hall.

2 How Working with an Advocate Might Help

Education Advocates can do almost everything an education lawyer can in the education and reentry context:

- ✦ Youth can ask a service provider they trust to work with their public defender to provide a letter, calendar of programming, or testimony at the student's detention hearing. If the judge knows that a student is involved in activities either before or after school that will keep them occupied and that there is someone responsible for ensuring they attend these activities, the judge is more likely to allow the student to keep going to school and not go to custody.
- ✦ Students can ask a trusted service provider to attend Section 504 and special education meetings. As someone who knows the child, a trusted service provider can offer information on what supports would help the student engage in learning and deal with behavioral triggers.
- ✦ An advocate can ask the school to evaluate a student for suspected disabilities, like ADHD, anxiety, hearing or visual impairment, or other conditions. The request should be in writing, and the school district has 60 days after an assessment plan is approved by a parent or caregiver to determine if a student is eligible for special education supports and services.²
- ✦ An advocate can attend suspension and expulsion hearings and speak on a student's behalf if the student wants, and can also connect the student to a lawyer if they need one.
- ✦ An advocate can attend transition/reentry planning meetings during and after the student's time in juvenile hall.

Although an education advocate can also help address the following issues, it is best to contact an education lawyer when:

- ✦ A school district or COE is not following the student's Section 504 Plan or IEP.
- ✦ A student is referred for expulsion or the student has been expelled and wants to appeal the expulsion.
- ✦ A student is subjected to race, disability, sex, gender, or other type of discrimination or harassment.

3 What Must Happen at Intake in Juvenile Hall

- ✦ Probation and COE are required to work together to operate the school in juvenile hall.³
- ✦ COE must enroll the student in school within 3 days.⁴
- ✦ COE must request the student's records immediately from the old school and ensure the student's partial credits have been calculated.⁵

- ✦ COE must follow the student's Section 504 Plan and Individualized Education Program.
- ✦ COE must also create an educational history and preliminary education plan for the student within 5 school days.⁶

4 Rules about Special Education

Roughly half of all students in juvenile detention have disabilities that qualify for special education. Just as many students have a diagnosable mental health condition or have trauma from experiencing violence. Ensuring that students get the right support in school could make the difference between having to cycle through the system multiple times and staying out of custody for good.

- ✦ COE and the school district must have an IEP meeting within 30 days of a student being transferred to the new school. This means within 30 days of the student arriving at juvenile hall and within 30 days of the student's re-enrollment back into his or her old school.
- ✦ The meeting must have a general education teacher, a special education teacher, a representative from the district, someone who can interpret the student's assessments, the student if they choose to be there, a parent, and anyone else the student or parent wants to advocate for them at the meeting. When a probation counselor has knowledge of the student that may be helpful to the IEP, it *might* be a good idea for them to attend. The probation counselor can learn about what triggers to avoid with a student and how to help the student de-escalate certain situations.
- ✦ If there is a pattern of a student being removed from class or suspended for 10 days, even if they are not consecutive days, this may be a "change of placement." When there is a change of placement, COE or the school district must hold a special IEP team meeting to discuss why the student is being removed from the classroom so much.⁷
- ✦ Emergency interventions, like cuffs, restraints, or pepper spray, can never be used on students in response to behavior that is predictable because of their disabilities.⁸

5 Student Rights Related to Discipline

- ✦ COE and Probation can only use discipline at the "least restrictive level," meaning the discipline must be proportionate to the behavior. COE and Probation can never deprive a student of contact from parent, attorney, counseling, or education as discipline.
- ✦ Solitary confinement (being forced to stay in the student's cell) cannot be used for discipline or punishment. The following rules are particular to Contra Costa County, but there are general limits on solitary confinement for youth in custody throughout California.

- ❖ It can only be used up to 4 hours when there is an immediate and articulable risk to someone's safety.
- ❖ While in solitary confinement, students must still get education and basic services.
- ❖ If the student has been in solitary confinement for more than 15 minutes, Probation must fill out a "room separation checklist" and incident report.
- ❖ If Probation wants to keep the student in solitary confinement for more than 4 hours, they must get the student seen by a mental health professional, or if they are not available, must implement Specialized Individualized Programming Plan (SIPP).

6 Transition Planning Best Practices

- ✚ Transition planning should start as soon as a student is in custody.
- ✚ A "transition team" should meet monthly and more frequently immediately prior to the student's exit from juvenile hall.
- ✚ The team should include the student, parents, education advocate, public defender, court, mental health, social services, community based service providers, COE, the school district, and Probation. The probation officer responsible for monitoring the student in the community should engage in the plan for helping the student stay in school and not return to custody.
- ✚ The team should create a plan of re-enrolling the student in the school that will serve his or her best interests – most often the student's former comprehensive public school – and ensuring that he or she has the supports necessary for successful reentry.
 - ❖ Reentry supports should include community-based services like mentoring, counseling, after-school activities, and community service projects necessary to help the student fully reintegrate into the school community and meet his or her conditions of probation.
 - ❖ The transition plan should also lay out which agency representatives are responsible for what portion of the transition plan and dictate who should communicate when certain issues arise.
- ✚ A student can ask their education advocate to reach out to the school district's Foster Youth Liaison. When it comes to foster youth and probation youth, the liaison must ensure and facilitate the student's proper placement, enrollment, and checkout from school, as well as ensure that the student's records, credits, and grades are transferred when the student changes schools or districts.⁹

7 Student Right to Re-enrollment

Re-enrollment back in the student's former or other appropriate school is crucial to the reentry process. If the right supports are in place, the student's education can help them heal from the negative effects and trauma of incarceration.

- ✚ Students have a right to immediate re-enrollment in public school after exit from juvenile hall.¹⁰
- ✚ The school district cannot deny enrollment solely on the basis of a student's involvement in the juvenile system and cannot deny enrollment simply because the student is missing records.¹¹
- ✚ Students are entitled to a transfer of records in 2 school days and calculation of partial credits.¹²
- ✚ Find a counselor whom the student trusts and who can serve as a continuous point of contact for the student when issues need the attention of other agencies.
- ✚ Transition meetings should continue well after the student has re-enrolled in school.

8 Option of a State Standard Diploma (AB 167/216)

Students in the juvenile system often qualify for what is called the "state standard diploma," which is 130 credits, as opposed to the 220 to 260 credits school districts usually require for a high school diploma. While this option may be the difference between a high school diploma and no high school diploma for some students, it is not the right decision for all students. To access the option of the state standard diploma, the following requirements must be met:

- ✚ The student must be a "pupil in foster care," which for these purposes includes probation youth.
- ✚ The student was transferred after his or her second year of high school. "Second year of high school" can be calculated by the length of time the student was enrolled in school, how many credits he or she earned, his or her age, or other criteria that help them meet the requirement.
- ✚ The student is not reasonably able to graduate on time.

The student, not the school, decides whether taking the option of the state standard diploma serves his or her best interests. Students who take the option will get their diploma sooner and can start community college sooner. However, they will not be immediately eligible for UC/CSU schools, will no longer receive special education, and will not be able to easily access remedial courses. If the student decides not to take the state standard diploma, they can opt for a fifth year of high school.¹³

¹ Cal. Dep't of Educ., *Report to the Governor, the Legislature, and the Legislative Analyst's Office: Identification and Status of State Monitoring of County Court Schools and State Division of Juvenile Justice Schools* at Attachment 2 (2013), <http://www.cde.ca.gov/ta/cr/documents/legsplmrpt2013.pdf>; Youth Law Ctr., *Governor Signs AB 2276 Ensuring Reenrollment Rights*, Oct. 21, 2014, available at <http://www.ylc.org/2014/10/governor-signs-ab-2276-ensuring-reenrollment-rights/> (Black and Latino students comprised 81% of the total student enrollment in California's juvenile court school system during the 2013-14 school year).

² Cal. Educ. Code § 56344.

³ Cal. Code Regs. tit. 15, § 1370.

⁴ Cal. Code Regs. tit. 15, § 1370(e)(2).

⁵ Cal. Educ. Code § 51225.2(b)-(d). When reviewing and updating a student's transcript, COE must accept coursework completed while attending another school, even if the student did not complete the entire course, and must issue that pupil full or partial credit for the coursework completed if the school district has not already issued it. The credits must be applied to the same or equivalent course as the coursework completed in the prior school. If the student did not complete the entire course, the educational agency (whether COE or a local district) cannot require the student to retake the completed portion unless the agency finds that he or she can retake these portions and still graduate on time from high school.

⁶ Cal. Code Regs. tit. 15, § 1370(e). At intake, staff in juvenile hall must interview the student and make a written record of his or her educational history, including school progress and school history, English proficiency, special needs, special education eligibility, and discipline history. Also at intake, COE must conduct an assessment to determine each student's general academic functioning levels to enable the right placement in core curriculum courses. Within five (5) school days, using this information, COE must develop a preliminary education plan for each youth. After COE has received the student's transcripts, they must review and modify the student's educational plan as needed.

⁷ 20 U.S.C. § 1415(k). For special education students, suspension or other disciplinary removals from school for ten (10) consecutive days or cumulative days (if the removals present in a pattern), constitute a change in placement. As a result, a special IEP meeting called a Manifestation Determination Review must be held to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

⁸ Cal. Educ. Code §§ 56521.1, 56521.2. Where emergency interventions are used, the educational team must, within two (2) days, schedule an IEP meeting to determine whether to conduct a functional behavior assessment and create an interim behavior intervention plan, or document the reasons for not doing so.

⁹ Cal. Educ. Code § 48553.5. In WCCUSD, the Foster Youth Services liaison is Julie Luera, contact at: FIT@wccusd.net, (510) 307-4508, 5100 Potrero Avenue, Room 22, Richmond, CA 94804.

¹⁰ Cal. Educ. Code §§ 48645.5(b), 48647. A student who has had contact with the juvenile justice system must be immediately enrolled in a public school and cannot be denied enrollment or readmission to a public school solely on the basis that he or she has had contact with the juvenile justice system.

¹¹ *Id.*

¹² Cal. Educ. Code §§ 49069.5, 51225.2(b)-(d).

¹³ Cal. Educ. Code § 51225.1.