

Educational Aftercare & Reintegration Toolkit

for

Juvenile Justice Professionals

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How to Use this Toolkit

Youth who are adjudicated delinquent frequently encounter problems in obtaining appropriate education and special education services in placement as well as when they are released and reintegrated into their communities. This Toolkit provides the basic information and resources needed to help juvenile probation officers (JPOs) and other juvenile justice professionals overcome (or at least minimize) these problems.

This Toolkit should serve as a roadmap for sorting out what education problems involve the legal rights or “entitlements” of delinquent youth, as compared to problems that raise policy and/or practice issues (and which, as a result, may not have an easy solution). It should also serve as a guide to resources that are available to help juvenile justice professionals answer educational questions and as a link to individuals and organizations that can provide additional technical support and assistance with complicated issues.

When you are facing an educational issue involving a delinquent youth, you should:

- 1) Consult the substantive sections of this Toolkit that cover the issue(s) pertaining to your client. You will find information to assist you in identifying the educational rights of your client in all phases of aftercare and guidance on how to proceed.
- 2) Review the “TOOL(S)” referenced in the substantive section to collect more detailed information about what to do in your client’s specific situation. The “TOOLS” in this Toolkit are policy guidance documents developed by the Pennsylvania Department of Education, school law regulations, and fact sheets developed by the Education Law Center that interpret federal and state education laws.
- 3) Contact the Aftercare Specialist appointed by the Juvenile Court Judges Commission (JCJC) or the PA Council of Chief Juvenile

Probation Officers (Chief's Council) to discuss complicated issues and receive technical support. **TOOL 15: Aftercare Specialist Contact Information** on page 80 provides the contact information for the Aftercare Specialist assigned to your county.

- 4) Utilize the resources provided by the Education Law Center, the Pennsylvania Department of Education, and the United States Department of Education for more assistance. Specific information about these resources is contained in **Section V** of this Toolkit: “**More Help and Information**” on page 32.

As a preliminary step to using this Toolkit, you may want to review **TOOL 1: Glossary of Educational Terms and Acronyms** on page 34 to become familiar with some of the terminology used in the education system.

Checklist of Key Activities from Pre-Placement through Release & Reintegration

Some readers may wish to turn at this point to **TOOL 16: Checklist of Key Activities from Pre-Placement through Release & Reintegration** on page 81. This is a quick reference list of issues and activities that a juvenile justice professional may wish to consider during all the phases of aftercare from the pre-placement dispositional hearing through release and reintegration back into the community. All the issues and activities are discussed in more detail in the substantive sections of this Toolkit. The Checklist is only meant as general guide, and is not exhaustive.

I. INTRODUCTION

What is the role of the JPO and others in educational aftercare?

There are many “key players” when it comes to ensuring appropriate educational aftercare for delinquent youth. Many individuals and organizations must work together and organize their services to help these youth smoothly transition from a delinquency placement to a community setting and experience educational success.

The parent must work with the juvenile justice and education systems to facilitate the movement of the youth from one to the other and be intimately involved with the educational planning. The youth must “buy in” to the planned educational program and be willing and ready to comply with the terms of this program and juvenile probation. The youth’s legal representative must be knowledgeable about the educational needs of the student and advocate for appropriate educational services while in placement and during the reintegration phase of aftercare. The court must continue its oversight and stress the importance of and/or require that the youth complete his or her education. And, the juvenile placement facility, the host school district, and the home school district must maintain and transmit educational records in a timely manner and otherwise ensure that the youth receives appropriate educational services before, during, and after placement in a residential facility.

JPOs also have an important and significant role in the educational aftercare of delinquent youth. In modern times a JPO is no longer an officer who simply enforces the terms of probation, but is instead an advocate who promotes the best interests of the youth consistent with aftercare system principals. Under a “best practices” model, a JPO’s role in educational aftercare is:

- Fulfilling the obligations as a monitor as well as a planner for re-entry, and supporting a youth who has left residential care when he/she returns to a community educational placement.
- Attending the initial case planning conference to ensure that educational goals are clearly understood and a solid plan is put in place to achieve them.

- Collaborating with residential treatment staff on a single plan, developed within 30 days of placement, that integrates treatment and aftercare services, including educational programming and goals developed in consultation with the appropriate school staff from the home and host school districts.
- Advocating on behalf of the client so that any existing educational gaps will be addressed. This will require ongoing communication with the youth, family, and staff from the residential treatment facility, home school district, and host school district.
- Overseeing academic and rehabilitative progress, maintaining contact with the family to manage successful return, and completing a post release plan with the youth with further goals and a plan for achieving them. All appropriate educational options should be reviewed and considered (e.g., attending a neighborhood school, charter school, alternative school, homeschooling, GED, etc.)
- Coordinating meetings at the school where the youth returning from placement will be enrolled approximately 3-4 weeks prior to the recommended release date and inviting the parents, education specialist (when applicable), and key education personnel from the residential placement facility to attend. These meetings should result in the establishment of clear guidelines and expectations for the youth's return to school during the aftercare phase.
- Adjusting the intensity of supervision proportionate to the risks and needs of the delinquent youth and developing appropriate linkages within the juvenile justice and education systems to facilitate the smooth reintegration of the youth into a community educational placement.

II. PRE-PLACEMENT DISPOSITIONAL HEARING

How do I determine the educational needs of the delinquent youth?

As a JPO, you will make a placement recommendation to the judge at the dispositional hearing. The educational needs of the delinquent youth should be a significant factor in making your recommendation.

The best way to determine the educational needs of the youth is to talk to those who are familiar with the student's educational status (teachers, school administrators, family members, and the student) and review his or her education records. Parents have a right to see the public school records of their child if the child is under 18 (when students become 18 years old, they have the right to see their own records). School records include most of the information a public school keeps on a student, including grades, disciplinary reports, attendance records, behavior reports, standardized test results, special education reports and programs, etc. (personal notes of a teacher or other school official that are kept private and not shared with anyone are not considered to be education records).

A parent (or legal guardian) can "release" his or her right to inspect and review the student's education records to a JPO or other juvenile justice professional. A JPO can use **TOOL 2: Authorization to Release Records** on page 36 in this regard. There is no absolute right to have copies of the records sent to you, but a school may be willing to do so (you may be charged up to the actual cost of copying). As schools are only required to comply with a request to review records within 45 calendar days (30 days for students in special education), it is a better practice to call the school and make an appointment to review the records at the school at a time that is convenient to you and the school staff, and that allows you ample time to process the information and make an informed placement recommendation to the judge.

What should I consider in making placement recommendations to the judge?

Different information gleaned from reviewing a delinquent youth's education records and talking with teachers, school administrators, family members, and the student will help you identify an appropriate placement (or placements) and what

educational services and supports will be needed in that setting. Present levels of academic performance and ability can be determined from reviewing class tests, quizzes, school projects, homework, and standards based tests like the PSSA (the PSSA is currently given to public school students in grades 3 through 8 and 11 for math and reading, and in grades 5, 8 and 11 for writing). In-school behavior and the youth's relationships with teachers, administrators, and peers will help you understand the level of his or her social skills and behavioral needs (if any). Special education records will reveal if the student has been identified as having a disability and what services and accommodations are necessary to ensure meaningful educational progress. And, input from family members and friends can give you some insight into the student's educational strengths, needs, likes, dislikes and goals.

Remember, initial placement decisions will ultimately impact a youth's reintegration into school and/or other community education settings, so a juvenile justice professional should exercise caution and foresight before recommending a delinquency placement. For example, the type of academic instruction and educational services in some short-term programs may not align with the academic standards a student will be expected to know and master in a post-placement school setting. And, the staff in some short-term delinquency programs may not be "highly qualified" to teach important core academic subjects in the same manner as public school teachers. Consequently, a short-term placement may not be appropriate for a student who needs intensive academic instruction and who will suffer from a lapse in traditional educational programming. This could be especially true for a student with a disability. For some guidance on implementing special education programs and practices in short-term detention facilities, check out the National Center on Education, Disability and Juvenile Justice (EDJJ) manual titled "*Meeting the Educational Needs of Students with Disabilities in Short-Term Detention Facilities*" which you can link to on ELC's website (www.elc-pa.org; click on "Foster Care & Juvenile Justice", and "Other Resources").

III. EDUCATIONAL SERVICES IN PLACEMENT

What educational services does a delinquent youth receive at a juvenile placement facility?

In general, school-aged children and youth in juvenile placement facilities must receive the same education as non-incarcerated students. This includes the curriculum, the number of days and hours of instruction, the qualifications of education personnel, and special education services and accommodations (for more information on special education, see *Who is entitled to special education services and what do they include?* on page 23). They must also participate in the PSSA (or PASA, when appropriate) if they are in an assessment grade level (the PSSA is currently given to public school students in grades 3 through 8 and 11 for math and reading, and in grades 5, 8 and 11 for writing) and are not placed in a privately run facility. And, students who are in their senior year of school must be able to work towards and receive a high school diploma while they are in the placement facility (this is an area, however, where disputes often arise about which school district is responsible for issuing the diploma and what work and credits count toward graduation requirements). Alternatively, the Pennsylvania Department of Education may issue a Commonwealth Secondary School Diploma to a student confined in a State-operated juvenile correctional facility located in Pennsylvania if the student completes the required secondary school curriculum as specified by the Department.

A common barrier to receiving appropriate educational services in juvenile placement facilities is the delay in obtaining a youth's education records from his or her public school. The law permits and in some cases requires the transfer of education records to law enforcement and judicial authorities, but oftentimes schools do not have policies in place to ensure that records are sent in a timely manner. In fact, if records are requested by a state-operated institution for delinquent youth or a school district that provides educational services to youth placed in a juvenile justice facility within its boundaries, the law requires the school district or charter school receiving the request to forward the educational records within 10 business days (for additional information on this point, see the *What are the requirements for enrolling a delinquent youth in his/her home school district?* section beginning on page 21).

In every case, a JPO should prompt the juvenile placement facility (or the school district providing educational services within the facility) to request educational records from the home school district as soon as possible to expedite the records transfer. Administrative delays in transferring records can be overcome with planning and persistence on behalf of juvenile justice professionals and other education professionals. While waiting for school records to be transferred, a JPO can advocate for the placement facility to conduct its own assessments to help identify appropriate educational services for a student. It is also a good idea for the JPO to advocate that the student work on the state academic standards appropriate for his or her age and grade level, since all school districts (including the youth's home school district) should have a curriculum that is geared towards these standards. This should make the reintegration back into the home school district smoother. For more information on the state's academic standards, go to the Pennsylvania Department of Education's website (www.pde.state.pa.us; click on "Pre-K – 12 Schools", "Assessment", and "Standards".)

If the JPO or other juvenile justice professional obtained a copy of the student's education records from the school prior to the dispositional hearing with the parent's consent, he or she can share these records with the placement facility (see *How do I determine the educational needs of the delinquent youth?* on page 5).

What educational services does a delinquent youth receive at an adult correctional facility?

In general, students who are under the age of 21 and who have not graduated from high school (referred to as "school age") in adult state correctional institutions receive full education programs, but students in local (county) correctional facilities receive limited education services. The law delineates between school-age individuals in local correctional facilities who have been *charged* with a criminal offense and those who have been *convicted* of a criminal offense.

School age students who are confined to an adult local correction facility following a *charge* for a criminal offense are eligible for educational services in the same manner and to the same extent as a student who has been placed in an

alternative education program for disruptive students. Alternative education programs for disruptive youth may operate outside the normal school day, and may modify other traditional school requirements including number of days and hours of instruction.

School age students who are confined to an adult local correction facility following a *conviction* for a criminal offense are eligible for educational services in the same manner and to the same extent as a student who has been expelled from his or her school district. Accordingly, incarcerated students who are under 17 will receive education services, but no specific level or amount is guaranteed. Students who are 17 and over have no entitlement to further education, unless they are identified as having a disability.

Students with disabilities have additional educational rights while incarcerated in local correctional facilities. The federal Individuals with Disabilities Education Improvement Act (IDEA) requires states to ensure the right of students with disabilities to a free appropriate public education in order to receive federal funds. Consequently, eligible students are entitled to receive special education services both when they are charged with a criminal offense and after they have been convicted of a criminal offense. School districts, within whose boundaries a local correction facility is located, must ensure that students within the facility are evaluated, identified, and provided appropriate services consistent with federal law mandates. However, the IDEA does not require school districts to ensure that students with disabilities who are convicted as adults and incarcerated in adult facilities participate in state and districtwide assessments or to provide transition planning and services to students who will turn 21 before they are released from prison. For more detailed information on educating students in adult local correctional facilities, see **TOOL 3: “Education Services for Students Incarcerated”** BEC on page 37.

IV. **RELEASE AND REINTEGRATION INTO THE COMMUNITY**

What do I need to know in planning for the education of a youth after release from a delinquency placement?

Students in Pennsylvania, including delinquent youth, have a right to attend school (unless they have been expelled) until the end of the school year in which the student turns 21 or until the student graduates from high school (whichever occurs first.) This is true even if a student previously dropped out of school and is seeking to re-enroll. And, students who are under 17 are subject to the “compulsory school attendance law” and must attend school or participate in another approved education program, or face truancy charges filed by their school district (there are limited exceptions to the compulsory school attendance law which are described in more detail in the *Exceptions to Compulsory School Attendance* section on page 21).

When planning for the release of a delinquent youth from a juvenile justice placement facility, a juvenile justice professional should identify, review, and consider all the possible educational options available when the student is released and help facilitate the student’s movement to the appropriate program. Many factors including the student’s age, preferences and abilities, the family’s wishes, and the court’s mandates will weigh in on this determination. The following is a range of educational options that can be considered based on the individual circumstances of your client.

Neighborhood School

Reintegration into a neighborhood public school will likely be an option and preferred choice for the majority of delinquent youth returning to a community educational placement. If a student wishes to enroll in his or her neighborhood school upon release from residential placement, a juvenile justice professional may first have to determine what the “home” school district is for that student.

1. Youth Who Live with Their Parents/Legal Guardian

A student has the right to attend public school in the school district where he/she lives with his/her parents or legal guardian . If the student’s parents live in different school districts, the student may attend school in the district where he or she lives with a parent most of the time, unless a court order or court approved custody agreement specifies otherwise. If the parents have joint custody and the student

spends an equal amount of time with each parent, the parents may choose to enroll the student in either district (but not both.)

2. **Youth Living with a Resident of Another District**

Students who are living with a relative or other adult in a school district other than where their parents live can attend school in that district **if**:

The student is dependent or under the guardianship of the resident of that district **OR**

The resident meets three criteria:

- 1) The resident is not receiving any personal compensation for having the student in his or her home (receiving public benefits such as SSI, TANF, pre-adoptive payments, or other support payments on behalf of the student does not count as receiving “personal compensation”);
- 2) The resident intends for the student to live there all year long, and not just for the school term; **and**
- 3) The resident is willing to assume responsibility for the child with regard to school matters.

The school district may request that the resident file an affidavit stating that the above three requirements have been met and can also make reasonable requests for documentation supporting the affidavit. For more information and examples of documentation a district can request to support the affidavit, see **TOOL 4: “Education of Children Residing With an Adult Other Than Natural Parent” BEC** on page 41.

3. **Youth Who Live in Institutional Settings**

School districts must educate students living in a “children’s institution” within the district’s boundaries. “Children’s institutions” include any agency supervised or licensed shelter, group home, maternity home, residence, facility, or orphanage for the care or training of children and adolescents. For more information about the

“host” district responsibilities, see **TOOL 5: “Nonresident Students in Institutions” BEC** on page 46.

Students who have been placed in a Pennsylvania facility and whose parents live out of state may still be entitled to attend the local schools. The students must first establish that they are residents of Pennsylvania. For more information about how to do this, see PDE’s BEC titled “*Determination of Residence of Children Living in Pennsylvania Institutions*” (available at www.pde.state.pa.us).

4. **Youth in Foster Care**

Students living with foster families have the right to attend school where the foster family lives, regardless of where their birth parents reside, and should be treated in the same manner as students who live in the school district with their birth families.

5. **Youth Who Live on Their Own (Emancipated Minors)**

Students who are under 21, and who can show that they have established a home apart from the control and support of their parents or guardians, are called “emancipated minors” and can attend school in the district in which they live, regardless of where their parents or guardians live. A student who is married and living with his/her spouse is emancipated for school purposes and can attend school where he or she lives. Note that being an “emancipated minor” for school enrollment purposes is not the same as having a court emancipate a child.

6. **Youth Who are Homeless**

Students who lack a fixed residence, who live in a temporary shelter, who are living in a space not usually used as a residence (such as a car or abandoned building), who are living with friends or relatives because they do not have a home, who are awaiting foster care placement, or who have run away or have been abandoned or forced out of their homes by their parents or caretakers are considered to be “homeless.” Homeless students are entitled to the same free

public education as is available to all other students. Homeless students can continue to attend the same school in the school district they were attending just before they became homeless throughout the length of their homelessness. If the student gains a permanent residence in a new district during the academic year, he/she can nevertheless remain in the old school for the rest of that year (or, if the new home was gained over the summer, he/she can remain in the old school for the next academic year). The school districts involved must arrange for and pay for transportation of the student. For more detailed information on the education rights of homeless students, see PDE's BEC titled "*Education for Homeless Youth*" (available at www.pde.state.pa.us).

Once you determine the district in which the youth will attend school, you will have to review any district policies that will impact the decision on which specific school the student will attend (e.g., district "feeder" patterns and/or transfer policies due to past in-school violations like assaulting school staff or other students). You will also have to consider grade level placement and class scheduling options. These decisions will be impacted by the student's educational placement and academic schedule before juvenile placement as well as what curriculum the student worked on in placement and credits earned as a result.

Please note that students returning from juvenile delinquency placements and adult correctional facilities to the *Philadelphia School District* must first attend a transition center operated by the District for a period not to exceed 4 weeks. During this time, the District must develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student, and provides for the student's direct return to the regular classroom or establishes the terms and conditions the student must meet prior to returning to the regular classroom. In the case of a student whose transition plan does not include immediate return to the regular classroom, the student must be placed in an alternative education program for disruptive students (public or private), a GED program, or a program operating after the traditional school day. For more detailed

information on these topics, see the sections titled Alternative School below and GED Program on page 18.

Charter/Cyber School

Charter schools are public schools created by agreement (a “charter”) with a local school board and are free to students and parents in the same manner as traditional public schools. They must provide a minimum of 180 days of instruction per year, but are free to provide a longer or different school calendar. A “cyber school” is one type of charter school.

Any youth who is a resident of Pennsylvania is eligible for admission to a charter school. First preference must be given to students who reside in the district where the charter school is located (or region, in the case of a regional charter school.) Charter schools may also give preference to students of parents actively involved in the creation of the charter school and to siblings of enrolled students.

Charter schools *cannot* limit admission on any basis that would be illegal if used by a school district and also *cannot* limit admission on the basis of intellectual or athletic ability, measures of achievement or aptitude, English proficiency, or disability.

Charter schools are permitted to limit their enrollment to a particular grade level or area of concentration (such as the arts, mathematics, or science) and may establish reasonable criteria to evaluate prospective students, but the criteria must be outlined in the charter agreement. In many cases, students who attend charter schools will be transported at no cost by their home school district.

A charter school may be an appropriate placement for a delinquent youth who may not be successful if reintegrated into a neighborhood public school operated by the local school district for various reasons. For more information on charter schools, see **TOOL 6: ELC’s “Charter Schools – Frequently Asked Questions” fact sheet** on page 50.

Alternative School

Under Pennsylvania law, a school district (or a combination of school districts) may implement an alternative education program which removes “disruptive students” from regular school programs in order to provide them with a sound

educational course of study and counseling designed to modify disruptive behavior. The Pennsylvania Department of Education must approve and annually evaluate district operated alternative education programs.

Alternative education programs may operate outside the normal school day of the district, including Saturdays. A district must establish policies to identify those students who are eligible for placement in the alternative education program. Before placement in such program, a student is entitled to an informal hearing unless the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process. In that case, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

School districts must adopt policies for periodic review of students placed in alternative education programs and this review must occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's discretion. The purpose of the review is to determine whether or not the student is ready to return to the regular school curriculum.

Alternative education programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent or who have been judged to have committed a crime under an adult criminal proceeding. However, districts cannot automatically send delinquent youth returning from juvenile justice placements to alternative education programs simply because they have been adjudicated delinquent, especially if they do not meet the definition of a "disruptive student" or require the types of services or structure available in the alternative program. This is true even in the *Philadelphia School District*, where students are required to attend a transition center operated by the District for a period not to exceed 4 weeks and receive a transition plan before they return to a regular classroom. All students are entitled to an informal hearing to challenge an assignment to an alternative education setting listed in the transition plan, and there can be no automatic assignment to an alternative education setting due to the nature of the underlying offense(s).

An alternative education program may be an appropriate placement for a student who needs a high level of structure upon reentry into school, or if the student lives in a district that operates an alternative school that provides special services tailored to meet his or her individual needs. It may also be an appropriate placement if the student is “disruptive” or if he or she would have trouble succeeding in the regular education environment right away for various reasons. For more detailed information on alternative education programs including the definition of “disruptive student,” see **TOOL 7: “Alternative Education for Disruptive Youth” BEC** on page 55.

Homeschooling

Parents in Pennsylvania can teach their children at home (generally known as “homeschooling”). Educating a student who is under 17 at home is one way to comply with the compulsory school attendance law. A student can be homeschooled if a “properly qualified private tutor” has been hired to teach the child or if the student’s parent, guardian or legal custodian conducts a “home education program” for the student.

In a home education program, the person teaching the student (called the “supervisor”) must be the parent, guardian or legal custodian and must have a high school diploma or GED certificate (a foster parent does not count as a “supervisor” so cannot conduct a home education program for a foster child). The home education program must provide at least 180 days of instruction per year, or 900 hours (990 hours at the secondary level) and the student must be instructed in legally designated subjects. Upon a supervisor’s request, the school district of residence must lend the supervisor copies of the district’s textbooks and other curriculum materials appropriate for the student’s age and grade level.

Homeschooled students must take standardized tests and be annually evaluated for educational progress. This information is reviewed by the district superintendent who may ask for further documentation and/or take steps to end the home education program.

Homeschooling may be an appropriate option for a delinquent youth who has a parent, legal guardian or legal custodian who is willing and able to teach the student

at home in compliance with Pennsylvania’s homeschool law and who is qualified to do so. However, this may not be a viable option in many cases due to the high demands of providing a home education program and the level of education required of the supervisor. Moreover, students who are homeschooled have fewer natural opportunities to interact with other students and develop appropriate social and behavioral skills. For more information on homeschooling, see PDE’s BEC titled “*Home Education Program*” (available at www.pde.state.pa.us).

Homebound Instruction

Students may be temporarily excused from school due to illness or other “urgent reasons.” School districts must adopt rules and procedures governing temporary excusals that may be granted by principals and teachers upon receipt of satisfactory evidence of mental, physical, or other urgent reasons.

Temporary excusals may not exceed 3 months, and a school district, area vocational technical school, charter or independent school may provide students with homebound instruction during this time period (a request to provide homebound instruction for more than 3 months must be approved by the Pennsylvania Department of Education). A school district must adopt policies that describe the instructional services that are available to students who have been excused from school and include statements that define the responsibilities of both the district and the student.

Students who do not have mental, physical, or other urgent reasons for being excused from school *cannot* be placed on homebound. Consequently, students *cannot* be assigned to homebound instruction simply because they are being released from a delinquency placement. Moreover, a district *cannot* insist that a child with a disability be educated at home due to “safety concerns” arising from the delinquency and/or disability status, or because the district needs time to figure out what special education program is required for the child. For more information on the very limited circumstances when a home placement may be appropriate for a student with disability, see PDE’s BEC titled “*Instruction Conducted in the Home*” (available at www.pde.state.pa.us).

Homebound instruction should only be considered for a delinquent youth during the reintegration phase of aftercare if he or she has serious mental, physical, or other “urgent reasons” for receiving educational services at home. In most cases, a district will not provide homebound instruction to a student absent medical documentation from a physician or psychiatrist explaining, in detail, why such a placement is necessary. Moreover, there is no state mandated minimum level of service that the district must provide to homebound students.

GED Program

The Tests of General Education Development (GED) were developed to measure those major outcomes associated with four years of high school education. Many employers consider the GED credential (Commonwealth Secondary School Diploma) in the same manner as a high school diploma and almost all U.S. colleges and universities accept the GED transcript for admissions purposes.

To be eligible to take the GED in Pennsylvania, a youth must be 18, a resident of Pennsylvania, and not enrolled in a public, licensed private, registered accredited, or licensed nonpublic secondary school. A youth between the age of 16 and 18 may be eligible to take the GED if he or she has a statement signed by the superintendent verifying his or her withdrawal from school *and* at least one of 4 criteria is met – a court order or written request on company letterhead must be produced from one of the following:

1. The applicant must be offered a job upon earning the GED and produce written proof from an employer.
2. Acceptance at a college or university contingent upon the applicant submitting GED tests scores.
3. Acceptance into a branch of the Armed Services for which high school equivalency is a prerequisite.
4. Within 90 days of anticipated release or discharge, the director of a state institution may request testing for residents, patients, or inmates.

Taking the GED may be appropriate for a delinquent youth who is 18 or older and who wants to speed up the process for obtaining a diploma so he or she can enter the workforce and be qualified for higher paying jobs. It may also be an option for

youth between 16 and 18 who meet one or more of the criteria listed above.

However, a student can't be forced and should never be coerced into taking the GED in lieu of returning to school if he or she is otherwise eligible to do so. Moreover, the Pennsylvania Department of Education has taken the position that a student with a GED who is under 21 can return to school to complete a regular high school diploma.

A juvenile justice professional should exercise caution before advising a client to pursue a GED and ensure that the best interests of the student are the main factor in making this recommendation, not pressure from the school district. For more information about the GED, see **TOOL 8: “Frequently Asked Questions about the Tests of General Educational Development” fact sheet** on page 58.

Options for Expelled Students

If a delinquent youth was expelled from school prior to a delinquency placement, he or she may not be able to return to school upon release based on the terms of expulsion (e.g., if the youth was permanently expelled from the district or has not served the term of a lesser expulsion). An expulsion is an exclusion from school for any period exceeding 10 consecutive school days. However, students who are under 17 are still subject to the compulsory school attendance law even if they are expelled from school, and so they must be provided an education post-expulsion. The initial responsibility for providing the required education rests with the student's parents or guardian through placement in another school, through tutorial or correspondence study, or through another education program approved by the district's superintendent (e.g., a home school program).

If the parents or guardian are unable to provide the required education, they must submit written evidence to the school district stating this fact within 30 days after the expulsion. The district then has the responsibility to make “provision” for the student's education within 10 days of receipt of the parents' notification, but no specific level or amount is guaranteed.

Often, a district will meet its obligation by offering to place the student in an alternative school program or to provide 5 hours per week of in-home instruction. These options will most likely be legally sufficient for regular education students, but students with disabilities are still entitled to an “appropriate” public education post-

expulsion, and so may need to receive more and/or different services from their district to meet their individual needs.

A juvenile justice professional deciding an appropriate education placement for an expelled delinquent youth should consider all the options available through the home school district as well as other options (e.g., charter school, private school, etc.). Please note that if a student was expelled from a different district than the one which he/she plans to attend after the delinquency placement (e.g., the student's parents have moved or the student is going to a new foster home), then the new district must accept the student into its regular education programs unless the student was expelled for a weapons offense (see *What are the requirements for enrolling a delinquent youth in his/her home school district?* on page 21 for more information).

Options for Pregnant and Parenting Students

Pregnant students and students who are parenting are subject to the compulsory school attendance law until they are 17 (i.e., there is no exception to the compulsory school attendance law just because a student is pregnant or is parenting). These students can, however, obtain an excuse from attending school in the same manner as any other student.

For example, a pregnant student or parenting student can be excused from school for up to 3 months (or longer if approved by the Pennsylvania Department of Education) if she or he has mental, physical, or other "urgent reasons" that prevent school attendance and can produce satisfactory evidence to this effect (e.g., certification from a licensed physician). In this case, the student may be eligible to receive homebound instruction as explained in the *Homebound Instruction* section on page 17. A pregnant or parenting student may also be excused from school if she or he meets the criteria for an exception to the compulsory school attendance law as explained in the *Exceptions to Compulsory School Attendance* section on page 21.

The bottom line is that pregnant and parenting students have the same educational options as other students and may not be excluded from public schools or programs simply because they are pregnant or parenting. Accordingly, a juvenile justice professional should consider the range of educational options for a pregnant or parenting student in the same manner as any other student. For more information, see

PDE's BEC titled "*Pregnant and Parenting Students*" (available at www.pde.state.pa.us).

Exceptions to Compulsory School Attendance

As a general rule, JPOs should advocate for students who have not obtained a high school diploma or a GED to attend school or complete some other appropriate education program upon release from a delinquency placement. However, there may be special circumstances that support a decision not to do this. A juvenile justice professional should exercise caution and professional judgment before determining that a youth should not reintegrate into an educational program.

Students who are under 17 but meet certain criteria are exempt from the compulsory school attendance law and thus do not have to attend school or participate in an education program. The most common exemption involves students who: 1) have attained the age of 16; 2) are regularly engaged in any "useful and lawful employment or service" during the time the public schools are in session; and 3) hold an employment certificate issued according to law.

There are other limited exemptions for some students who live 2 or more miles away from school and are not provided with free transportation to and from school; and for students who are engaged in farm work or domestic service in a private home on a permit issued by the school board or designated school official. For more information concerning this last exemption, see PDE's BEC titled "*Farm and Domestic Service Permits*" (available at www.pde.state.pa.us).

What are the requirements for enrolling a delinquent youth in his/her home school district?

School districts and charter schools should normally enroll a student within 1 business day, but in no case can take more than 5 business days from the date the mandatory documents have been submitted. The following are the *only* documents the school district or charter school can require from the parent, guardian, or other person having control or charge of the student prior to enrolling a student:

1. Proof of the student's age;
2. Proof of student's residence;

3. Proof that the student has received immunizations as required by law (more immunization information is available at www.pde.state.us; click on “Basic Education Circulars (BECs)”: and “School Immunization Requirements”); and
4. A sworn statement or affirmation (sometimes called an “Act 26 affidavit”) stating whether the student was previously or is presently suspended or expelled from any public or private school in Pennsylvania or any other state for an act or offense involving weapons, alcohol or drugs; for the willful infliction of injury to another person; or for any act of violence committed on school property.

A school district can’t refuse to enroll a new student or keep the student out of a regular school or classroom unless the student was expelled from a prior district for an act or offense involving a *weapon*. In that case, the new district may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion. There are no other circumstances outside of a “weapons violation” that give a school district authority to “honor” an expulsion from another district. A school district can never exclude or punish a student for prior conduct in a different district outside of this limited exception.

The enrollment requirements are the same for all students, including delinquent youth (i.e., the district or charter school cannot require more or different documentation from a delinquent youth before permitting enrollment). To help minimize delays, a juvenile justice professional should help a client apply for enrollment as soon as the release date from the delinquency placement becomes known so the student can start school immediately upon release.

It is important to note that problems or delays with transferring records other than those listed above are not a bar to enrollment in a district or charter school. Students must be admitted to school while waiting for the records to arrive. This is true whether the records are being transferred from another school or from a delinquency placement. This is also true regardless of whether the student will receive a regular education or special education program. Moreover, the law requires

school districts and charter schools to forward educational records to another school district or charter school within 10 business days of receipt of the request. So, a school district that requests a student's educational records from a state-operated institution for delinquent youth or from a school district that provides educational services within the juvenile justice facility must receive them within 10 business days. In every case, a JPO should prompt the school district his or her client will attend upon release to request the student's educational records from the juvenile justice placement (or the school district providing services in the facility) as soon as possible to expedite the records transfer and minimize problems when the student enrolls in the community-based school.

To review the law pertaining to enrollment and records transfer requirements, see **TOOL 9: "Admission to Public Schools -- § 11.11 Entitlement of resident children to attend public schools."** on page 62. A complaint process through the Pennsylvania Department of Education is available when a dispute arises regarding enrollment of a student. For more information, see **TOOL 10: "Enrollment of Students" BEC** on page 64 (please note that the language of 22 Pa. Code § 11.11 (see TOOL 9) mandating enrollment within 5 business days supersedes the 5 school/business day "recommendation" in the TOOL 10 BEC).

It is also important to remember that once a student is enrolled, he or she will be required to follow the school's attendance policies and rules. Failure to comply with attendance policies will result in truancy proceedings or "dis-enrollment" for students who are 17 or older (but a student can always reenroll if he/she is under 21 and has not received a high school diploma).

Who is entitled to special education services and what do they include?

The following sections briefly explain who is eligible for special education services, the process for evaluation and developing an appropriate educational program, how to decide where the student will receive services, and what to do if there is a dispute with the school. For additional information, see **TOOL 11: ELC's "Overview of the Special Education Process" fact sheet** on page 69.

A juvenile justice professional should not expect to become an expert in special education law, but should strive to be able to identify special education issues and guide families in the right direction when they arise. Many students with disabilities end up in the juvenile justice system, and quite a few are referred by their school district for behavior that is related to their disability. In some of these cases, the district has failed to identify the disability and/or failed to provide an appropriate program of supports and services prior to the referral. If families are aware of the disability and the student's resulting educational needs, they can work with the school to prevent problematic behavior from reoccurring in the future. They can also ensure that their child receives an appropriate special education program in school upon release from a delinquency placement.

Eligibility for Special Education

Pursuant to the federal Individuals with Disabilities Education Improvement Act (IDEA) and state law (Chapter 14), school districts in Pennsylvania must identify, locate, and evaluate all children with disabilities residing within the district's boundaries (including youth who are homeless, wards of the State, and/or attending private schools) who are eligible for special education and related services (this is known as the district's "child find" duty). To be eligible for services, a child must: 1) have at least 1 legally identified "disability"; and 2) by reason of that disability, require special education and related services.

The legally identified disabilities are:

1. Mental Retardation;
2. Hearing Impairments (including Deafness);
3. Speech or Language Impairments;
4. Visual Impairments (including Blindness);
5. Serious Emotional Disturbance (may be referred to as "ED");
6. Orthopedic Impairments;
7. Autism;
8. Traumatic Brain Injury;
9. Other Health Impairments; and
10. Specific Learning Disability.

Some of the most frequently identified disabilities are:

- **Serious Emotional Disturbance:** This means, over a long period of time and to a marked degree that adversely affects educational performance: 1) an inability to learn that cannot be explained by intellectual, sensory or health factors; 2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; 3) inappropriate types of behavior or feelings under normal circumstances; 4) a general pervasive mood of unhappiness or depression; and/or 5) a tendency to develop physical symptoms or fears associated with personal or school problems. The term does *not* apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance, but does apply to children diagnosed with schizophrenia.
- **Other Health Impairments:** They include chronic or acute health problems such as *asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome* when they result in limited alertness with respect to the educational environment and adversely affect a child's educational performance.
- **Specific Learning Disability:** This term means 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 to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does *not* include problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

The term “special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. The term “related services” means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education. Specific examples of special education and related services are listed in the next section.

Evaluations and IEPs

A child must be evaluated by his or her school district to determine if he/she has a disability and, as a result, requires special education and related services. The school district or the child’s parents can initiate a special education evaluation.

The district must conduct a “multi-disciplinary” evaluation and give the results, embodied in an evaluation report, to the parents within 60 school days from the date the parents consented to the evaluation by signing a “Permission to Evaluate” form (if the child is enrolled in a charter school, the evaluation must be completed within 60 calendar days). The evaluation report will provide information regarding the student’s present levels of academic achievement and functional performance, strengths, needs, and identify any disability or disabilities that interfere with educational performance. It must also include recommendations for the types of services and accommodations that will be needed to redress issues stemming from the disability (e.g., learning difficulties, accessibility problems, communication barriers, etc.).

After an evaluation report is completed and if the student is identified as eligible for services, the next step is to develop an Individualized Education Program (“IEP”) for the student. An IEP Team (consisting of the parents, regular and special education teachers, school administrators, the student, when appropriate, and others) decides what academic and functional goals the student should work on and what special education and related services are necessary to support educational progress.

Special education is specially designed instruction that adapts the content, methodology, and/or delivery of instruction to address the unique needs of the child that result from the disability and to ensure access to the general curriculum so that he

or she can strive to meet the same educational standards as other students. Special education can be conducted in the classroom, in the home, in hospitals, institutions and other settings. It includes specially designed instruction in physical education and services like speech-language pathology services, travel training, and vocational education.

Related services are support services that some children with disabilities need to benefit from special education. These could include transportation and various types of therapies, such as speech, physical, occupational or psychological therapy. Related services can also include assistive technology services and devices that help the student participate and learn in school.

A final IEP will contain year long, measurable academic and functional goals for the student that are designed to meet the student's needs and to help the student participate and progress, to the extent appropriate, in the general education curriculum. It will explain how the student's progress will be measured and when progress reports will be issued. It will also include the appropriate special education and related services, along with any other needed supports and accommodations, the student will need in the educational environment. If the child will turn 16 or older during the school year, the IEP must address services that will be provided to help the student transition to post-school objectives.

Students who were not evaluated and provided special education and related services prior to being adjudicated delinquent may be evaluated and identified while in a juvenile delinquency placement. In most cases, the school district or local intermediate unit area in which the delinquency placement is located will conduct the evaluation and determine the appropriate educational program for the student. This identification and program will follow the student during reentry and reintegration into school until the home school district or charter school can develop a new special education program.

Educational Placement

After the IEP Team develops the student's IEP, the Team must decide how much time the student will spend in a regular education classroom and how much time the student will spend (if any) in a pull-out special education program. Students

with disabilities are entitled to be educated in the “least restrictive environment” (“LRE”) to the maximum extent appropriate, and the LRE is first assumed to be the regular education classroom in the regular neighborhood school with supplementary aids and services. However, if a student needs some separate education to make educational progress, the Team must decide what kind of separate program, and for how much of the school day, will best meet the student’s education needs.

The law and good educational practice require that students with disabilities attend regular schools and classes whenever possible and that they be supported appropriately in those regular programs. Some examples of supports that can be helpful to a student with a disability in a regular classroom are special equipment (such as a modified desk or a communication device), a modified regular education curriculum, or help from a special or regular education teacher or aide. A student may also need specialized support based on his or her primary learning need (e.g., learning support, emotional support, behavioral support, etc.).

Like all special education decisions, where a child will be educated must be based on the child’s individual abilities and needs as described in the IEP and evaluations. A school district cannot refuse to place a child in a regular classroom and insist upon placing the child in a special program or different school solely because of the category or severity of the student’s disability (or because of his or her status as a juvenile offender).

Resolving Special Education Disputes

A parent may not agree with the evaluation, IEP, or placement offered to a child. Initially, the parent can talk with the child’s teachers or other school staff to try and resolve the issue. If that doesn’t work, the parent can request more formal dispute resolution procedures including mediation, a pre-hearing conference, and/or a due process hearing. If the parent believes that the child is not getting the services already agreed to in the IEP, or the school or school district is not complying with timelines or procedures, the parent can file a complaint with the Pennsylvania Department of Education’s Division of Compliance, Monitoring, and Planning (called a “DOC” complaint). For more detailed information on resolving disputes and other

procedural protections, see ELC’s fact sheet titled “*How to Resolve Special Education Disputes*” (available at www.elc-pa.org).

What other in-school services are available?

The use and abuse of tobacco, alcohol, and other drugs by youth in Pennsylvania poses one of the most serious problems facing educators, parents, and communities. To combat this problem, school districts must provide classroom instruction to students from kindergarten through grade 12 that is age appropriate, sequential, and that discourages the use of tobacco, alcohol and other drugs, and that communicates that the use of illicit drugs and the improper use of legally obtained drugs is wrong.

The “student assistance program” (sometimes referred to as “SAP”) is the vehicle through which districts provide appropriate counseling and support services to students who experience problems related to the use of drugs, alcohol, and dangerous controlled substances. For more information, see **TOOL 12: “Drug and Alcohol Education, Counseling and Support Services” BEC** on page 71.

Some districts also offer school-based behavioral health and/or mental health services to their students. The Pennsylvania Department of Education is currently offering grants to school districts to support the establishment of school-based behavioral health services and the expansion of existing services. PDE is also involved in a collaborative effort with the Pennsylvania Department of Public Welfare to “create partnerships” with stakeholders (youth, family members, and staff from schools and mental health, mental retardation, child welfare, juvenile justice, drug and alcohol, and other organizations) to deliver school-based behavioral health services to the youth who need them. A JPO should check on what mental and behavioral health services are available in school for a client who could benefit from these services and/or identify linkages to these services within the community.

Finally, many students may have access to a host of other services designed to help them do better in school pursuant to the federal No Child Left Behind Act (NCLB) and/or other state programs. For example, students can get tutoring through several programs. Some programs are available for everyone. Other programs are

only in schools that are not making adequately yearly progress (AYP) or are only available to students with low PSSA scores (e.g., the Classroom*Plus* Math & Reading Tutoring Program). Additionally, students may be able to transfer to a better performing school if their school consistently fails to make AYP, or to a safe public school if their school is “persistently dangerous” or if they are the victim of a violent criminal offense while in or on the grounds of the public school they currently attend.

For more information on how to use NCLB including links to tutoring programs, AYP information, and dangerous schools, see **TOOL 13: ELC’s “How can you use NCLB to help your own children do better in school?” fact sheet** on page 74. You can find more guidance regarding persistently dangerous schools and victims of violent crimes on the Pennsylvania Department of Education’s website (www.pde.state.pa.us; click on “Pre K-12”, “Student Services and Programs”, and “Persistently Dangerous Schools”).

What are the rights of a delinquent youth when it comes to school discipline?

Delinquent youth have the same rights as other students in school matters, including student discipline. All students may be subjected to school discipline for violations of school rules and/or policies. School districts must publish and notify families of the types of offenses that will lead to exclusion from school. If you have a client facing a possible exclusion from school for a disciplinary offense, you should first check the district’s discipline policy (sometimes called the “Code of Student Conduct” or “Discipline Code”) to make sure you understand the nature of the offense and the charges against your client. Remember, districts can exclude students from school for violations of their discipline policy regardless of whether charges can or will be brought in the juvenile justice system.

Exclusion from school may take the form of suspension or expulsion. A suspension is an exclusion from school for a period of from 1 to 10 consecutive school days. Before a student is suspended, he or she must be informed of the reasons for the suspension and be given an opportunity to respond. When the suspension exceeds 3 school days, the student and the parent shall be given the

opportunity for an informal hearing. Suspensions cannot run consecutively beyond the 10 school day period that constitutes an expulsion, and students must make up exams and work missed while on the suspension.

Expulsion is exclusion from school by the school board for a period exceeding 10 consecutive school days and may be permanent expulsion from the district. A formal hearing is required in all expulsion actions. The hearing may be held before the entire school board, a committee of the board, or a qualified hearing examiner appointed by the board. In any case, a majority vote of the entire school board is required to expel a student. A student has many “due process” rights that must be observed as part of the formal hearing, including the right to prior notification of the charges, the right to question and cross-examine witnesses, and the right to testify and present witnesses on his or her own behalf.

The rules for suspension and expulsion are somewhat different for students with disabilities. These students have the right to additional procedural protections to ensue that they are not punished for behavior that was a “manifestation” of a disability. Students with disabilities *can* be suspended and/or expelled from school if the behavior is determined by the IEP Team to be unrelated to a disability. And, a special education student can be immediately transferred to an alternative education placement for up to 45 school days if the student has a weapon or drugs at school, or has inflicted serious bodily injury upon another person while at school.

It is important to remember that students who are under 17 must still receive some educational services post-expulsion (due to the compulsory school attendance law) and students with disabilities who are expelled at any age must continue to receive appropriate educational services to ensure that they can make meaningful educational progress during the period of expulsion (see *Options for Expelled Students* on page 19).

For more help in understanding the discipline rights of students in Pennsylvania, see **TOOL 14: ELC’s “School Discipline in Pennsylvania” fact sheet** on page 76. For more specialized information, see ELC’s fact sheets titled “*School Discipline in the Philadelphia School District*,” and “*School Discipline and Special Education*” (available at www.elc-pa.org).

V. **MORE HELP AND INFORMATION**

Who should I call first if I need help with an educational issue?

As a JPO, you have access to “Aftercare Specialists” appointed by the Juvenile Court Judges Commission (JCJC) and the PA Council of Chief Juvenile Probation Officers (Chief’s Council). The Aftercare Specialists can provide you with technical support and assistance on all aftercare issues, including education questions and/or problems. For more information, see **TOOL 15: Aftercare Specialist Contact Information** on page 80.

What is the Education Law Center and how can they help?

The Education Law Center (ELC) is a nonprofit legal advocacy organization devoted to ensuring that all of Pennsylvania’s children have equal access to quality public education services, or, put less abstractly, to promote better and fairer public schools for all of the children in the state. ELC provides legal support and technical assistance to the Aftercare Specialists when they need advice on complicated education issues affecting delinquent youth before, during, and after release from juvenile justice placements. ELC also provides direct training to JPOs in selected counties across Pennsylvania when there is a need for a higher level of professional education and development in those areas. All such trainings are coordinated with the Aftercare Specialists.

JPOs and other juvenile justice professionals can call ELC’s “Helpline” directly for assistance with education issues if referred by an Aftercare Specialist or in the event they are unable to reach the Aftercare Specialists. ELC’s Helpline number is: 412-391-5225 (Pittsburgh); 215-238-6970 (Philadelphia).

Where can I find more information about educating students in Pennsylvania?

ELC maintains a website that contains multiple fact sheets and other publications and information addressing a wide range of regular and special education issues in Pennsylvania: www.elc-pa.org.

The Pennsylvania Department of Education maintains a website that has vast amounts of information (contained in Basic Education Circulars or “BECs”, reports, interagency memoranda, statistics, etc.) with answers to education questions and contact information for the Department office and personnel responsible for each area or topic: www.pde.state.pa.us.

The United States Department of Education also has a website that has some Pennsylvania specific information as well as information on federal education laws and requirements for individual state implementation: www.ed.gov.