

# CORRECTIONAL EDUCATION

**COLLABORATION | EQUITY | TRENDS | TECHNICAL ASSISTANCE**

**OFFICE SPECIAL EDUCATION AND REHABILITATIVE SERVICES (OSERS)  
OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP)**

**U.S. DEPARTMENT OF JUSTICE (DOJ)  
AND**

**OFFICE OF SCHOOL SUPPORT AND ACCOUNTABILITY (OSSA) |  
NATIONAL EVALUATION AND TECHNICAL ASSISTANCE CENTER FOR THE EDUCATION OF CHILDREN AND YOUTH WHO  
ARE NEGLECTED, DELINQUENT, OR AT-RISK (NDTAC)**

**MAY 11, 2023**

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**(AUTHORITY: 20 U.S.C. 1221E-3 AND 3474)**

# Introduction

## **Office of Special Education Programs (OSEP) Monitoring and State Improvement Planning (MSIP) Division**

**Division Director: Gregg Corr**

[OSEP 101: An Overview of the Office of Special Education Programs -](#)

# OSEP: State Monitoring Improvement Planning Division

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[Monitoring and State Improvement Planning \(MSIP\) | OSEP Ideas That Work](#)

[Office of Special Education Programs \(OSEP\) - Home Page](#)

# Purpose

**To educate the public on critical special education and related services that many States have failed to directly provide to students with disabilities who are incarcerated in correctional facilities.**

# AGENDA

- ▶ **Introduction**
- ▶ **Purpose**
- ▶ **OSEP Collaboration**
- ▶ **OSEP Equity**
- ▶ **DOJ – Trends (Child Find | FAPE | Behavioral Support)**
- ▶ **NDTAC- Technical Assistance**
- ▶ **Resources**
- ▶ **Questions and Answers**

# OSEP: Collaboration

## What is the strength of collaboration?

- ▶ Collaboration enable an organization to successfully work toward a common goal with others...
- ▶ Including communicating clearly, actively listening to others, taking responsibility for mistakes...
- ▶ Respecting the diversity of colleagues.

## **National Center for Learning Disabilities (NCLD):** About us Archives – NCLD

- ▶ Unlocking Futures- Youth with Learning Disabilities & the Juvenile Justice System: <https://www.nclld.org/unlocking-futures/>

## **Key Points: Data from article**

- About 65-70% of youth involved with the juvenile justice system have a disability.
- Youth engaged with juvenile justice system are much more likely to stay in the system.
- Students with disabilities are almost 3X more likely to be arrested than their nondisabled peers.
- Estimated to make up 30% -60% of incarcerated youth.
- Students of color experience disproportionality in many areas of education...they're more often identified as having a disability, placed in more restrictive educational settings, and disciplined at higher rates than their peers.

## **What have you done and what are you going do to address the problem of equity among youth and young adults with and without disabilities in correctional setting?**

(Individuals | Organizations | SEAs | LEAs | Stakeholders | Parents | Teachers | Administrators and Others)

# OSEP: Equity

## Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government | The White House Sec. 2. Definitions.

For purposes of this order: (a) **The term “equity” means** the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment,

*such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.*

“Consistent with the principles of IDEA and multiple Executive Orders, OSEP is further examining issues of race and gender in special education.”

- OSEP Director Valerie Williams



# U.S. Department of Justice

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# U.S. Department of Justice's Civil Rights Division

**DOJ's Civil Rights Division has a long history of addressing the civil rights of children in correctional facilities, including the special education rights of children with disabilities.**

- Statutes allow DOJ to seek remedies for pattern and practice violations of students' IDEA rights in correctional facilities
- In the Civil Rights Division, this work is done by the Special Litigation Section

# National Evaluation and Technical Assistance Center (NDTAC)



THE  
NATIONAL TECHNICAL  
ASSISTANCE CENTER  
FOR  
THE EDUCATION OF  
NEGLECTED OR DELINQUENT  
CHILDREN & YOUTH

The mission of the National Evaluation and Technical Assistance Center for the Education of Children and Youth Who Are Neglected, Delinquent, or At-Risk (NDTAC) is to improve educational programming for youth who are considered to be neglected, delinquent or at-risk of academic failure.

NDTAC's mandates are to:

- provide information, resources, and direct technical assistance to States
- assist States and providers with reporting data and evaluating their services
- serve as a facilitator to increase information-sharing and peer-to-peer learning at State and local levels

For additional information on NDTAC, visit the center's website: <https://neglected-delinquent.ed.gov> or the U.S. Department of Education's website: [Neglected, Delinquent, or At-Risk – Title I, Part D - Office of Elementary and Secondary Education](#)

**Contact us:** [NDTACCommunications@LongevityConsulting.com](mailto:NDTACCommunications@LongevityConsulting.com) or [title-i-d@ed.gov](mailto:title-i-d@ed.gov)

## ▶ Child Find Concerns:

- Lack of policies and practices to identify students who are in need of special education services
- Failure to promptly obtain records from the students' home school districts

# NDTAC: TIPD Supports, Resources, & Strategies 1

## ► **SEA staff recommendations:**

- Provide written expectations and guidance on the need for timely records transfer
- Support facilities in adopting Child Find procedures
- Review TIPD applications to better understand how special education services are being provided in each facility
- Have TIPD and IDEA administrators work together to provide leverage and support facilities and LEAs who may encounter barriers in securing records
- Develop educational intake procedures or checklists for facility staff to utilize
  - Ensure special education records are part of intake procedures

## ► **State Agency and LEA staff recommendations:**

- Facilities may use TIPD funds to fund transition coordinators
- Encourage facilities to have a designated person responsible for collecting and sending educational records

# DOJ: FAPE Concerns

## ► **Free Appropriate Public Education (FAPE) Concerns:**

- Failure to promptly obtain IEPs from home school districts
- Reductions in special education and related services
- Failure to implement modifications and accommodations
- Failure to provide related services
- Reliance on computer-based/packet-based instruction that is not individualized in accordance with a child's IEP
- Failure to provide special education services when children are in isolation/lockdown

# NDTAC: TIPD Supports, Resource, & Strategies 2

- ▶ Coordination and collaboration at all levels between TIPD staff and IDEA staff
- ▶ When we know better, we do better
  - First step is ensuring correctional educators are aware of their responsibilities under IDEA
  - TIPD funds can be used for professional development for facility staff to better understand requirements of IDEA
  - Invite correctional staff to district and state IDEA professional development & include non-education administrators
- ▶ TIPD and IDEA staff conduct joint, on-site, visits to facilities to better understand any potential barriers to implementing IDEA in each program



# DOJ: Behavioral Supports

## ▶ Concerns Regarding Behavioral Supports and Response

- Failure to provide adequate behavioral supports
- Failure to conduct manifestation determinations

# NDTAC: TIPD Supports, Resources, & Strategies 3

- ▶ TIPD, subpart 2 funds can be used for at-risk programming
- ▶ TIPD funds can be used to support behavior through:
  - counseling, peer mediation, mentoring, coordination of health and social services
  - parental and family engagement
  - connecting students and families to wrap around services

# DOJ: Transition Services

## ▶ Concerns Regarding Transition Services:

- Failure to develop adequate transition plans
- Lack of transition services and supports

# NDTAC: TIPD Supports, Resources, & Strategies

- ▶ TIPD Funds for transition services
  - Subpart 1 requires 15 - 30% of funds to be used for transition services
  - Subpart 2 funds can be used for transition purposes
  - Examples of transition services: transition coordinators, transition packets, counseling services, academic and job placement services
  - Connecting families to wrap around services as part of the transition process

## Technical Assistance

# U.S. Department of Justice: Statutes

Special Litigation Section | Civil Rights Division | U.S. Department of Justice

<https://www.justice.gov/crt/rights-juveniles>

## Statutory Authority

- U.S. Attorney General has authority to remedy a “pattern or practice” of conduct that violates the constitutional or federal statutory rights of youth in correctional facilities (**Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997; 34 U.S.C. § 12601**).
- CRIPA and 34 U.S.C. Section 12601 allow DOJ to seek remedies for pattern and practice violations of students’ IDEA rights in correctional facilities.

## In addition to IDEA, DOJ can seek remedies for violations of these federal civil rights laws

- **Title VI** – prohibits discrimination on the basis of race, color or national origin by recipients of federal financial assistance.
- **Title IX** – prohibits discrimination on the basis of sex by recipients of federal financial assistance.
- **Section 504 of the Rehabilitation Act** – prohibits discrimination on the basis of disability by recipients of federal financial assistance.
- **ADA Title II** – prohibits discrimination on the basis of disability by state and local government entities, regardless of whether they receive federal financial assistance.



# U.S. Department of Justice: Recent Cases & Matters

## **Leflore County (MS) Juvenile Detention Center:**

- Investigation and findings of IDEA violations at a juvenile detention center
- <https://www.justice.gov/crt/special-litigation-section-case-summaries/download#lefllore-summ>

## **Manson Youth Institution (CT):**

- Investigation and findings of IDEA violations at an adult correctional facility housing children
- <https://www.justice.gov/crt/case-document/file/1458101/download>

## **DOJ Statement of Interest in *Charles H. v. D.C.* (Washington, DC) (May 2021):**

- Statement of Interest involving special education services during the Covid-19 pandemic
- <https://www.justice.gov/crt/case-document/file/1404361/download>

## **DOJ Statement of Interest in *H.C. v. Bradshaw* (Palm Beach County, Fla.) (October 2018)**

- Statement of Interest regarding a sheriff's office and local school district's shared responsibility for providing FAPE to children in an adult jail
- <https://www.justice.gov/crt/case-document/file/1113021/download>

# NDTAC Resources

- ▶ [Neglected, Delinquent, or At-Risk – Title I, Part D - Office of Elementary and Secondary Education](#)
- ▶ [Title I Improving The Academic Achievement of The Disadvantaged - Office of Elementary and Secondary Education](#)
- ▶ [Non-Regulatory Guidance for Title I, Part D: Neglected, Delinquent, and At-Risk Youth \(MS Word\) 8-28-2020](#)
- ▶ [Home | NDTAC: Technical Assistance Center for the Education of Youth Who Are Neglected, Delinquent, or At-Risk](#)
- ▶ [Transition | NDTAC: Technical Assistance Center for the Education of Youth Who Are Neglected, Delinquent, or At-Risk](#)



# OSEP: Monitoring and State Improvement Planning Division

[Monitoring and State Improvement Planning \(MSIP\) | OSEP Ideas That Work](#)

## **Return to School Roadmap: Development and Implementation of Individualized Education Programs (Sept. 30, 2021):** [Return to School Roadmap: Development and Implementation of Individualized Education Programs \(Sept. 30, 2021\) - Individuals with Disabilities Education Act](#)

- This Q&A document highlights certain Individuals with Disabilities Education Act (IDEA) requirements related to the development and implementation of individualized education programs (IEPs) and other information that state educational agencies (SEAs) and local educational agencies (LEAs), regular and special education teachers, related services providers, and parents should consider.

## **Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions (July 19, 2022):** [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions \(July 19, 2022\) - Individuals with Disabilities Education Act](#)

- This document updates and supersedes the Office of Special Education and Rehabilitative Services' guidance titled [Questions and Answers on Discipline Procedures](#), issued in June 2009, and includes additional questions and answers that address topics that have arisen as the field continues to carry out the discipline provisions of IDEA and its implementing regulations.

# OSEP: Monitoring and State Improvement Planning

The Monitoring and State Improvement Planning Division (MSIP) within OSEP is responsible for administering formula grants to States and entities under IDEA Parts B and C. State Performance Plan /Annual Performance Report (SPP/APR), State Systemic Improvement Plans (SSIP), the formula grant application process, monitoring and fiscal oversight, please visit: [Resources for Grantees - Individuals with Disabilities Education Act](#)

- **Correctional Education Guidance Package:** <https://www2.ed.gov/policy/gen/guid/correctional-education/index.html>
- **OSEP Topic Areas:** [Individuals with Disabilities Education Act \(IDEA\) Topic Areas](#)
- **Students with Disabilities in Correctional Facilities, January 29, 2019:** <https://sites.ed.gov/idea/idea-files/osep-letter-jan-29-2019-letter-to-duncan/>
  - Letter on whether a State... fails to provide a free appropriate public education (FAPE) under Part B of IDEA to students with disabilities when the state offers such students only a General Education Development (GED) credential rather than the opportunity to earn a regular high school diploma because the students are incarcerated in a particular adult corrections facility.

# OSEP: KEY Component of the SCES – Section I

## **Section I: Methods of Ensuring Services**

- The State requirements in IDEA, Part B apply to all political subdivisions of a State that provide special education and related services to students with disabilities, including State, local juvenile and adult correctional facilities, regardless of whether that agency receives funds under Part B (34 CFR §§300.2(b)(1)(iv) and (2)).
- **Interagency or Coordination Agreements to provide special education and related services (34 CFR §300.154(a))**. This may include
  - Financial responsibility of each agency for providing special education and related services, including reimbursement terms;
  - The resolution of interagency disputes; and
  - The coordination and delivery of special education and related services

**Model Interagency Agreement:** Medaris, Campbell, and James (1997) outlined goals of a model interagency agreement for partners of an information-sharing program that includes representatives from juvenile court, probation, social services, education, law enforcement, and prosecution. The following model agreement is adapted from that document.

- **Link:** [Establishing and Maintaining Interagency Information Sharing \(ojp.gov\)](https://www.ojp.gov/ncj/vol101/nr101010.html)

# Questions and Answers



# Correctional Education

**THANK YOU**

