



August 29, 2023

Board of State and Community Corrections  
2590 Venture Oaks Way, Suite 200  
Sacramento, CA 95833  
regulations@bscc.ca.gov

**VIA EMAIL**

**Re: Necessary Updates to Title 15 Minimum Standards For Juvenile Detention Facilities and the Need for Ongoing BSCC Engagement to Ensure Access to Education**

*California will provide a world-class education for all students, from early childhood to adulthood. The Department of Education serves our state by innovating and collaborating with educators, schools, parents, and community partners. Together, as a team, we prepare students to live, work, and thrive in a multicultural, multilingual, and highly connected world.*

*California Department of Education Mission Statement<sup>1</sup>*

California is failing to meet the Department of Education's mission for students involved in the juvenile delinquency system. The children in California's juvenile delinquency system are among the most academically at-risk student groups enrolled in public school prior to their confinement in juvenile hall. Their placement into the juvenile delinquency system does not increase the quality of their learning environments, the likelihood that their educational rights will be respected, or opportunities to access a high quality education. Instead, children in juvenile court schools are more likely to have lower rates of academic achievement, higher rates of suspension, higher rates of school drop-out, and far lower rates of post-secondary enrollment and completion in comparison to all California public school students. California cannot fulfill

---

<sup>1</sup> California Department of Education (CDE) website <http://www.cde.ca.gov/>.

its promise to educate *all students* while failing to ensure that youth in juvenile detention have adequate educational opportunities.<sup>2</sup>

The juvenile delinquency system also makes promises to the children, young people, and families that come into contact with it. While the exact words differ in each department, California's Juvenile Probation Departments pledge to provide care, treatment, and guidance.<sup>3</sup> This shared mission cannot be fulfilled if young people do not have access to a quality education. Education remains a cornerstone of progress and a powerful tool for personal and societal transformation. Education has the potential to break negative cycles and challenge limited expectations of what is possible. In a classroom there is still the potential for students to reimagine a better future for themselves, their families, and their communities. The children inside juvenile halls are in dire need of the transformative force that education can provide.

Sadly, many of these young people have been deprived of opportunities for learning and growth before they ever enter into the juvenile delinquency system. Unfortunately, many students who have been pushed out of school are more likely to end up in the juvenile delinquency system. School pushout refers to punitive school discipline practices that exclude students from class and too often push them out of school altogether.<sup>4</sup> This process in which kids are pushed out of school and into the juvenile justice and criminal justice systems is also often referred to as the "school to prison pipeline." However, that phrase implies that students move between these systems in a linear fashion. In reality, students' experiences are often cyclical.<sup>5</sup> Rather than moving in a straight line that starts and ends in one instance, justice-involved youth often rotate in and out, from school to custody and back again. Once a young person is engaged with juvenile justice, they are much more likely to stay in the system.<sup>6</sup>

Students with disabilities, especially students with learning disabilities, are more likely than their nondisabled peers to be pushed out of school and end up involved in the juvenile delinquency system.<sup>7</sup> Nationally, around 65% to 70% of youth involved with the juvenile delinquency system have a disability.<sup>8</sup> Students with disabilities are almost three times more likely to be arrested than

---

<sup>2</sup> See Youth Law Center, *Educational Injustice: Barriers to Achievement and Higher Education for Youth in California Juvenile Court Schools 1* (2016), available at: <https://www.ylc.org/wp-content/uploads/2018/11/EDUCATIONAL-INJUSTICE.pdf>.

<sup>3</sup> See e.g., San Francisco Juvenile Probation Department website <https://sfgov.org/juvprobation/node/183>.

<sup>4</sup> See Aryana Richardson, *What You Need to Know About School Pushout and How to Combat It*, available at: <https://girlsinc.org/school-pushout-and-how-to-combat-it/>.

<sup>5</sup> Students often experience multiple instances of punitive school discipline practices that include: suspensions, expulsions, referrals to school based law enforcement, and criminal arrests on school grounds. See Jessica Snyderman, *Unlocking futures: Youth with learning disabilities and the juvenile justice system* 3, 7 (2022), available at: <https://www.nclad.org/wp-content/uploads/2022/12/NCLD-Unlocking-Futures-Final-7th-Dec-Updated-.pdf>.

<sup>6</sup> See Christopher Mallett et al., *The "Learning Disabilities-to-Prison" Pipeline: Evidence From the Add Health National Longitudinal Study* 1-35 (2022), available at: <https://journals.sagepub.com/doi/abs/10.1177/00111287221081024>.

<sup>7</sup> See Katherine Taylor, *A Summary of Research on Youth with Disabilities & the Juvenile Justice System* (2016), available at: <https://ies.ed.gov/ncser/pdf/JuvenileJustice.pdf>.

<sup>8</sup> See Jessica Snyderman at 2.

their nondisabled peers<sup>9</sup> and are estimated to make up one- to two-thirds of incarcerated youth.<sup>10</sup> Looking at national data suggests that school pushout disproportionately affects students with disabilities.<sup>11</sup> In order to meet the education needs of young people in the juvenile delinquency system, the system must especially focus on the needs of students with disabilities.

We write today as a coalition of civil rights, advocacy, and community organizations that have worked to elevate the needs of all students and families, including juvenile justice-involved students and their families. In light of the dire educational needs of children and young people in juvenile halls, we collectively urge the Executive Steering Committee (“ESC”) to adopt revisions to the Title 15 regulations that will protect the rights of youth in juvenile facilities to a quality education. The revisions are discussed in this letter and are reflected in the attached document, Appendix A: Coalition Proposed Redline Revisions to Title 15 Minimum Standards for Juvenile Facilities.

## **Background**

Despite the fact that the juvenile detention system is intended to treat and rehabilitate youth for reentry into the community, a large number of vulnerable youth spend a significant amount of time in California’s juvenile detention system, where their fundamental right to an education<sup>12</sup> is threatened. Currently, youth are spending extended periods of time incarcerated in these facilities, from months to years in some places, and are reaching the age of adulthood without adequate primary education or access to post-secondary academic and career technical programming. Concurrently, many of these youth have special education needs that are not being met and even exacerbated by the dismal conditions in juvenile facilities. These circumstances, among others detailed below, illustrate why the Board of State and Community Corrections (“BSCC”) must convene a subcommittee to update the Title 15 standards for education not only to make the system more rehabilitative, but also to protect these youths’ fundamental education rights. While we are ultimately committed to a future where no young person is incarcerated, we cannot allow the current conditions to continue.

In 2022, over 2,000 youth a day on average were kept in California juvenile halls, camps, or ranches. Seventy-four percent of these youth ( $n = 1,581$ ) were in juvenile halls, including 480 youth who were post-disposition.<sup>13</sup> The most current, available data shows that the length of stay

---

<sup>9</sup> *Id.* at 7.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 8-13.

<sup>12</sup> Ca. Const., art. IX, § 1, § 5.

<sup>13</sup> *Board of State and Community Corrections Juvenile Detention Profile 1Q 2022-3Q 2022*, available at [https://www.bscc.ca.gov/wp-content/uploads/JDPS-1Q2002-3Q2022\\_Trends.pdf](https://www.bscc.ca.gov/wp-content/uploads/JDPS-1Q2002-3Q2022_Trends.pdf).

for youth in halls and camps ranged from 30 days to 81 days<sup>14</sup> (see Table 1), demonstrating that *both* types of facilities should have infrastructures to provide long-term education for youth.<sup>15</sup>

**Table 1. Average Length of Stay for Youth in California Juvenile Facilities, by type of release - 1st Quarter, 2023.**

Average Length of Stay <sup>16</sup>	Days
Juvenile Halls (all releases)	29.9
Juvenile Halls to Camps	59.3
Juvenile Hall to other out-of-home placements (i.e. group homes or foster homes)	45.9
Juvenile Hall who were found unfit (per juvenile court)	16.4
Juvenile Hall who were direct filings to adult court	0
Camps (all releases)	81.0

Available data show that over 90% of these youth are 15 years old or older, meaning that education must include post-secondary education and career technical training for youth who have completed their high school degree (or its equivalent),<sup>17</sup> in accordance with the Welfare & Institutions Code (“WIC”) § 858. Post-secondary education and career technical training are not only legally required, juvenile system-impacted youth are themselves requesting these opportunities. At one of the four listening sessions held by the Fresh Lifelines for Youth to solicit recommendations to revisions to Title 15, a youth shared that they wanted to see “[m]ore support for the fundamentals of troubled youth such as work readiness, college and career, and financial literacy. More rehabilitation than discipline.”<sup>18</sup>

In addition to protections guaranteed under state law, youth with disabilities are entitled, under federal law, to a free and appropriate education in the least restrictive environment under the

<sup>14</sup> This excludes the average length of stay for youth who were placed in a juvenile hall and “were direct filings to adult-court,” which had an average length of stay of zero. See Table 1.

<sup>15</sup> Obtained via querying the Board of State and Community Corrections Juvenile Detention Profile Survey Online Querying website, available at <https://jpidreporting.bscc.ca.gov/jds-query>.

<sup>16</sup> *Id.*

<sup>17</sup> 64.8% of youth in halls and 67.3% of youth in camps are between the ages of 15 to 17, while 28.1% of youth in halls and 27.5% of youth in camps are 18 years old or older. Calculated via 78% of youth in halls and 72% of youth in camps are between the ages of 15 to 17, while 12% of youth in halls and 22% of youth in camps are 18 years old or older. Obtained via querying the Board of State and Community Corrections Juvenile Detention Profile Survey Online Querying website, available at <https://jpidreporting.bscc.ca.gov/jds-query>.

<sup>18</sup> Fresh Lifelines for Youth, Minimum Standards Revisions Report: FLY Recommendations 3 (2022), available at: <https://www.bscc.ca.gov/wp-content/uploads/Att.-F-FLY-Minimum-Standards-Report.pdf>.

Individuals with Disabilities Education Act (IDEA).<sup>19</sup> Like all public schools, juvenile court schools are legally held to the same federal requirements under the IDEA, including identifying and evaluating all children with disabilities who may need special education and related services,<sup>20</sup> providing special education and related services,<sup>21</sup> tracking progress on individualized education plan (IEP) goals,<sup>22</sup> holding IEP meetings with the youth and their families,<sup>23</sup> and providing transition planning.<sup>24</sup>

As of 2015, 56% of youth in the California juvenile system had open mental health cases and 20% of youth were receiving psychotropic medication.<sup>25</sup> Nation-wide surveys demonstrate that youth with special education needs are drastically overrepresented in the juvenile delinquency system, including 30-70% of youth having a learning disability and up to 90% of youth reporting prior exposure to traumatic events.<sup>26</sup>

Despite the high rates of disabilities among justice-involved youth, 51% of youth in California juvenile facilities reported not having enough access to mental health services and supports.<sup>27</sup> The problem is worsened by ineffective - and in fact, harmful - disciplinary methods that themselves create new or exacerbate existing mental, emotional, and behavioral disorders. For example, according to a survey conducted among previously incarcerated young people by Fresh Lifelines for Youth in 2022, 72% of youth reported being locked in their rooms as a form of discipline, 37% of whom were confined for 4 or more hours.<sup>28</sup> BSCC facilities must provide students with disabilities their federally-protected right to a free and appropriate education, but also BSCC staff must concurrently recognize that students' disabilities may impact their behavior and responses to discipline.

There are strong state and federal laws protecting youth's equal access to an education, regardless of whether they are in a juvenile facility and/or have a disability. California recognizes that "knowledge and intelligence [is] ... essential to the preservation of the rights and liberties of

---

<sup>19</sup> 20 U.S.C. § 1412(a)(1)

<sup>20</sup> 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111

<sup>21</sup> 20 U.S.C. § 1412(a)(1); 20 U.S.C. § 1412(a)(5)(A)

<sup>22</sup> 20 U.S.C. § 1412(a)(4); 20 U.S.C. § 1412(a)(5)(B)(i)

<sup>23</sup> Cal. Ed. Code § 56043(l), Cal. Educ. Code § 56343.5; 20 U.S.C. § 1415(a).

<sup>24</sup> 20 U.S.C. § 1414(d)(1)(A)(i)(VII); 34 C.F.R. § 300.320(b).

<sup>25</sup> Board of State and Community Corrections Juvenile Detention Profile Survey: Fourth Quarter Calendar Year 2015 Survey Results, available at <https://www.bscc.ca.gov/wp-content/uploads/4Q15-JDPS-Full-Report-10.31.16.pdf>

<sup>26</sup> Carly B. Dierkhising et al., *Trauma Histories Among Justice-Involved youth: Findings from the National Child Traumatic Stress Network*, 4 *European Journal of Psychotraumatology* 20247 (2013), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/>; Denial Christian, *Education Behind Bars: A Review of Educational Services in Juvenile Correctional Facilities*, available at <http://csesjournal.columbiasouthern.edu/education-behind-bars-a-review-of-educational-services-in-juvenile-correctional-facilities/>; California Council on Criminal Justice and Behavioral Health, *Juvenile Justice Factsheet* (July 1, 2020), available at

<https://www.cdcr.ca.gov/ccjhb/wp-content/uploads/sites/172/2020/07/Juvenile-Justice-Factsheet-6.30.2020.pdf>

<sup>27</sup> Fresh Lifelines for Youth, *Minimum Standards Revisions Report: FLY Recommendations 3, 5* (2022), available at: <https://www.bscc.ca.gov/wp-content/uploads/Att.-F-FLY-Minimum-Standards-Report.pdf>.

<sup>28</sup> Fresh Lifelines for Youth, *Minimum Standards Revisions Report: FLY Recommendations 3* (2022), available at: <https://www.bscc.ca.gov/wp-content/uploads/Att.-F-FLY-Minimum-Standards-Report.pdf>.

the people;” thus, the state of California “has assumed specific responsibility for a statewide public education system open on equal terms to all.”<sup>29</sup> This means that youth in juvenile facilities have a fundamental right to “basic equality of educational opportunity.”<sup>30</sup> Simultaneously, because the juvenile detention facilities receive federal funds, they are also subject to a multitude of federal civil rights laws,<sup>31</sup> which forbid discrimination based on race, color, nation of origin, religion, sex, and disability in educational and vocational training. In addition to the IDEA, these laws also impose affirmative duties to accommodate youth with disabilities and/or language barriers that may impede their equal participation in their instructional programs.

In summary, the provision of adequate and equitable education in juvenile detention facilities is an enormous undertaking when one considers the legal rights and protections these youth are entitled to, particularly considering the age of the current population incarcerated, the average duration of incarceration, and prevalence of special education needs. Because of these considerations as well as the numerous controlling state and federal laws, we are including recommendations for revisions to Title 15 Minimum Standards for Juvenile Facilities based on existing challenges and best practices; however, we urge the ESC to create a subcommittee to evaluate this topic thoroughly and ensure that Title 15 regulations ensure that all youth in juvenile facilities can access their fundamental right to an education on an ongoing, sustainable basis.

**I. Facilitating collaboration between probation and education staff to promote youth education success inside and outside the facility**

*a. Ensuring smooth educational transition of youth in, between and out of the facility*

Robust transition services, including credit recognition and transfer, are essential to sustaining youths’ progress and momentum in education.<sup>32</sup> Youth often experience disruption in access to and continuity of education as they transition at various points during and after their case

---

<sup>29</sup> *Butt v. California*, 4 Cal. 4th 668, 680 (1992).

<sup>30</sup> *Butt v. California*, at 680, 685.

<sup>31</sup> These laws include: Equal Educational Opportunities Act of 1974 (EEOA); Title IV of the Civil Rights Act of 1964 (Title IV); Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) ; Title IX of the Education Amendments of 1972 (Title IX) ; Title VI of the Civil Rights Act of 1964 (Title VI); Civil Rights of Institutionalized Persons Act (CRIPA). See U.S. Department of Justice & U.S. Department of Education, *Dear Colleague Letter: Civil Rights in Juvenile Justice Residential Facilities* (Dec. 8, 2014), available at:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-residential-facilities-201412.pdf>

<sup>32</sup> Lilly Chen et al., Bay Area Legal Aid & Public Counsel, *Breaking The Cycle: Enforcing Education Rights Of Youth In And Out Of Custody* 17, 36 (Sep. 2018), available at:

[https://baylegal.org/wp-content/uploads/2019/03/2018-09\\_Breaking-the-Cycle\\_Enforcing-Education-Rights-of-Youth-In-and-Out-of-Custody\\_FINAL.pdf](https://baylegal.org/wp-content/uploads/2019/03/2018-09_Breaking-the-Cycle_Enforcing-Education-Rights-of-Youth-In-and-Out-of-Custody_FINAL.pdf).

proceedings.<sup>33</sup> These disruptions worsen the challenges of delivering education in juvenile facilities.<sup>34</sup>

We recommend the following revisions to facilitate smooth educational transitions for the youths.

- § 1370(e)(2): clarifying probation staff responsibility for making youth available for educational screening and admission, and establishing timeline for admission
- § 1370(e)(4): requiring appropriate credit recovery services
- § 1370(f): incorporating the Education Code § 51225.2 requirement that the juvenile court school provide appropriate credit for course work previously completed in another school.

*b. Facilitating education staff, youth, and family participation in youth case planning*

Existing regulations create fragmented responsibility among different agency staff, and there is a lack of clarity regarding who is eligible for various educational planning protections, causing the case planning process to continue to be an obstacle to accessing education.<sup>35</sup> Development and updates of individual case plans are not required for youths held for fewer than 30 days, (§ 1355(b)), and only post-disposition youths are eligible for a transition plan (§ 1351). On the other hand, education staff are required to develop individual education plans for all youths (§§ 1370(e)(3)-(4)) and education transition plans for all youths detained for more than 20 consecutive school days (Cal. Educ. Code § 48647(e)). Existing regulation does not require any specific collaboration between Probation Department staff and Office of Education staff regarding their case development processes.<sup>36</sup>

However, it is well established that a coordinated planning process with communications among all stakeholders is essential for youth success inside and outside the facility.<sup>37</sup> A lack of

---

<sup>33</sup> U.S. Office of Juvenile Justice and Delinquency Prevention, *Literature Review: Education for Youth Under Formal Supervision of the Juvenile Justice System* 7 (Jan. 2019), available at: [https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education\\_for\\_youth\\_under\\_formal\\_supervision\\_of\\_the\\_juvenile\\_justice\\_system.pdf](https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education_for_youth_under_formal_supervision_of_the_juvenile_justice_system.pdf).

<sup>34</sup> *Id.*

<sup>35</sup> See Paul Beach et al., Bellwether Education Partners, *Double Punished: Locked Out of Opportunity - How Education Policy Fails Students Behind Bars* 10-11 (June 2022), available at: <https://bellwether.org/wp-content/uploads/2022/06/2022-06-16-Double-Punished.pdf>.

<sup>36</sup> However, “[e]very agency at any level of government that is involved in the provision of special education and related services to students in correctional facilities must ensure the provision of FAPE, even if other agencies share that responsibility” and “[s]tates must have interagency agreements or other methods for ensuring interagency coordination in place so that it is clear which agency or agencies are responsible for providing or paying for services necessary to ensure FAPE for students with disabilities in correctional facilities.” U.S. Department of Education’s Office of Special Education and Rehabilitative Services, *OSEP DEAR COLLEAGUE LETTER on the Individuals with Disabilities Education Act for Students with Disabilities in Correctional Facilities* (December 5, 2014), 2-3 (Dec. 5, 2014), available at: <https://sites.ed.gov/idea/files/idea-letter.pdf>.

<sup>37</sup> California Department of Education, *Juvenile Court Student Transition Statewide Work Group Report and Recommendations to the Legislature* 5 (July 2016), available at: <http://www.fixschooldiscipline.org/wp-content/uploads/2017/08/AB-2276-Legislative-Report.pdf>; U.S. Office of

coordination, in contrast, inhibits the quality of youth development services and undermines youth reentry to the community.<sup>38</sup> Many facilities, including those in Santa Cruz, Santa Clara, San Luis Obispo, and Sacramento, have already adopted this collaborative, multi-disciplinary approach to create plans for youth development. Staff in San Luis Obispo and Sacramento also re-evaluate and update these youth development plans every 30 days.<sup>39</sup>

We recommend the following revisions to incorporate these principles and best practices.

- § 1351(b): increasing access to transition planning for all youth for whom advance notice of release is available.
- § 1355(b): requiring monthly evaluation and update of case plan, and requiring input from youth, family, youth's attorney, and educational staff whenever probation staff develops, reviews, or updates the case plan for a youth.<sup>40</sup>
- § 1370(a): incorporating the multi-disciplinary approach of case planning into required communications between probation and education staff.
- § 1370(e): requiring monthly review and update of the youth's educational plan
- § 1370(g): clarifying obligations to develop individualized education transition plans as required by law under section 48647(e) of the Education Code.

*c. Ensuring and expanding post-secondary education opportunities for the youth*

Youth consistently express their desire to access postsecondary academic and career education opportunities while incarcerated.<sup>41</sup> A recent literature review stresses that high quality juvenile facilities should provide not only academic instruction but also access to postsecondary programming, including career technical education. But access in California's juvenile facilities remains severely limited.<sup>42</sup> For example, a recent BSCC inspection at the Ventura County

---

Juvenile Justice and Delinquency Prevention, *Literature Review: Juvenile Reentry 1* (Aug. 2017), available at: [https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/juvenile\\_reentry.pdf](https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/juvenile_reentry.pdf).

<sup>38</sup> U.S. Office of Juvenile Justice and Delinquency Prevention, *Literature Review: Education for Youth Under Formal Supervision of the Juvenile Justice System 7* (Jan. 2019), available at: [https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education\\_for\\_youth\\_under\\_formal\\_supervision\\_of\\_the\\_juvenile\\_justice\\_system.pdf](https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education_for_youth_under_formal_supervision_of_the_juvenile_justice_system.pdf); Kubek et al., *A Systematic Literature Review of School Reentry Practices among Youth Impacted by Juvenile Justice*, 110 *Children and Youth Services Review* 104773, 6-7 (2020).

<sup>39</sup> *Santa Cruz County Juvenile Hall 2020/2022 Biennial Inspection Pursuant To Welfare And Institutions Code Section 209 and 885*, at 29, 35 (Sep. 13, 2022); *Santa Clara County Juvenile Hall and William F. James Ranch BSCC# 7587 and 7593: 2020-2022 Biennial Inspection Pursuant to WIC 209 and 885*, at 54 (Dec. 2, 2021), *Sacramento Youth Detention Facility BSCC # 7437: 2020/2022 Biennial Inspection Pursuant to Welfare and Institutions Code Section 209 and 885*, at 42 (March 7, 2022); *San Luis Obispo County Juvenile Hall and Coastal Valley Academy BSCC# 7539 And 7540: 2020-2022 Biennial Inspection Pursuant to WIC 209 and 885*, at 44 (March 15, 2022).

<sup>40</sup> For youths with Individualized Education Programs (IEP), federal and state law already requires that the youth (whenever appropriate) and their parents be able to attend their IEP team meetings, regardless of whether they are in a juvenile facility or not. *See* 20 U.S.C. § 1414(d); 34 C.F.R. § 300.321; Cal. Educ. Code. § 56341.

<sup>41</sup> Fresh Lifelines for Youth, *Minimum Standards Revisions Report: FLY Recommendations 5-6* (2022), available at: <https://www.bscc.ca.gov/wp-content/uploads/Att.-F-FLY-Minimum-Standards-Report.pdf>.

<sup>42</sup> Youth Law Center, *Educational Injustice: Barriers to Achievement and Higher Education in California Juvenile Court Schools 23* (2016), available at: <https://ylc.org/wp-content/uploads/2019/05/EDUCATIONAL-INJUSTICE.pdf>.



juvenile hall revealed that, although two-thirds (18 out of 27) of the youths over 18 had a high school diploma, post-secondary opportunities were limited and regularly canceled due to “staffing issues.”<sup>43</sup> These conditions not only create barriers to youth success, they also fail to comply with the statutory requirement under Welfare & Institutions Code (“WIC”) § 858 that facilities ensure that youth in juvenile halls have “access to rigorous postsecondary academic and career technical education programs.”<sup>44</sup>

Not only are counties statutorily required to provide post-secondary opportunities, but also several counties in California have already demonstrated how practical and feasible it is to implement this approach. For example, county offices of education in San Mateo, Kings, and Humboldt have partnered with local colleges to provide college level courses to graduated youths and dual enrollment for youths who are able to simultaneously complete their high school diplomas while beginning to earn college credit. Additionally, the California Community Colleges system has created the “Rising Scholars Network” “to increase public higher education access and success for incarcerated and formerly incarcerated students.” These colleges are “working with corrections partners to reach solutions, building resources for prospective students, and fostering a shared learning environment and a joint commitment to quality.”<sup>45</sup>

We recommend the following revisions to address these issues.

- § 1370(b)(3): incorporating the statutory requirement of WIC § 858 and WIC § 889.2 and requiring access to dual enrollment opportunities and post-secondary academic/career technical education programs to students who have not yet graduated from high school.
- § 1370(h): Same as immediately above.

*d. Minimizing the disruption of disciplinary and behavioral management actions on access to education*

Existing regulation requires that education be provided to all youth “regardless of classification, housing, security status, disciplinary or separation status (including room confinement), except when providing education poses an immediate threat to the safety of self to others” (§ 1370(b)(7)). Existing regulation also forbids the deprivation of education and programming as a disciplinary consequence (§§ 1390(j), (k)).

However, 50% of youth in a recent survey report that there were times that they were not allowed to attend school.<sup>46</sup> This statistic suggests that disciplinary and behavioral management procedures continue to interfere with youth’s access to education. Some facilities have imposed blanket restrictions on education on groups of youths without regard to individual circumstances. For example, an investigation of the Los Angeles County juvenile halls revealed that the entire

<sup>43</sup> *Ventura County Detention (#7727) And Commitment (#7728) Facilities’ 2020/2022 Biennial Inspection Pursuant to Welfare and Institutions Code Section 209 and 885*, at 54-55 (June 6, 2022).

<sup>44</sup> Cal. Welf. & Inst. Cal. Ed. Code § 858(b)(1).

<sup>45</sup> See Rising Scholars Network for more information, available at: <https://risingscholarsnetwork.org/>.

<sup>46</sup> Fresh Lifelines for Youth, *Minimum Standards Revisions Report: FLY Recommendations 5* (2022), available at: <https://www.bscc.ca.gov/wp-content/uploads/Att.-F-FLY-Minimum-Standards-Report.pdf>.

living units of youths might be barred from attending school if one of them misbehaved.<sup>47</sup> In April 2023, the California Attorney General filed a motion to enforce specific portions of the 2021 stipulation judgment that required Los Angeles County’s probation department to “[p]rovide timely transport of youth from their units in the juvenile halls to school daily.”<sup>48</sup> Similarly, Kern County probation staff had blanketly barred all youths labeled “high security status” from attending school and required them to receive an education in their living units instead.<sup>49</sup> Some facilities have also prevented education staff from attempting to deliver education to students subject to restrictive procedures.<sup>50</sup> Finally, restrictive procedures within facilities, such as the use of chemical agents, inherently harm a youth’s health and inevitably disrupts their education.<sup>51</sup>

We recommend the following revisions to emphasize and reinforce the obligations to ensure access to education.<sup>52</sup>

- § 1370(b)(9): reiterating that education may not be restricted for the purposes of punishment, coercion, convenience, or retaliation, emphasizing the assessment of the immediate safety risk underlying limits on education must be individualized and documented, based on the specific circumstances of each youth, requiring the exhaustion of de-escalation techniques before limiting education.
- § 1370(c)(2): requiring that probation staff advise school staff of the administrative decisions that may affect education in writing.
- § 1390: adding a requirement for the facility administrator to coordinate with the juvenile court school Superintendent to develop a system for tracking each youth’s total amount of instructional time loss and the reasons for that loss.
- § 1390(j): clarifying the scope of education that may not be restricted as a disciplinary consequence.

## II. Creating a culture of care in providing education to youths with disabilities.

A significant percentage - if not a majority - of incarcerated youth have disabilities and/or have experienced trauma. In order to ensure that rehabilitation is effective and youth and staff are safe, it is imperative that the probation staff be able to recognize and respond appropriately to the impact of disability on youth and how it may manifest in youth’s behavior.

---

<sup>47</sup> Complaint for Injunctive and Other Equitable Relief ¶ 108, *People v. Los Angeles County*, No. 21STCV013019 (Cal. Supr. Ct., Los Angeles Div. Jan. 13, 2021).

<sup>48</sup> See California Attorney General’s April 12, 2023 Press Release, available at: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-brings-enforcement-action-against-los-angeles-county-due>.

<sup>49</sup> Class Action Complaint for Declaratory and Injunctive Relief ¶ 45, *T.G. v. Kern County*, No. 1:18-at-0012145 (E.D. Cal. Feb. 21, 2018).

<sup>50</sup> *In re Contra Costa County Probation Department* ¶ 27, OAH Case No. 2013080449 (Oct. 17, 2013).

<sup>51</sup> For example, the use of chemical spray is linked to a number of short- and long-term harmful physical and psychological effects. American Civil Liberties Union Foundations, *Toxic Treatment: The Abuse of Tear Gas Weapons in California Juvenile Detention* 15-16 (May 2019), available at: [https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_toxic\\_treatment\\_report\\_2019.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_toxic_treatment_report_2019.pdf).

<sup>52</sup> We also recommend improving quality assurances on access to education. See Section III.b below.

Moreover, most of these youths and their families are also entitled to special education and other safeguards under the federal Individuals with Disabilities Education Act and implementing California Education Code provisions. Under these laws, every child with a disability in a juvenile detention center is entitled to a free and appropriate public education (“FAPE”) in the least restrictive environment (“LRE”) through their Individualized Education Program (“IEP”), including specialized academic instruction and related services, such as counseling. Although the county office of education usually is responsible for providing individualized FAPE in LRE, the probation department may also be responsible if its administrative decisions or conduct interferes with the former’s ability to deliver the appropriate education and related services.<sup>53</sup>

Youth also receive protections under Section 504 of the Rehabilitation Act of 1973 (“Section 504”).<sup>54</sup> Section 504 is a civil rights law that protects students with disabilities from discrimination/harassment on the basis of disability in any program or activity that receives federal financial assistance.<sup>55</sup> To receive protection under Section 504, the student must have a “physical or mental impairment” that substantially limits one or more major life activities.<sup>56</sup>

However, little guidance or training is required for probation staff on working with youths with disabilities in general, on youths’ special education rights, or on probation’s legal obligations regarding special education. Many regulations in §1370 would benefit from disability- and trauma-informed decision-making, including subsection (c) related to school discipline, such as whether the youth’s conduct was a manifestation of the youth’s disability and/or a direct result of the LEA’s failure to implement the youth’s individualized education plan, and subsection (e) related to educational screening and admission, where LEAs have the opportunity to identify and accommodate youth with previously undiagnosed disabilities. Recent scholarship recognizes the importance that IEPs and Section 504 plans are trauma-responsive and meet the needs of youth who experience trauma-induced disabilities.<sup>57</sup>

We recommend the following revisions to address these issues.

- § 1302 definition; 1322: clarifying that juvenile facilities should implement plans and staff should be trained to recognize and respond appropriately to the impacts of disabilities, such as those listed under the IDEA.

---

<sup>53</sup> *In re Contra Costa County Probation Department*, OAH Case No. 2013080449 (Oct. 17, 2013). *See also OSEP DEAR COLLEAGUE LETTER*, *supra* note 36.

<sup>54</sup> Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.

<sup>55</sup> *See* 29 U.S.C. § 794(a).

<sup>56</sup> Section 504 defines physical or mental impairment as “(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” 34 C.F.R. § 104.3(j)(2)(i). Section 504 defines major life activities as “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” 34 C.F.R. § 104.3(j)(2)(ii).

<sup>57</sup> Nicole Tuchinda, *The Imperative for Trauma-Response Special Education*, 85 N.Y.U. L. Rev. 766 (2020), available at:

<https://nyulawreview.nyulaw.me/wp-content/uploads/2020/06/NYULawReview-Volume-95-Issue-3-Tuchinda.pdf>.

- § 1362: clarifying that incidents to be reported includes a facility’s failure to provide special education and related services in accordance with a youth’s IEP.
- § 1370(a): clarifying that disability-informed approaches should be applied when providing instruction.
- § 1370(b)(5): emphasizing that students with disabilities are also entitled to supplemental instruction and support/services when they are not meeting their goals, despite not necessarily being at grade level standards.
- § 1370(b)(5): clarifying that a child’s previous trauma and disability must be considered during de-escalation prior to restricting a child’s access to education.
- § 1370(c)(3): explaining that prior to expulsion/suspension, youth without disabilities have the right to an IEP evaluation to evaluate whether their conduct was the manifestation of an undiagnosed disability while youth with disabilities must have a manifestation determination hearing before placement can be changed.
- § 1390: adding a requirement for the facility administrator to coordinate with the juvenile court school Superintendent to develop a system for tracking each youth’s total amount of instructional time loss and the reasons for that loss.
- § 1390(j): clarifying that deprivation of any education, including components provided by a student’s Section 504 plan or IEP, are not permitted.

### III. Improving quality assurance of youth’s access to education and programming

#### a. *Improving guidance on inspection and review of the education program.*

Under existing regulation, BSCC inspectors do not directly inspect education programs for compliance with Title 15. Instead, the facility administrator must request an annual review of required elements of the education program by the Superintendent of Schools. The Superintendent must conduct the review with a “qualified outside agency or individual” and prepare a report or review checklist. Little guidance exists for how to conduct the review or what constitutes a qualified partner for the review. Moreover, while the publicly available BSCC inspection reports generally reference the superintendent reviews in the section on § 1370, the superintendent reports or review checklists themselves are not often made available for public view. However, some counties, such as San Mateo County, voluntarily disclose this report.<sup>58</sup>

The lack of guidance contributes to the failure of BSCC-mandated inspections to identify shortcomings in education programs. For example, the November 2017 inspection of education programs in juvenile facilities in Kern County did not list education as an area of concern,<sup>59</sup> despite the fact that Disability Rights Advocates and Disability Rights California conducted an investigation in the same time period and identified serious shortcomings in the delivery of

<sup>58</sup> See, e.g., San Mateo County Juvenile Justice and Delinquency Prevention Commission, *Hillcrest School Inspection Report 2019*, available at <https://www.smcgov.org/media/37861/download?inline=>.

<sup>59</sup> *Kern County Board of State and Community Corrections Biennial Inspection Welfare and Institutions Code Sections 209 and 885*, at 18 (Aug. 21, 2018).

special education.<sup>60</sup> Similarly, the June 2019 inspection of education programs at Los Angeles County reported that they were in compliance,<sup>61</sup> but an investigation by the California Attorney General’s office found that the County failed to provide legally required education.<sup>62</sup>

We recommend the following revisions to improve inspections:

- § 1370(a): providing guidance on methodology for the annual review of education programs, requiring public disclosure of any reports or review checklists prepared by the Superintendent of Schools pursuant to § 1370(a), and incorporating requirements of WIC § 2200 regarding inspection by an ombudsperson from the Office of Youth and Community Restoration.

*b. Developing more robust data collection and documentation of obstacles to education*

Data collection is necessary to ensure that students are not unfairly denied access to education for the purposes of punishment, coercion, convenience (including staffing shortages), or retaliation by probation and/or education staff.<sup>63</sup> However, existing regulation only requires documentation of “absences, time out of class or educational instruction, both excused and unexcused.” It is unclear what information the documentation should include, whether probation or education staff is responsible for documentation, and whether several types of limits on education (such as class cancellation) should be documented.

We recommend the following revisions to improve data collection on obstacles to education.

- § 1362: requiring written reports for all incidents that result in limits on youth’s access to education, including class cancellation, class refusal, and removal from regular educational setting.
- § 1370(b)(6): requiring documentation for all instances of interrupted educational programming.

---

<sup>60</sup> Disability Rights Advocates & Disability Rights California, *Investigation Report: Kern County Juvenile Correctional Facilities* 26-42 (Jan. 2018), available at [https://dralegal.org/wp-content/uploads/2018/02/2018Feb6KJCICReportFinal\\_Accessible\\_3.30.18.pdf](https://dralegal.org/wp-content/uploads/2018/02/2018Feb6KJCICReportFinal_Accessible_3.30.18.pdf).

<sup>61</sup> *2018 - 2020 Biennial Inspection of Los Angeles Probation Department, Welfare and Institutions Code Section 209; Juvenile Justice And Delinquency Prevention Act* 4 (Feb. 11, 2021).

<sup>62</sup> Complaint for Injunctive and Other Equitable Relief ¶ 108, *People v. Los Angeles County*, No. 21STCV013019 (Cal. Supr. Ct., Los Angeles Div. Jan. 13, 2021).

<sup>63</sup> See Stipulated Judgment for Defendant County of Los Angeles ¶ 27, *People v. County of Los Angeles*, No. 21STCV01309 (Cal. Supr. Ct., Los Angeles Div. Jan. 21, 2021) (requiring monthly reports “detailing enrollment, attendance, and daily educational minute information for youth placed in a Juvenile Hall for the prior month, including the reasons provided for any loss of education and an aggregation of educational minutes lost due to delays in enrollment, failure to have a teacher for the class, and/or failure to timely transport youth to school on a daily basis”); Class Action Settlement Agreement at 39, *T.G. v. Kern County*, No. 1:18-cv-00257-JLT (E.D. Cal. Aug 30, 2019) (requiring a formal tracking system of school exclusion recommended by education experts); *In re Contra Costa County Probation Department*, OAH Case No. 2013080449 (Oct. 17, 2013) (ordering Contra Costa County Probation Department to “keep accurate records of any time it cannot safely and securely provide special education services, and the reasons for its decision to prevent County from doing so.”).

- § 1370(b)(9): requiring documentation for all instances where education has been denied due to an immediate threat and establishing a system to track all instances of interrupted educational programming.

We hope that today's letter continues our conversation about changes to the regulations governing education in the juvenile court schools. In addition to the recommendations listed here, and the proposed language in Appendix A, we strongly urge the ESC to create a subcommittee to thoroughly evaluate this topic and build upon the recommendations we have provided. *Specifically, we once again recommend the subcommittee consist of: (1) an attorney with experience representing youth with disabilities, (2) an education law attorney who represents students and families, (3) an individual with lived experience in the juvenile delinquency system, (4) an administrator or program lead from a California community college that has an established program serving juvenile justice-impacted youth, (5) an advocate who works with parents of justice-impacted youth, (6) an expert on the educational rights of highly mobile youth populations (child welfare, juvenile justice and/or homeless youth), and (7) a County Office of Education representative for a COE that has an established higher education program for justice-involved youth.*

We appreciate the continuing efforts of the ESC to update the Title 15 regulations and thank you for considering our recommendations.

Sincerely,

**Children Now**

Danielle Wondra  
Senior Policy Outreach Associate,  
Child Welfare

**East Bay Community Law Center**

Atasi Uppal  
Director, Education Justice Clinic

**Fresh Lifelines for Youth**

Colin Ford  
Policy Associate

**Youth Justice Education Clinic at Loyola  
Law School**

Megan Stanton-Trehan  
Director and Visiting Professor

**Youth Law Center**

Lauren Brady  
Director of Legal Advocacy

Vivian Wong  
Supervising Attorney and Adjunct Professor

Chris Middleton  
Staff Attorney

Stacy Nunez  
Equal Justice Works Fellow

cc: Allison Ganter, BSCC Deputy Director, [allison.ganter@bscc.ca.gov](mailto:allison.ganter@bscc.ca.gov)

**Coalition Proposed Redli Revisions to Title 15 Minimum Standards for Juvenile Facilities<sup>1</sup>****§ 1302 Definitions**

*“Disability-informed” means recognizing and responding appropriately to the impact of disability and ensuring the physical and psychological safety of all youth, family members, and staff.*

**§ 1322 Youth Supervision of Staff Orientation and Training**

*(a) Each facility shall develop, maintain and implement a written plan for the supervision, evaluation, and training of staff who will have responsibility for supervising youth. The facility administrator, behavioral health director, education administrator, and health administrator shall develop the plan in consultation with the county Juvenile Justice or Probation Commission, county office of education, and young people with experience in the juvenile justice system and their families. The plan shall be approved by the Chief of Probation. The plan shall, at a minimum:*

*(1) be designed to ensure:*

- (A) an understanding of trauma and disability and the use of trauma- and disability- informed approaches and practices;*
- (B) cultural competency and sensitivity; including but not limited to best practices for providing adequate care, services, and supports for youth across diverse ethnic and racial backgrounds, as well as youth identifying as lesbian, gay, bisexual, transgender, or nonbinary;*
- (C) methods to behaviorally support youth are appropriate for youth impacted by trauma, disability, or child abuse and neglect; and*
- (D) best practices for addressing the permanence, well-being, and educational needs of youth, including youth with disabilities.*

*(2) provide for the continuing and periodic training of staff;*

*(3) be appropriate to meet the needs of staff and population(s) served;*

---

<sup>1</sup> In this document a ~~strikethrough~~ in red denotes a deletion, *blue italics* denote language that is added.

- (4) provide staff with the knowledge, skills, and support to ensure the health and safety of youth in care and meet the individualized needs of youth and families served;*
  - (5) include strategies to enhance the well-being, retention, and resilience of staff;*
  - (6) develop an understanding of the population and population needs;*
  - (7) establish a more complete understanding of youth as children and people rather than inmates and delinquents;*
  - (8) establish high expectations as to the level of care, kindness, nurturing, and respectful treatment to be afforded children and youth;*
  - (9) and to promote a restorative and healing culture within the facility.*
- (b) The training plan shall provide the following information for each training session:*
- (1) the title of the session;*
  - (2) the subject matter of the session;*
  - (3) the number of hours in the training session;*
  - (4) the qualifications of the trainer;*
  - (5) the learning objectives and activities of the session;*
  - (6) a training evaluation to assess whether the session met learning objectives;*
  - (7) a trainer evaluation to determine if the training is meeting the needs of the facility and staff; and*
  - (8) a record of written materials provided or used in the session.*

**(ac)** Prior to assuming any responsibilities for each youth supervision staff member shall be properly oriented to their duties, including:

- (1) youth supervision duties;
- (2) scope of decisions they shall make;
- (3) the identity of their supervisor;
- (4) the identity of persons who are responsible to them;



- (5) persons to contact for decisions that are beyond their responsibility; ~~and~~
  - (6) ethical responsibilities; ~~;~~ *and*
  - (7) *the training outlined in subsection (d) unless it was completed previously and the individual has maintained continuing training requirements outlined in the training plan.*
- (~~b~~*d*) Prior to assuming any responsibility for the supervision of youth, each youth supervision staff member shall receive a minimum of ~~40~~*60* hours of facility-specific orientation, including:
- (1) individual and group supervision techniques;
  - (2) regulations and policies relating to discipline and rights of youth pursuant to law and the provisions of this chapter;
  - (3) basic health, sanitation and safety measures;
  - (4) suicide prevention and response to suicide attempts;
  - (5) *instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care for youth across diverse ethnic and racial backgrounds, as well as youth and related to sexual orientation, gender identity, and expression (SOGIE);*
  - (6) *instruction on how to respond to a youth opioid overdose and properly deploy Naloxone and other similar overdose prevention medications;*
  - (7) *Trauma- and disability- informed and responsive approaches;*
  - (8) *The effects of trauma, including, but not limited to, grief and loss, disability, intimate partner violence, domestic violence, and child abuse and neglect on child development and behavior and methods to behaviorally support youth impacted by that trauma, disability, child abuse, neglect, intimate partner violence, or domestic violence;*
  - (~~5~~*9*) policies regarding use of force, de-escalation techniques, chemical agents, mechanical and physical restraints;
  - (10) *policies regarding youth access to education, including special education;*
  - (~~6~~*11*) review of policies and procedures referencing trauma and trauma-informed approaches;
  - (~~7~~*12*) procedures to follow in the event of emergencies;

- (~~8~~13) routine security measures, including facility perimeter and grounds;
- (~~9~~14) crisis intervention and mental health referrals to mental health services;
- (~~10~~15) documentation of incidents; ~~and~~
- (~~11~~16) fire/life safety training;
- (17) *an overview of the population and population needs;*
- (18) *self-awareness and appropriate boundaries for physical and verbal interactions with youth who have a history of abuse, neglect, or other trauma;*
- (19) *positive discipline, youth empowerment, and the importance of self-esteem;*
- (20) *adolescent development;*
- (21) *teamwork and interpersonal communication with facility personnel, education personnel, youth, and family members;*
- (22) *an overview of the juvenile justice and child welfare systems;*
- (23) *restorative justice;*
- (24) *mandated reporter training;*
- (25) *physical and psychosocial needs of youth, including behavior management, de-escalation techniques, and trauma-informed crisis management planning, including the use of emergency interventions;*
- (26) *best practices for the care and supervision of adolescents and young adults;*  
*and*
- (27) *an opportunity to hear from youth with experience in the facility and their families moderated by a community member as defined in Welfare and Institutions Code Section 1995.*

### § 1351 Release *and Transition Planning* Procedures

The facility administrator shall develop and implement *written* policies and procedures for post-disposition youth, *and other youth for whom advance notice of release is available, ~~to~~ that* coordinate the provision of transition and reentry services, *beginning at least six months prior to anticipation of release whenever possible*, including but not limited to, medical and behavioral health *in accordance with Sections 1408, 1413, 1437, 1438 and 1439 of these regulations*, education, probation supervision and community-based services.

**§ 1355 Institutional Youth Development Assessment and Plan**(b) **Institutional Youth Development** Case Plan

- (1) A *youth development* case plan shall be developed, *with youth input*, for each youth held for at least 30 days or more and created within 40 days of admission.
- (2) The **institutional youth development** case plan shall include, but not be limited to, written documentation that provides:
  - (A) objectives and time frame for how the resolution of problems issues identified in the assessment will be addressed through programming and treatment offered at the facility or through community based providers;
  - (B) a plan for meeting the objectives, *that is signed by the youth and probation officer*, that includes a description of program resources needed and individuals responsible for assuring that the plan is implemented;
- (3) **periodic** evaluation of progress towards meeting the objectives, including **periodic** review **and**, discussion, and *reassessment* of the plan with the youth *every 30 days or at the request of the youth and/or the youth's family*;
- (4) *a description, translated as needed, of the schedule for in-person visitation with family members and kin*;
- (5) *a description of how the youth will maintain contact with family and kin other than in-person visitation, including who can support the youth maintaining contact with family and kin.*
- (6) *a description of how family members and kin will be involved with any treatment or services being provided to the youth while at the facility*
- (47) a transition plan, ~~the contents of which shall be subject to existing resources,~~ shall be developed for ~~post-dispositional~~ the youth in accordance with Section 1351; and,
- (58) ~~in as much as possible and if appropriate,~~ the plan, including the transition plan, shall be developed, *evaluated, reviewed, and updated* with input from the family, supportive adults, youth, *youth's attorney or representative, education staff, peer support*, and Regional Center for the Developmentally Disabled.

## § 1362 Reporting of Incidents

A written report of all incidents which result in *separation, confinement, restraint, disruptions to youth's access to education (including but not limited to school cancellation, youth refusal to attend school, removal from regular educational setting and the reason for removal, limits on special education and related services contained in the youth's IEP, limits on post-secondary academic and career technical education programs, and limits on computer technology and the Internet for educational purposes)*, physical harm, *self harm, suicidal ideation, suicide watch*, use of force, serious threat of physical harm, or death of an employee, youth or other person(s) shall be maintained. Such written record shall be prepared by the staff and submitted to the facility manager by the end of the shift, unless additional time is necessary and authorized by the facility manager or designee *but in no event later than the end of the next shift during which the staff is present.*

## § 1370 Education Program

### (a) School Programs

The County Board of Education shall provide for the administration and operation of juvenile court schools in conjunction with the Chief Probation Officer, or designee pursuant to applicable State laws. The school and facility administrators shall develop and implement written policy and procedures to ensure communication and coordination between educators and probation staff. *Communication between educators and probation staff shall occur upon entry into the facility for assessment and case-planning (§1355), every month, prior to the release from custody for development of a transition and reentry plan (§1351), and upon request by the youth and/or the youth's family.* Culturally responsive, *disability-informed*, and trauma-informed approaches should be applied when providing instruction. Education staff should collaborate with the facility administrator to use technology to facilitate learning and ensure safe technology practices. The facility administrator shall request an annual review of ~~each required element of~~ the program by the Superintendent of Schools, and a report or review checklist on compliance, deficiencies, and corrective action needed to achieve compliance with this section.

Such a review, when conducted, cannot be delegated to the principal or any other staff of any juvenile court school site. The Superintendent of Schools shall conduct this review in conjunction with a qualified outside agency or individual. *A qualified outside agency or individual shall include the Office of Youth and Community Restoration (OYCR) as well as other community agencies or individuals that use evidence-based practices to support positive youth development. The annual review shall include interviews with youths and review of relevant documentation from the youth's files held by the juvenile court school.* Upon receipt of the review, the facility administrator or designee shall review each item with the Superintendent of Schools and shall take whatever corrective action is necessary *immediately* to address each deficiency and to fully protect the educational interests of all youth in the

facility. *The report and review checklist prepared pursuant to this section shall be posted on the Board of State and Community Corrections' internet website in a manner in which they are accessible to the public.*

*The school and facility administrators shall make the school program available for access by an Ombudsperon of the Office of Youth and Community Restoration in accordance with the Welfare and Institutions Code.*

### **(b) Required Elements**

The facility school program shall comply with the State Education Code and County Board of Education policies, all applicable federal education statutes and regulations and provide for an annual evaluation of the educational program offerings. As stated in the 2009 California Standards for the Teaching Profession, teachers shall establish and maintain learning environments that are physically, emotionally, and intellectually safe. Youth shall be provided a rigorous, quality educational program that responds to the different learning styles and abilities of students and prepares them for high school graduation, career entry, and post-secondary education.

All youth shall be treated equally, and the education program shall be free from discriminatory action. Staff shall refer to transgender, intersex and gender-nonconforming youth by their preferred name and gender. *These elements will be communicated to all youth in a manner they can understand.*

(1) The course of study shall comply with the State Education Code and include, but not be limited to, courses required for high school graduation ~~and courses that prepare youth for participation in postsecondary academic and career technical courses, such as A-G courses, dual enrollment courses, or career and technical education courses.~~

(2) Information and preparation for the High School Equivalency Test as approved by the California Department of Education shall be made available to eligible youth. *Guidance and support shall be provided to youth who are interested in taking the HSE Test but do not meet the eligibility requirements.*

(3) *In accordance with the Welfare & Institutions Code, graduated youth shall have access to rigorous postsecondary academic and career technical education programs that fulfill the requirements for transfer to the University of California and the California State University and prepare them for career entry, respectively, and youths who have not completed their high school diplomas may also access post-secondary opportunities in juvenile facilities. In accordance with the State Education Code, Yyouth shall be informed of post-secondary ~~education and vocational opportunities~~ academic and career technical opportunities and support services offered in the facility and in the community, as well as state and federal financial aid programs.*

(4) Administration of the High School Equivalency Tests as approved by the California Department of Education, shall be made available when possible; including upon request by youth who meet eligibility requirements for the HSE test.

(5) Supplemental instruction shall be afforded to youth who do not demonstrate sufficient progress towards grade level standards. *In accordance with § 1370(d), youth shall be guaranteed the accommodations, supplementary aids, services, supports, special education and related services described in their Section 504 Plans and/or Individualized Education Programs to ensure they can make sufficient progress towards their individual educational goals and objectives.*

(6) The minimum school day shall be consistent with State Education Code Requirements for juvenile court schools. The facility administrator, in conjunction with education staff, must ensure that operational procedures do not interfere with the time afforded for the minimum instructional day. ~~Absences, time out of class or educational instruction, both excused and unexcused, shall be documented.~~ *In alignment with Title 15, Minimum Standards for Juvenile Facilities, Section 1362, probation staff shall document all instances of interrupted educational programming, including (1) student and staff formal absences, both excused and unexcused (2) informal time out of the classroom, (3) administrative decisions that affect educational programming, (4) canceled education programming, and (5) absences due to probation staff being unavailable to bring to students to class.*

(7) *Students shall have access to computer technology and the Internet for educational purposes. Access to computer technology and the Internet for educational purposes shall not be denied to students as a disciplinary measure unless proving the technology poses an immediate threat to the safety of self or others.*

(8) *Credit recovery assistance shall be available for students for courses that the student previously attempted, but for which the student was unsuccessful in earning academic credit towards graduation.*

~~(79)~~ Education shall be provided to all youth regardless of classification, housing, security status, disciplinary or separation status, including room confinement, except when providing education poses an immediate threat to the safety of self or others. Education includes, but is not limited to, *attendance in an appropriate education setting outside the youth's room, post-secondary academic or career technical education courses and programs, related services and other components* as provided in a youth's Section 504 Plan or Individualized Education Program (IEP); ~~and access to computer technology and the Internet for educational purposes. Restrictions on education shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff.~~

*The assessment of whether providing education poses an immediate threat to the safety of self or others shall be individualized and documented each time youth is denied access to education. Before preventing a youth from accessing education or education staff from providing education, probation staff shall use all possible*

*de-escalation techniques, including trauma- and disability-informed techniques, to address the threat. Restrictions on education must cease as soon as the immediate threat to the safety of self or others has been averted. At a minimum, whether providing education to an individual youth poses an immediate threat to the safety of self or others shall be re-evaluated no less than every twenty-four hours.*

*In alignment with Title 15, Minimum Standards for Juvenile Facilities, Section 1362, probation staff shall document any instances where education has been restricted due to an immediate threat to the safety of self or others, along with the underlying individualized threat assessment, efforts to de-escalate prior to the denial of education, and the amount and type of education denied.*

*The facility administrator, in conjunction with the education staff, shall develop and implement policies and procedures for reviewing and tracking restrictions of education, including but not limited to absences, time out of the classroom, administrative decisions that affect education programming, canceled education programming, and other restrictions on education to prevent immediate threat to safety and others, as well as all debriefing incidents with staff and/or youth for the purposes of training and identifying patterns and trends.*

### **(c) School Discipline**

(1) Positive behavior management will be implemented to reduce the need for disciplinary action in the school setting and be integrated into the facility's overall behavioral management plan and security system. *Probation staff cannot suspend or expel a youth from school. Disciplinary procedures imposed by probation staff shall not interfere with educational programming of students except when providing education to that student poses an immediate threat to the safety of self or others. All possible de-escalation tactics shall be implemented before a child is deprived of educational programming. All instances of probation removal of youth from the education setting for behavioral management shall be documented, in alignment with Title 15, Minimum Standards for Juvenile Facilities, Section 1370(b)(9).*

(2) School staff shall be advised *in writing* of administrative decisions made by probation staff that may affect the educational programming of students.

(3) Except as otherwise provided by the State Education Code, expulsion/suspension from school shall be imposed only when other means of correction fails to bring about proper conduct. School staff shall follow the appropriate due process safeguards as set forth in the State Education Code including the rights of students with special needs. School staff shall document the other means of correction used prior to imposing expulsion/suspension if an expulsion/suspension is ultimately imposed. *Staff, the youth and/or youth's Education Rights Holder have the right to request an IEP assessment prior to placement expulsion/suspension to determine whether the conduct was the manifestation of a previously undiagnosed disability.*

*In accordance with Title 15, Minimum Standards for Juvenile Facilities, Section 1370(d), if the child is eligible under the IDEA and education staff decides to change a child's placement because of behavior, a manifestation determination hearing must be conducted to evaluate whether the conduct (1) was a manifestation of the child's disability or (2) the direct result of the LEA's failure to implement the child's IEP. If both or either determination is made, the child's placement shall not be changed.*

(4) The facility administrator, in conjunction with education staff will develop policies and procedures that address the rights of any student who has continuing difficulty completing a school day. *Youth who are unable to complete a school day shall be entitled to receive educational assistance throughout the school day and the opportunity to complete their schoolwork in a location outside of their room. Additionally, if a youth has difficulty completing a school day for 3 days, education staff and probation staff shall review the youth's development case plan and educational plan with the youth, in alignment with the Title 15, Minimum Standards for Juvenile Facilities, Sections 1351(b), 1370(e).*

#### **(d) Provisions for Special Populations**

(1) State and federal laws and regulations shall be observed for all individuals with disabilities or suspected disabilities. This includes but is not limited to child find, assessment, continuum of alternative placements, manifestation determination reviews, and implementation of Section 504 Plans and Individualized Education Programs. *The facility administrator shall work with education staff to ensure that all required members of an IEP team are able to attend IEP meetings, which could include providing space for an IEP meeting in the facility or transporting a youth to a space outside the facility. IEP attendance by family members or other approved visitors shall not be counted towards minimum visitation hours.*

(2) Youth identified as English Learners (EL) shall be afforded an educational program that addresses their language needs pursuant to all applicable state and federal laws and regulations governing programs for EL students.

#### **(e) Educational Screening and Admission**

(1) Youth shall be interviewed after admittance and a record maintained that documents a youth's educational history, including but not limited to:

(A) School progress/school history;

(B) Home Language Survey and the results of the State Test used for English language proficiency;

(C) Needs and services of special populations as defined by the State Education Code, including but not limited to, students with special needs; and



(D) Discipline problems.

(2) Youth will be immediately enrolled in school. Educational staff shall conduct an assessment to determine the youth's general academic functioning levels to enable placement in core curriculum courses. *The facility administrator shall ensure that youth are immediately available for education staff to conduct educational evaluations and enrollment.*

(3) After admission to the facility, *the education staff shall be involved in the development of both the initial youth development case plan in accordance with Title 15, Minimum Standards for Juvenile Facilities, Section 1355, and a preliminary education plan for each youth within five school days.*

(4) Upon enrollment, education staff shall comply with the State Education Code and request the youth's records from his/her prior school(s), including, but not limited to, transcripts, Individual Education Program (IEP), 504 Plan, state language assessment scores, immunization records, exit grades, and partial credits. Upon receipt of the transcripts, the youth's educational plan shall be reviewed with the youth. *The education staff shall conduct evaluation of progress toward meeting the educational plan, including review, discussion, and update of the plan with the youth, every 30 days or at the request of the youth and/or family.* Youth should be informed of the credits they need to graduate *and opportunities to earn credits at juvenile court school.*

**(f) Educational Reporting**

(1) The complete facility educational record of the youth shall be forwarded to the next educational placement in accordance with the State Education Code.

(2) The County Superintendent of Schools shall provide appropriate credit (full or partial) for course work completed while in juvenile court school in accordance with the State Education Code.

*(3) The County Superintendent of Schools, or other appropriate administrator, shall provide appropriate credit (full or partial) for course work previously completed in another school in accordance with the State Education Code.*

**(g) Transition and Re-Entry Planning**

(1) The Superintendent of Schools and the Chief Probation Officer or designee, shall develop policies and procedures to meet the transition needs of youth, including the development of an *individualized* education transition plan, in accordance with the State Education Code and in alignment with Title 15, Minimum Standards for Juvenile Facilities, Section 1355.

*(2) The transition policies and procedures shall include collaboration with relevant local educational agencies to improve communication regarding dates of release and*

*to coordinate immediate school placement and enrollment as well as to ensure the transfer of credits between placements.*

*(3) Transition planning shall consider the academic, behavioral, social-emotional, and career needs of the student, as well as the identification and engagement of programs, including postsecondary education programs, services, and individuals to support transition. Postsecondary education programs include both academic and career technical pathways.*

*(4) In accordance with State Education Code, the youth's education rights holder shall be given a copy of their educational records upon the youth's release from the facility, including school transcripts, the youth's individualized learning plan, IEP or 504 plan (if applicable), academic or vocational assessments, an analysis of credits completed and needed, and any certificates or diplomas earned by the youth.*

*(5) Transition planning shall begin no later than the 20th consecutive day that a student is enrolled in the juvenile court school, and must begin in time to ensure that all students in custody for 20 consecutive school days have an individualized transition plan in accordance with the State Education Code.*

*(6) Education staff should collaborate with postsecondary partners to ensure that postsecondary and financial aid applications, such as the Free Application for Federal Student Aid, Cal Grant, Chafee, California Dream Act Application, or other aid applications are completed in a timely manner that maximizes the youth's financial aid and ensures that financial aid is available to the youth as soon as youth begin attending class on a postsecondary campus.*

#### **(h) Post-Secondary Education Opportunities**

*(1) The school and facility administrator shall ensure that youth with a high school diploma or California high school equivalency certificate have access to public post secondary academic and career technical courses and programs offered online or in person, that fulfill the requirements for transfer to the University of California and the California State University and prepare them for career entry, respectively.*

*(+2) The school and facility administrator may also partner with a public postsecondary institution to offer youth who have not yet completed their high school graduation requirements the opportunity to concurrently participate in postsecondary academic and career technical education programs, such as dual enrollment courses. ~~The school and facility administrator should, whenever possible, collaborate with local post-secondary education providers to facilitate access to educational and vocational opportunities for youth that considers the use of technology to implement these programs.~~*

*(3) The school and facility administrator should collaborate with postsecondary partners to ensure that a qualified individual with expertise in applying for postsecondary education has been identified for youth who are age 16 or older who is*

*responsible for assisting the youth with applications for postsecondary education, including career or technical education, and related financial aid.*

## § 1390 Discipline

The facility administrator shall develop and implement written policies and procedures for the discipline of youth that shall promote acceptable behavior; including the use of positive behavior interventions and supports. Discipline shall be imposed at the least restrictive level which promotes the desired behavior, *shall be trauma- and disability-informed*, and shall not include corporal punishment, group punishment, physical or psychological degradation. Deprivation of the following is not permitted:

- (a) bed and bedding;
- (b) daily shower, access to *clean* drinking fountains, toilet and personal hygiene items, and clean clothing;
- (c) full nutrition;
- (d) contact with parent or attorney;
- (e) exercise;
- (f) medical services and counseling;
- (g) religious services;
- (h) clean and sanitary living conditions;
- (i) the right *to make phone calls and* send and receive mail;
- (j) education, *including, but not limited to, attendance in an appropriate education setting, post-secondary academic or career technical education courses and programs, related services and other components as provided in a youth's Section 504 Plan or Individualized Education Program (IEP), and access to computer technology and the Internet for educational purposes; and;*
- (k) rehabilitative programming; *and*
- (l) *outdoor time.*

The facility administrator shall establish rules of conduct and disciplinary penalties to guide the conduct of youth. Such rules and penalties shall include both major violations and minor violations, be stated simply and affirmatively, and be made available to all youth. Provision shall be made to provide accessible information to youth with disabilities, limited English proficiency, or limited literacy. *The facility administrator shall coordinate with the juvenile*

*court school Superintendent, or equivalent leadership role, to establish a method to track student instructional time loss and reason(s) for the time loss.*