



March 21, 2023

Board of State and Community Corrections
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VIA EMAIL

RE: Education-Related Revisions to Juvenile Title 15 Regulations

Dear Executive Steering Committee,

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. 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.

Specifically, our letter focuses on opportunities for improvement of the existing regulations concerning: (1) delineating responsibilities of probation departments and county offices of education in protecting youths’ access to education, (2) ensuring access to quality postsecondary education opportunities (3) safeguarding the education rights of youth with disabilities, and (4) overall quality assurance of youths’ access to education and programming. These topics represent four broad areas in which adjustments to the regulations are critical to ensuring the protection of existing youth rights. That said, we would welcome the opportunity to engage further in the regulations revision process by providing additional feedback in order to make the Title 15 regulations regarding education more meaningful.

I. Delineating Responsibilities of Probation Departments and County Offices of Education in Protecting Youths' Access to Education

Currently, Probation Departments and County Offices of Education (“COEs”) share significant responsibility for the provision of education services in juvenile detention facilities. However, existing regulations too often create fragmented responsibility among different agency staff and hinder the ability of youth to fully access education. The lack of clarity also limits the ability of a probation department and COE to work together for the benefit of the student. Lastly, the current regulations do not fully address how the actions of one entity may help or hinder the ability of the other to meet its obligations. For example, a decision by the probation department to take disciplinary and behavioral management actions can significantly disrupt the youths’ access to education provided by a COE.

- We recommend that Title 15 be revised to: (1) facilitate the collaboration between the Probation Department and the County Office of Education to protect youths’ right to education, and (2) clarify the duty of probation staff to ensure all youth can fully participate in all aspects of K-12 and postsecondary educational programming.

II. Ensuring and Expanding Postsecondary Education Opportunities

Currently, youth are spending extended periods incarcerated in detention facilities, from months to years in some places, and are completing their high school degree (or its equivalent) without adequate access to the postsecondary education and career training opportunities that are required by Welfare & Institutions Code § 858. Postsecondary education and career technical training are not only legally required, but juvenile system-impacted youth are requesting these opportunities for themselves.¹ Yet, existing conditions in many juvenile facilities have created barriers to postsecondary education and career training opportunities, in violation of state law. Several counties in California have already demonstrated that it is feasible to comply with their legal obligation to provide quality postsecondary opportunities for youth. California in its budget has also specifically allocated funding to community college partnerships that can provide education and training on how to best implement postsecondary education opportunities.²

- We recommend that Title 15 be revised to incorporate the statutory requirement of Welfare & Institutions Code § 858 and require access to high quality postsecondary academic and career technical education programs for all young people, regardless of discipline history.

¹ 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>.

² Youth Law Center, California Makes Historic Investment into Post-Secondary Education Programs for Juvenile Justice Involved Youth 1 (2022), available at: <https://www.ylc.org/wp-content/uploads/2022/07/YLC-Budget-Press-Release-071822.pdf>.

III. Provision of Education to Youth With Disabilities

A significant percentage – if not a majority – of incarcerated youth have disabilities and/or have experienced trauma.³ Additionally, most of these youth 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.⁴ Every child with a disability in a juvenile detention center who is eligible for special education 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. While a COE usually is responsible for providing individualized FAPE in the LRE, the probation department’s administrative decisions often interfere with the former’s ability to deliver the legally required appropriate education and related services. This interference can take the form of probation staff preventing youth from accessing their LRE placement. For example, probation staff requiring all students with IEPs to receive their instruction or services in a segregated environment, such as within their housing unit, would interfere with the COE’s responsibility to provide the LRE placement.

However, little guidance or training is required for probation staff on working with youth with disabilities in general, on youths’ special education rights, or on Probation’s legal obligations regarding special education. There are many areas where Title 15 regulations could be improved by clarifying the rights of students with disabilities and the obligations Probation staff have to comply with federal and state law. For example, when youth with disabilities in juvenile facilities are disciplined in school, there must be a consideration of whether the conduct was a manifestation of the youth’s disability and/or a direct result of the failure to implement the youth’s individualized education plan before further action is taken as a result of or to address that conduct.⁵

- We recommend that Title 15 be revised to clarify the multitude of ways probation staff conduct must comply with state and federal protections extended to students with disabilities in juvenile detention facilities.

³ 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://csejournal.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/ccjbh/wp-content/uploads/sites/172/2020/07/Juvenile-Justice-Factsheet-6.30.2020.pdf>.

⁴ 20 U.S.C. § 1412(a)(1).

⁵ 20 U.S.C. § 1415(k)(1)(E).

IV. Quality Assurance of Youths' Access to Education and Programming

Under existing regulations, BSCC inspectors do not directly inspect education programs for compliance with Title 15. Instead, the facility administrator must request an annual review of the required elements of the education program by the Superintendent of Schools. While the publicly available BSCC inspection reports generally reference the superintendent reviews as part of the inspection under § 1370, the superintendent reports or review checklists themselves are not often available for public view. The lack of guidance for the review of education programming by the BSCC undermines the ability of the 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,⁶ despite investigation findings by community organizations that highlighted serious shortcomings in the delivery of special education.⁷ Because the superintendent reports are not often publicly available, and the BSCC inspections are minimal, the current process is insufficient to ensure youth are being provided an education that complies with Title 15.

- We recommend § 1370 of Title 15 be revised to provide guidance on a methodology for conducting the annual review of education programs and greater transparency for the public.

We hope that by this letter we begin a conversation about changes to the regulations governing education and that we can continue to discuss our recommendations with the Executive Steering Committee and work together to ensure youth in facilities have meaningful access to quality education. We urge the ESC to create a subcommittee to evaluate this topic thoroughly and to develop recommendations for Title 15 revisions that will effectively safeguard the educational rights of youth in juvenile facilities. ***Specifically, we 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 justice 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.***

⁶ Kern County Board of State and Community Corrections Biennial Inspection Welfare and Institutions Code Sections 209 and 885, at 18 (Aug. 21, 2018).

⁷ 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/2018/02/2018Feb6KCJCReportFinal_Accessible_3.30.18.pdf.

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

Sincerely,

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