

Building Brighter Futures

Tools for Improving Academic and
Career/Technical Education in the
Juvenile Justice System

A Pennsylvania Example

TOOL V: Digest of Key Federal Laws

Juvenile Law Center

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Digest of Key Federal Laws

The following is a discussion of the federal laws most likely to come into play when providing education to youth in juvenile justice facilities. This paper does not delve into each law's nuances, but those implementing an initiative like PACTT should be aware of the relevant policy landscape. It is also beyond the scope of this publication to address all legal protections for students in juvenile facilities, but it is worth noting that compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1971, and the Equal Education Opportunities Act of 1974, will lead to better educational outcomes for all youth.¹

Title I, Part D of the Elementary and Secondary Education Act

Title I, Part D of the federal Elementary and Secondary Education Act (ESEA) is the primary federal funding source to support implementing an initiative like PACTT.² Title I, Part D offers opportunities to fund quality programs in juvenile facilities and upon reentry. The law aims to improve the quality of education in facilities for neglected and delinquent youth, promote smooth transitions for reentering youth, and address the dropout crisis by, in part, providing supports for reentering youth to continue their education.³ Under its two subparts, it provides both funds for state educational agencies to make subgrants to other state agencies and to local education agencies with high percentages of youth residing in correctional facilities.⁴

To receive funds for state agencies, which fall under subpart 1 of Title I, Part D, states must submit a plan for meeting the education needs of these youth while in facilities and upon reentry, including goals and performance measures.⁵ States receiving funds can use them to assist individual youth⁶ or to fund institution-wide projects.⁷ Local educational agencies are eligible for subgrants under subpart 2 of Title I, Part D to fund programs in collaboration with local correctional facilities to carry out quality education programs in facilities, facilitate the transition from the correctional facility to employment or further education, and conduct programs in local schools for reentering and other at-risk youth.⁸ Permissible uses of funds under this subpart include special programming to meet the needs of this population, which includes vocational and technical education.⁹

Workforce Innovation and Opportunity Act (WIOA)

The business world is an invaluable and often under-utilized resource for juvenile justice facilities. The Workforce Innovation and Opportunity Act (WIOA) authorized the creation of state and local Workforce Investment Boards (WIBs), which offer opportunities to build workforce readiness capacity.¹⁰ WIOA requires that at least 75 percent of available state-wide funds and 75 percent of funds available to local areas be spent on workforce investment services for out-of-school youth ages 16 to 24.¹¹ Because youth in the juvenile or adult justice system are deemed “high-risk” out-of-school youth under the statute, they are not subject to an income threshold in order to receive WIOA services.¹² The legislation also authorizes local boards to create a standing committee to focus on the provision of services to youth and to collaborate with “community-based organizations with a demonstrated record of success in serving eligible youth.”¹³ If leaders working to replicate PACTT are able to develop working relationships with their local WIBs, they will be better able to access an extensive network of partners, leverage resources, and to seek funding for subsidized payment for work opportunities for young people in facilities and returning from placement.

Individuals with Disabilities Education Act (IDEA)

It is estimated that as many as 80 percent of youth in the juvenile justice system are eligible for special education services under the IDEA.¹⁴ In exchange for federal funding, the IDEA requires states to provide school-age children with a qualifying disability with a “free appropriate public education” in the “least restrictive environment” with non-disabled peers.¹⁵ Part B of the act sets forth the process for providing such education, including evaluations for services, eligibility determinations, educational placements, and procedural safeguards. Local educational agencies must also develop, review, and revise an Individualized Education Program (IEP) for every eligible student and delineate the most appropriate services and educational placement.¹⁶ Part B also contains provisions regarding the confidentiality of these special education records.¹⁷

Family Educational Rights and Privacy Act (FERPA)

Tracking the success of an initiative or practice in a juvenile facility is essential to discerning what works to inform future programming. To gather and track data, programs must comply with the Family Educational Rights and Privacy Act (“FERPA”) and state education and juvenile justice confidentiality laws. FERPA governs access to and the release of education records by public and private schools that receive federal funding.¹⁸ Therefore, any facility schools that receive federal funding must comply with FERPA. Specifically, FERPA protects the release of personally identifiable information within a student’s education record.¹⁹ FERPA defines a student’s education record as records, files, documents, and other material maintained by a school or a person acting for the school and containing information directly related to a student.²⁰ As a general rule, FERPA states that a minor child’s educational records can be reviewed and released only by the child’s parents, guardians, or persons standing *in loco parentis* to the child, or, for a child 18 or over, the child him or herself.²¹ In most cases, to share students’ education records, schools must obtain written consent from one of the aforementioned parties,²² but there are useful exceptions that may assist schools in responsibly sharing information with public or private-sector partners that can collect and analyze that information to evaluate the effectiveness of the educational programs in facilities and upon reentry. For more information on responsible information-sharing under FERPA, see www.jlc.org/infosharetoolkit.

Tool V Endnotes

- 1 For more information on these federal laws, *see* the U.S. Department of Education’s Dear Colleague Letter on the Individuals with Disabilities Education Act for Students with Disabilities in Correctional Facilities (Dec. 5, 2014), *available at* <http://www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf>; the December 8, 2014 Dear Colleague Letter on the Civil Rights of Students in Juvenile Justice Residential Facilities from the U.S. Department of Education, Office of Civil Rights, and U.S. Department of Justice, Civil Rights Division, *available at* <http://www2.ed.gov/policy/gen/guid/correctional-education/cr-letter.pdf>; and the Compendium of Relevant Federal Laws in the Guiding Principles for Providing High Quality Education Juvenile Justice Secure Care Settings 6-7, *available at* <http://www2.ed.gov/policy/gen/guid/correctional-education/guiding-principles.pdf>.
- 2 For more information, visit the website for the National Evaluation and Technical Assistance Center for the Education of Children and Youth who are Neglected, Delinquent or At-Risk (NDTAC), *available at* <http://www.neglected-delinquent.org/>.
- 3 No Child Left Behind Act of 2001, Pub. L. No. 107-110, Title I, § 1401(a)(1)–(3), 115 Stat. 1439, 1580 (2002) (identifying three-pronged purpose of Title I, Part D).
- 4 *Id.* at §§ 1402, 1412, 1421-22.
- 5 *Id.* at § 1414.
- 6 *Id.* at § 1415.
- 7 *Id.* at § 1416.
- 8 *Id.* at § 1421.
- 9 *Id.* at § 1424(4).
- 10 Workforce Innovation and Opportunity Act (WIOA), Pub.L. No. 113-128.
- 11 WIOA, Pub.L. No. 113-128, Title I, § 129 (a)(4)(A).
- 12 WIOA, Pub.L. 113-128, Title I, § 129 (a)(1)(B)(4).
- 13 WIOA, Pub.L. 113-128, Title I, § 107 (b)(4)(A)(ii).
- 14 NATIONAL EVALUATION AND TECHNICAL ASSISTANCE CENTER FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK, FACT SHEET: YOUTH WITH SPECIAL EDUCATION NEEDS IN JUSTICE SETTINGS (Dec. 2014), *available at* <http://www.neglected-delinquent.org/resource/youth-special-education-needs-justice-settings> (internal citations omitted).
- 15 20 U.S.C. § 1400(c), (d).
- 16 34 C.F.R. § 300.320.
- 17 20 U.S.C. §§ 1411-19.
- 18 20 U.S.C. § 1232g.
- 19 20 U.S.C. § 1232g(a)(4)(A).
- 20 *Id.*
- 21 20 U.S.C. § 1232g(a)(1)(A).
- 22 20 U.S.C. § 1232g(a)(4)(A); 20 U.S.C. § 1232g(d).