

Services for Students with Disabilities  
In  
Ohio Detention Facilities

A Report to the Ohio Coalition for the Education of Children  
with Disabilities

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## About OCECD

### MISSION

The mission of OCECD is to endorse and promote efforts to provide appropriate quality education for children and youth with disabilities. This is done in the belief that all children have a right to a meaningful and relevant education. This belief affirms the dignity of each child or youth with disabilities, whose needs are unique and whose needs must be met equally and appropriately.

OCECD is dedicated to insuring that every child with disabilities is provided a free, appropriate public education. They continually strive to improve the quality of their services for all children and youth with disabilities in Ohio.

### HISTORY

Established in 1972, the Ohio Coalition for the Education of Children with Disabilities (OCECD) is a statewide, non-profit organization dedicated to advancing the educational interests of children with disabilities. OCECD endorses and promotes efforts to provide appropriate quality education for children and youth with disabilities in the belief that all children have a right to a meaningful and relevant education.

OCECD is composed of over 44 parent and professional organizations representing over 50,000 individuals and collaborates with local parent support organizations to offer information, training and support to parents of children with disabilities. OCECD also provides important training programs and services to professionals and professional organizations.

OCECD's experienced staff, many of whom have children or other family members with disabilities, are available to assist individuals or groups with important services, including: public policy and school reform; identification of disabilities; early intervention for infants and preschoolers; family support systems; special education; community based services; information, referral and networking services; transition from high school to employment/college in the community; resources for professionals; and, team work between persons with disabilities, their families and service providers.

Tools used by OCECD to provide assistance include: one-on-one consultation; group presentations and training sessions; and published materials, including a bi-monthly newsletter.

As a state-level advocate, OCECD is an important policy development and advocacy organization deeply committed to working with the state legislature, the Office of the Governor, and state agencies on legislative and policy issues of importance to Ohio's children with disabilities.

OCECD also serves as the regional Parent Technical Assistance Center for parent centers in the Midwest. This federally funded project providing technical assistance for establishing, developing and assisting parent centers under the Individuals with Disabilities Education Act offers a variety of resources to assist parent centers and strengthen their ability to effectively serve the families in their states whose children have disabilities.

This technical assistance project is a partnership comprised of a coordinating office located at PACER Center in Minnesota and six regional centers located in New Jersey, Ohio, North Carolina, Florida, Colorado, and California. As the Alliance Midwest Regional Center, OCECD serves Parent Centers in the nine states of Illinois, Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin.

OCECD also participates as a regional partner with the North Central Regional Resource Center, based at the University of Minnesota, to provide technical assistance to the state education agencies in the above 9 states.

OCECD is a non-profit organization and has 501(c)3 tax-exempt status.

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## EXECUTIVE SUMMARY

In 2004 the Ohio Coalition for the Education of Children with Disabilities (OCECD),<sup>1</sup> undertook a collaborative effort to conduct a formative assessment of special education services in the state's detention centers. The data obtained from this survey are compiled and analyzed in this report.

Forty juvenile detention facilities are one component of the Ohio juvenile justice network. The centers are either county facilities or district programs under the jurisdiction, respectively, of the county juvenile court judges or Boards of Trustees. These public facilities are intended to serve as short-term secure settings for statutorily identified youth. There is substantial turnover in the facilities' populations and this presents challenges when trying to develop educational programming and when trying to ensure smooth transitions to and from the community. Although a substantial number of youth are quickly released, there are a number of students that will be in the facilities for an extensive period of time that can stretch into many months.

The 36 facilities providing information for this survey are more different than they are alike.<sup>2</sup> They are local entities subject to local control, serving both boys and girls with similar age ranges. With the exception of a program operating a unique "90 day program," all facilities have relatively short average lengths of stay, albeit with a number of outliers. Estimates of recidivism range from 21% to 85%. The facilities vary widely in terms of age and condition of the

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<sup>1</sup> See Appendix I for a listing of acronyms used in this report.

<sup>2</sup> All data in this report refer only to the 36 facilities that were surveyed. Four programs declined visits.



physical plant, bed capacity, educational staffing, and length and type of educational programs.

All detention centers have certified teachers, and eleven have teachers certified in special education. A few centers have educational paraprofessionals; many others rely upon non-certified aides and assistants, including correctional officers, to assist in the classroom and with paperwork. Virtually all facilities require school attendance, with consequences if students decline to attend. In all classrooms observed, students were orderly, compliant, and apparently focused on their studies.

Although general education services are provided in all of Ohio's detention centers, special education based on students' IEPs is being consistently provided in only a few. The curriculum in the facilities primarily consists of core class content. Most all facilities have GED preparation materials available for students for whom this option is appropriate. None have vocational programs, but most provide Life Skills classes that may address such issues as job applications and work performance, and one facility has a work-oriented class conducted by a local businessperson. With the exception of one facility that has a self-contained special education classroom, all students with disabilities are served in regular education classes, some with support assistance, which is typically teacher access to a special education teacher in the facility.

Twenty facilities use a formalized educational assessment tool for students upon admission; 16 rely on informal assessment. These assessments cannot provide the wealth of valuable information that can be found in the multifactored evaluations (MFEs), Individualized Education Programs (IEPs),

behavior intervention plans (BIPs) and transition plans that will exist on the substantial number of students who are already identified as special education students in their local districts. However, record access and retrieval are identified as significant communication problems between local districts and the facilities, and most facilities do not receive these documents on their students with disabilities.

Only 14 facilities report that they integrate IEPs into instruction. In part, the facilities attempt to compensate for the lack of special education placement and integration of IEPs with emphasis on assessment of reading and math skills and working with the student at his ability level. There are a number of factors that interfere with the consistent integration of IEPs and classroom instruction, the most significant being listed as difficulties with communication and exchange of records with the LEA and the short length of stay of the students.

Fourteen of the facilities develop and staff their own educational programs, including one that is affiliated with a charter school, and 22 contract with an educational entity to provide educational programs in the facilities. Each of these delivery systems has its strengths. Ten facilities are predominately focused on self-paced individualized educational programs. Twenty-four others are more focused on providing whole class instruction using textbooks and/or worksheets with as much individualized assistance as staffing permits, in a configuration similar to that seen in many public schools. Two other facilities focus almost exclusively on obtaining the student's schoolwork from his home school and assisting with that work.

Students in the regular detention programs receive from 2.5 hours to 6.5 hours per day of classroom instruction by certified staff. Facilities operate at least 180-day programs, and most supplement with summer programming. Classroom ratios are dependent upon the grouping of students (generally with girls and older boys separated, and separation within the boys based upon the level of the offense) and are 1:15 and lower, with some exceptions. Eighty-six percent of the facilities report that students have access to current materials appropriate to their ability level.

The environment at these facilities is conducive to learning, with a strong emphasis on classroom discipline and individualized assignments. With rare exceptions, facility directors appear committed to providing excellent educational programs and are receptive to new strategies to enhance the lives of these students. Staff generally reports access to professional development but some would appreciate systematic notification of, and access to, training regarding special education students. Two strategies frequently cited by facility staff and administrators for improving special education services for students in detention are more staff development opportunities related to special education and improved communication with local educational agencies (LEAs).

Local juvenile court judges and the district Boards of Trustees can be a dominant force in the programming in the facilities. During the visits, there were references to some judges taking an extra interest in the facility's education program and some center programs that are unique. One judge sends a letter to the family that encourages the parent to bring in the child's schoolwork. Another conducts frequent "walk-throughs" of the center, often stopping to observe

classes in session. One facility operates an intensive program for girls; another has a “90 day program” focused on GED completion.

Several facility directors have found innovative ways to enhance the educational programs for their students. The innovations include grants for drug and alcohol education, sex education and remedial tutoring.

Facility directors and educators have identified challenges, most of which have also been identified by directors of Special Education Regional Resource Centers (SERRCs). They include:

- Communication and record keeping, particularly as they impact transition to and from the facility.
- The failure of some schools to grant students academic credit for work completed at the facilities.
- Compliance with specific requirements of the Individuals with Disabilities Education Improvement Act (IDEIA), such as child find, IEP implementation, the provision of related services, and inclusion of these students in district and statewide assessments.

In an early letter from the Ohio Department of Education (ODE) to juvenile court judges and district facility directors, it was explained that once data from this survey could be reviewed, education and juvenile justice representatives would formulate a plan to address inconsistencies across the state in the provision of services for students with disabilities in the detention center system. This report serves as a call to action for development of this plan, and ODE should assume a lead role in ensuring that the plan is developed and implemented. Recommendations include statewide workgroups of juvenile

justice officials, local district educators and administrators and ODE officials to consider necessary and appropriate solutions to identified challenges; prompt implementation by ODE and LEAs of existing law related to students with disabilities; strengthened monitoring at the state level, as well as enhanced self-monitoring at the local school district level; increased coordination and communication at the local level between school districts and facilities; and strengthened IEP implementation in the centers, with notification to school districts of IEP requirements that cannot be met at the facilities.

## INTRODUCTION

Historically the juvenile justice and education systems, while serving some of the same children and youth, have developed as parallel structures with different “admission” requirements, philosophical and sociological bases, and different ultimate goals. This parallel development has often resulted in little interaction and coordination between the two systems. In an effort to more fully appreciate the impact of the two systems on each other, OCECD initiated a review of issues surrounding special education students in Ohio’s juvenile justice system in 2004.

In October 2004, OCECD published, “Special Education and Juvenile Justice: An Ohio and National Profile” (OCECD Report).<sup>3</sup> Subsequent to the issuance of its report, in an effort to more fully consider and assist in addressing issues surrounding students with disabilities in the juvenile justice system,

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<sup>3</sup> This report may be obtained from OCECD at its office address of Bank One Building, 165 W. Center, Suite 302, Marion, OH 43302-3741.

OCECD undertook a collaborative effort to conduct a formative assessment of the special education services in the state's detention facilities.

Detention centers were selected as the focus for the grant for a variety of reasons. The detention centers are the entry portal for youthful offenders and thus provide a logical starting point for such a survey. Also, because of the high turnover in population at the centers, they handle far more students than do the facilities operated by the Department of Youth Services (DYS) serving more long-term youthful offenders or the Department of Rehabilitation and Correction (DRC) serving the adult population, including individuals age 18 through 21. DYS reports 1,679 total commitments to its facilities in 2003,<sup>4</sup> and DRC reports 14,029 commitments under age 24<sup>5</sup> to adult facilities for 2003 (and reports only 411 special education students ages 18 through 21 served by its facilities in 2004).<sup>6</sup> This contrasts with 44,720 total admissions to detention centers in 2003.<sup>7</sup> Finally, both DYS and DRC are statewide school districts, thereby providing for some standardization between facilities and providing current statewide data and information. No such data currently exist for the public single-county and district detention centers.

The data obtained from this formative assessment are compiled and analyzed by the reviewers in this report.

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<sup>4</sup> Ohio Department of Youth Services. *2003 Statewide Profile of Adjudications Commitments*. Accessed on August 1, 2005, from [www.dys.ohio.gov/PDF/2003Adjudications.pdf](http://www.dys.ohio.gov/PDF/2003Adjudications.pdf)

<sup>5</sup> Although 22 is the maximum school age for students with disabilities in Ohio, no age-range breakdown was provided for this group, so the age range extending to 24 was used.

<sup>6</sup> Ohio Department of Rehabilitation and Correction. *Fiscal Year 2003 Annual Report*. Columbus, OH, p. 36. Accessed on August 1, 2005, from [www.drc.state.oh.us/web/Reports/Annual](http://www.drc.state.oh.us/web/Reports/Annual). Ohio Department of Rehabilitation and Correction. (8/04) Ohio Central School System 2004 Annual Report. Columbus, OH, p. 1. Accessed on August 1, 2005 from [www.drc.state.oh.us/web/reports/OCSS/2004.pdf](http://www.drc.state.oh.us/web/reports/OCSS/2004.pdf).

<sup>7</sup> See pages 18-19 of this Report.

## METHODOLOGY

In early December 2004, a meeting was held to clarify the requirements and expectations for the project and to discuss existing resources and a protocol for obtaining information from the facilities. The project request provided that juvenile detention facility directors and superintendents would be interviewed, and it was determined that the most accurate information would be gained by in-person interviews at the individual facilities. It was concluded that ODE would be asked to prepare a letter to Ohio juvenile court judges and detention facility directors serving district areas, explaining the purposes of the project.

In January and February 2005, a standardized questionnaire was drafted to use with detention facility staff. The draft document was based in part on a survey questionnaire developed by the National Center on Education, Disability, and Juvenile Justice. Once the draft was completed, it was submitted to that office for its review. It was additionally forwarded to the ODE to determine if there were omissions in the form.

In February 2005, ODE forwarded a letter to juvenile justice officials, explaining the project and advising that juvenile justice representatives would be involved in planning to address any challenges identified through the survey process. Additionally, contacts were made with identified individuals in the juvenile justice system to advise them of the project.

In March 2005, the survey tool was piloted with three facilities, changes were made to the document, and the survey tool was finalized with minor changes. Also in March follow-up letters were mailed by the reviewers to all of the facility directors, advising that they would be contacted by telephone to

arrange for facility visits. The facility directors were then called, and visits were made to 34 facilities in March through June 2005.<sup>8</sup> The on-site visits ranged from one hour to seven hours. Teachers usually participated in the interviews with the facility administrators, and in some facilities where the educational programs are provided by local school districts (referred to in this report as LEAs or local educational agencies) or educational service centers (ESCs), school liaisons also participated in the interviews. Almost all directors offered a tour of their facility, and individual students were interviewed at some facilities. Classes were also observed in several facilities, teachers were interviewed individually in a number of the facilities, and requested documents were willingly provided.

This report flows from the information obtained during those visits, as well as that obtained in follow-up telephone calls and emails. Additionally, some information relied upon in this report was developed through a less formalized telephone survey of Ohio's SERRCs and through communications with various staff members of ODE.

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<sup>8</sup> Additionally, information was obtained about two facilities that were not physically visited. One facility, a part of a multi-county detention system, had suffered a massive electrical breakdown and was closed at the time of the visit; however, management officials were interviewed about the facility and survey information was obtained from them. An additional facility which is a part of that same multi-county detention system was not visited because of scheduling, although survey information was obtained from management officials at an interview covering all four of the multi-county facilities.



## APPLICABLE LEGAL PROVISIONS

### State Juvenile Detention Provisions

ORC Ann. 2151.011(13) (2005) defines detention as the temporary care of children pending court adjudication or disposition in a facility designed to physically restrict their movement and activities.

ORC Ann. 2151.357 (2005) establishes school district liability for educational expenses when students are placed in detention facilities. The juvenile court is to determine the responsible school district and incorporate that finding into the court order.

ORC Ann. 2152.04 (2005) authorizes up to 90 days of post-adjudication detention center placement under specified circumstances.

ORC Ann. 2152.41 (2005) authorizes the creation of county and district detention facilities, authorizes counties without facilities to contract for services, sets out the management structure for district detention facilities and establishes the authority of juvenile court judges to set the terms of commitment and release of children.

ORC Ann. 2152.43 (2005) authorizes counties and Boards of Trustees of district facilities to apply to DYS for subsidies to assist in defraying the costs of operating the detention centers.

ORC Ann. 5139.281 (2005) authorizes DYS to provide grants to the facilities that meet minimum standards set by the Department. Consistent with this provision standards were promulgated some years ago by DYS, and they contain required provisions as well as recommended standards. The mandatory standards related to education require that all academic teachers be certified.

Ohio Rule 5139-37-18. The recommended educational standards provide that school classrooms be designed to conform with local and state educational requirements, that youth have the right to participate in an educational/training program, that academic programs be designed to assist youth in keeping current with their studies, and that the school program be available, after the student's first court hearing, for a minimum of two and one-half hours per school calendar day. Ohio Rule 5139-37-08; 5139-37-15; 5139-37-18. The recommended standards also provide that only the facility administrator or designee can approve restriction of educational programming. Ohio Rule 5139-37-19.

ORC Ann. 5139.34 (2005) authorizes DYS funding to county governments, including for services in detention facilities so long as minimum standards set by the Department are met. A DYS official notes that the detention facilities receiving state funding must be approved or certified and must comply with requirements of ODE and the Ohio State Board of Education.

### **Other Juvenile Justice Standards**

Some Ohio detention facilities have voluntarily obtained accreditation through the American Correctional Association (ACA).<sup>9</sup> These standards are not enforceable at law. Bell v Wolfish, 441 U.S. 520, 543 n.27 (1979).

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<sup>9</sup> Franklin County, Hamilton County, Medina County, Montgomery County, Portage-Geauga, and West Central (Miami).

### **Pertinent State and Federal Education Provisions**

20 U.S.C. 1412(a)(1) provides that the mandate for a free appropriate public education (FAPE) does not apply to youth aged 18-21 in adult correctional facilities if state law does not require special education for this age group in general. This is the only exclusion in the IDEIA related to children and youth in correctional facilities. Since 1997 it has been explicit in federal law that the right to a FAPE extends to all students with disabilities in juvenile justice facilities and to many such students incarcerated in adult facilities. 34 C.F.R. 300.2 captioned “Applicability . . . to State, Local, and private agencies,” provides that IDEIA applies to all political subdivisions of the State involved in educating children with disabilities, including “ . . . local juvenile . . . correctional facilities . . .”

20 U.S.C. 1412(a)(11) entitled “State Educational Agency Responsible for General Supervision” provides that ODE is responsible for ensuring compliance with all requirements of the IDEIA and requires ODE to supervise educational programs for children with disabilities.

20 U.S.C. 1412(a)(16) provides that all children with disabilities must be included in State and districtwide assessment programs. This requirement is consistent with provisions in the No Child Left Behind Act and places an affirmative obligation on LEAs to ensure that students with disabilities are not excluded from these assessments.

A new provision in federal law sets forth requirements applicable to students with disabilities who transfer from one school district to another within the same state. 20 U.S.C. 1414(d)(2)(C)(i). It is required that if the student has

an IEP in effect, the receiving school district, in consultation with the parent, must provide the student with a FAPE, “including services comparable” to those described in the existing IEP until the new school either adopts the previous IEP or develops and implements a new IEP. Also, there is a new explicit provision related to records transmission to facilitate the transition for these students. 20 U.S.C. 1414(d)(2)(C)(ii). The new school must take “reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child.” Id. The sending school must take reasonable steps to promptly respond to the records request. Id. The new proposed federal regulations track this requirement. See, 70 F.R. 35867 (6/21/05) setting forth 34 C.F.R. 300.323(e).<sup>10</sup>

Ohio Rule 3301-51-07(C) related to Individualized Education Programs (IEPs) provides: “The child’s school district of residence is responsible for ensuring that the requirements of this rule are met regardless of which school district, county board of MR/DD, or other educational agency implements the child’s IEP.” See, also Rule 3301-51-07(J)(1). In a conference call with ODE officials in January 2005, ODE confirmed that this Rule places the responsibility for FAPE on the local district of the biological parent’s residence, including FAPE for students in detention facilities. An exception to this general rule might exist in those facilities where an LEA is providing the educational program for the facility and the district of residence has contracted with that LEA. In these situations,

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<sup>10</sup> Although there has not been sufficient time for Ohio to begin amending its statutes and regulations to be consistent with the new federal requirements, the new statutory requirements are nevertheless enforceable as federal law.

ODE officials note that there may be joint responsibility between the districts for the provision of special education services.

Ohio Rule 3301-51-07 provides that school districts must have IEPs in place for all students with disabilities at the beginning of each school year, that the IEPs shall be accessible to all teachers and service providers who are responsible for implementation, and that the IEPs shall address necessary related services, significant behavioral issues, and transition goals and services for students age 14 and older.<sup>11</sup> The regulation also requires that parents be regularly informed of IEP progress at least as often as parents of nondisabled students are informed of their children's progress.<sup>12</sup> See, Ohio Rule 3301-51-07(G)(1)(d)(i)(b).

Ohio Rule 3301-51-03 requires school districts to have and implement written procedures ensuring that all children residing in the district who have a disability and are in need of special education are identified, located and evaluated.

Ohio Rule 3301-51-06 requires MFEs prior to the initiation of special education services and every three years thereafter.<sup>13</sup>

ORC 3313.48 Ann. (2005) defines a school day for grades seven through twelve as not less than five clock hours. The statute further authorizes the state board of education to adopt standards for defining "school day" consistent with

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<sup>11</sup> This transition requirement has been modified under IDEIA to apply only to students age 16 and older. However Ohio's regulations currently in place are most likely enforceable until they are amended, even with this recent change in federal law.

<sup>12</sup> This requirement has been modified under IDEIA, and the proposed federal regulations now suggest that quarterly reports on progress might become the standard.

<sup>13</sup> Proposed federal regulations under IDEIA permit the parent and LEA to jointly waive the three-year required MFE. 70 F.R. 35781 (6/21/05). Currently, however, the requirement in Ohio's regulations is enforceable, pending amendment of those rules.

this statutory language. ORC Ann. 2151.011 (2005) pertinent to juvenile court programs defines school day with reference to state board of education rules promulgated under ORC Ann. 3313.48 (2005). Ohio Rule 3301-35-06 defines “school day” as at least five hours, excluding lunch, for grades one through six and five and one-half hours, excluding lunch, for grades seven through twelve. Ohio Rule 3301-51-01(J)(3) under the special education regulations provides that “school day’ has the same meaning for all children in school,” and Ohio Rule 3301-51-09(A)(6)(a) requires that students with disabilities be provided a school day consistent with Ohio Rule 3301-35-06.

### **Educational Records Provisions**

20 U.S.C. 1232g(a)(3) of the Family Educational Rights and Privacy Act (FERPA) defines “educational agency or institution” as any public institution receiving federal education funds. 20 U.S.C. 1232g(b)(1)(B) authorizes release of educational records, with parental notification but without the requirement of parental consent, from one school to another in which the student is enrolling.

IDEIA and Ohio Rule 3301-51-04(F)(3) authorize release of student records without parental consent to receiving schools so long as districts attempt to notify parents that the records have been transferred to the receiving school. As an alternative to individual efforts at notification, records may be released without written consent to receiving schools by districts that annually notify parents of this disclosure practice.

## DISCUSSION

### Ohio Education Structure

The Ohio Department of Education provides oversight and direction for Ohio's school districts. The Department is Ohio's State Educational Agency (SEA) responsible under the IDEIA for compliance with that statute. The Office for Exceptional Children in the Department oversees services for Ohio's 238,000 students with disabilities ensuring that, consistent with state and federal law, these students have available a free appropriate public education emphasizing specially designed instruction to meet their unique needs.

Ohio's 16 Special Education Regional Resource Centers are governed by local boards representing a variety of interests. They have regional responsibilities and provide a range of services including professional development and technical assistance, with the ultimate goal of improving outcomes for school-age youth with disabilities.<sup>14</sup>

Ohio's local city, exempted village, local, joint vocational and cooperative education school districts and educational service centers directly provide educational services to Ohio's youth. ODE reports that in 2003-2004, there were 688 school districts in Ohio, which does not include the 251 Community Schools and 60 ESCs.<sup>15</sup> There were in excess of 3900 schools, including 452 high schools within the Workforce Development system. Id.

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<sup>14</sup> See, Appendix II for a SERRC directory and map depicting regional responsibilities. Reportedly, these 16 centers are to be merged into 12.

<sup>15</sup> Ohio Department of Education. 2004-2005 *Fact Sheet*. Accessed on July 6, 2005, from <http://www.ode.state.oh.us/faq/>

## Ohio System of Detention Centers

Juvenile detention facilities are one component of the Ohio juvenile justice network. There are 40 facilities throughout the state.<sup>16</sup> They are either county facilities or district programs under the jurisdiction, respectively, of the county juvenile court judge or Boards of Trustees representing the various counties served by the district facility. The original niche for detention facilities was and generally continues to be as a short-term secure setting<sup>17</sup> in which statutorily identified youth can be placed pending a quick determination of a more appropriate setting.<sup>18</sup> Unruly youth cannot be held for more than 24 hours, and an initial “detention hearing” must be held not later than 72 hours after placement for all other detainees. If this hearing results in continued detention, the youth remains in the detention center until an adjudication hearing is held on the petition filed against the youth.<sup>19</sup>

The short-term stays mean that there is substantial turnover in the facilities’ populations and that, in turn, presents challenges when trying to develop educational programming that will address the needs of all the students. The average length of stay for facilities, excluding the residents of the Central Ohio 90-day program, is graphed at Chart 1.0.

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<sup>16</sup> See Appendix III for a list of facilities, their locations, telephone numbers and rated capacities, as well as an Ohio map reflecting the counties served.

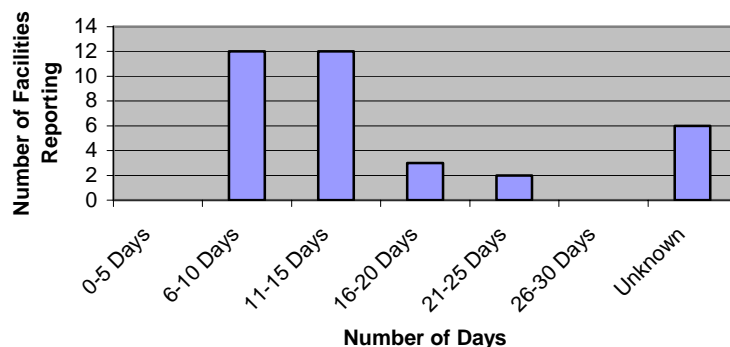
<sup>17</sup> An exception is Central Ohio Youth Center discussed at pp. 22-23 that currently has a program for youth committed for 90 days.

<sup>18</sup> Community Correctional Facilities fill the niche for longer-term secure placements in the community for youth adjudicated as felons. These facilities were not a part of this study.

<sup>19</sup> O.R.C. § 2151.314.



Chart 1.0 Average Length of Stay

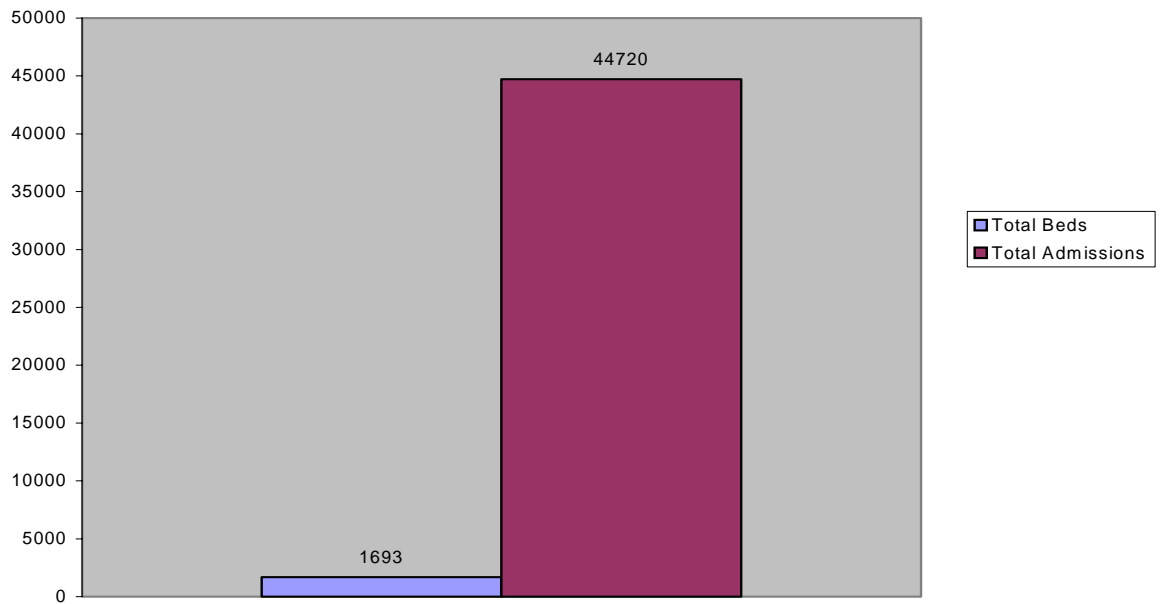


Also, substantial challenges are presented by the high turnover rate when issues around transition are considered. Chart 1.1, based in part on data collected by the Ohio Juvenile Detention Directors Association (OJDDA) and reported by the W. Haywood Burns Institute in San Francisco,<sup>20</sup> graphically depicts for 2003 the total number of facility beds reporting, 1,683, compared to the total number of reported admissions, 44,720. Clearly, the number of facility beds does not begin to capture the total number of students served by the facilities.

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<sup>20</sup> W. Haywood Burns Institute. (2003). *State Disproportionate Minority Confinement Data*. Accessed on July 6, 2005 at [http://www.burnsinstitute.org/dmc/oh/OH\\_stats\\_graphs.pdf](http://www.burnsinstitute.org/dmc/oh/OH_stats_graphs.pdf) See, also, <http://www.burnsinstitute.org/> and <http://www.burnsinstitute.org/dmc/oh/county.html>

**Chart 1.1 2003 Detention Beds Compared to Admissions**



Although the detention facilities' niche is clearly short-term, this function does not encompass all of the students placed in the facilities. While being interviewed, one facility administrator identified three general types of youth admitted to detention facilities: Those who are admitted once, are quickly released to a community placement which may include family and who have "learned their lesson;" those who are admitted with some frequency and whose stays vary in length; and those who remain for an extensive period of time. At another facility, an administrator provided information about the average length of stay but then noted that this figure "is almost a median instead of a mean." This comment reflects that although a substantial number of youth are quickly released, there are a number of "outliers" that will be at the facility for an

extensive period of time that can stretch into many months. This sometimes happens because a quick adjudication is precluded by the nature of the offense. Also, some facilities acknowledge occasionally holding individuals for whom less restrictive placements have been identified through other agencies but for whom placements are not currently available. Finally, since 2002, Ohio statutes have authorized detention facility placement, post-adjudication, for up to 90 days in specified circumstances. Some facility directors indicate that they are receiving more of these youth in their facilities.

The 36 facilities providing information for this survey are more different than they are alike. They are local entities subject to local control, thus militating against standardization. All facilities serve both boys and girls with ages ranging from 6 to 21.<sup>21</sup> Several directors reported the statutory age for admissions, rather than the typical ages of children admitted to their facilities, but for 18 of the 28 facilities reporting this information, the average age range at admission is between 10 and 17. Nobody reported six-year-old admissions, two facilities reported occasional seven-year-old admissions, and four facilities reported eight-year-old admissions. Recidivism is high at most facilities. A significant number of facility directors were not able to provide specific figures on recidivism but provided estimates from 21% to 85%.<sup>22</sup>

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<sup>21</sup> Although the jurisdiction of juvenile court is to age 18, if an individual age 18-20 violates a juvenile parole or probation order, s/he may be placed in detention.

<sup>22</sup> An additional complicating factor with recidivism figures is that a few directors knew the number of "recidivist events," i.e., the number of times that prior residents returned, while others had available only the number of residents who had returned, without regard to how many times they returned. The latter figure would be substantially lower but does not accurately reflect the total number of readmissions in a given year.

The facilities vary widely in terms of age and condition of the physical plant, size and youth capacity, educational staffing, and length and type of educational programs. Minorities are disproportionately represented in the less rural settings.<sup>23</sup> Boys substantially outnumber girls in the facilities, although several facility directors note that the number of girls is increasing and that their charges are becoming more serious. Several facility directors additionally note that the type of youth they serve and the duration of the placements are directly correlated to “their” judges’ philosophy about juvenile justice, thus providing another variable among the facilities.

### **Detention Centers - Innovative Educational and Supplemental Programs**

While common threads were found throughout the visits, there were some center programs that were unique and are examples of the rehabilitation efforts of court personnel, Boards of Trustees, and facility staff. In providing oversight to the detention centers, local juvenile court judges and the district Boards of Trustees can have a potent impact on programming in the facilities. Several directors explicitly commented on the commitment of their judges to the rehabilitation and education of students. One center director referenced the juvenile court judge who has frequent “walk-throughs” of the center, often stopping to observe classes in session. One director identified a judge who devotes a court session in the spring to his youth on probation who have “passing grades” as a condition of probation. The court clarifies for the students that if they do not meet this condition, they will be in violation of their probation and

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<sup>23</sup> W. Haywood Burns Institute. (2003). *State Disproportionate Minority Confinement Data*. Accessed on July 6, 2005 at [http://www.burnsinstitute.org/dmc/oh/OH\\_stats\\_graphs.pdf](http://www.burnsinstitute.org/dmc/oh/OH_stats_graphs.pdf)

points out that the detention facility has a summer school program. Court administrators participated in interviews at some facilities and expressed clear understanding of their centers' programs.

At least two facilities are providing specialized programs. Belmont-Harrison Juvenile District in St. Clairsville is operating a non-secure, gender-specific program for six girls as a separate component of the detention center. The program is funded through decreasing state and federal grants, and receives selected girls from detention near the end of their court-ordered stay as well as girls from other referral sources. The program is designed as a treatment program that is responsive to the different issues impacting females in the juvenile justice system. The program includes services for special education students whose IEPs are implemented into the program; as well as, field trips to college campuses and other sites, in addition to the education and treatment services provided. The school day runs from 8:00 am to 3:00 pm with the teacher providing additional individual help at 7:00 each morning. A counselor conducts counseling sessions four days per week. A student in the program noted, "It is probably better not having boys," and continued by saying that she is looking at attending a community college, so her class work in the program is focused on that. She is learning goal setting, and noted that while she made D's in the LEA school, a goal here is to make A's. The grant funding for this program is rapidly diminishing, and it is feared that the funding will disappear.

Second, Central Ohio Youth Center in Marysville is operating a "90 day program," that is increasingly receiving students from throughout the state who have been ordered to detention center placement for up to 90 days. This is a

separate component of the facility's program that is focused primarily, but not exclusively, on assisting students in obtaining their GEDs while at the facility. At the time of the visit, 66% of the residents were in this program, with the remaining students in regular detention. The education program for the 90-day students is six hours a day, contrasted with four hours a day for the regular detention students. The facility has arranged for the GED test to be administered at the facility, and arranges fee waivers. The students are screened for eligibility to the GED preparation program, with the most significant factors being age, reading level (students must be able to read at about the 6<sup>th</sup> grade level in order to successfully complete the program in 90 days) and current level of educational success. The director explained that many older teens come to the program with few, if any, high school credits, and thus working on a GED appears to be the most appropriate educational program. The facility has had difficulty obtaining signed age waivers from some school districts, and this has been frustrating. At the time of the visit, 30 students had taken the GED, with 21 passing the first time. Four students are now in college.

Belmont-Harrison Juvenile District and Central Ohio's programs are two examples of extra effort on the part of detention centers to increase the likelihood of post-detention success for students. There are other ongoing efforts, including a Court Assessment Program (CAP) operated by the Franklin County Juvenile Detention Center that focuses on lower offending students and their families. That program, staffed by court personnel, community treatment specialists and detention staff is a 30-day program that can be extended up to 90 days and provides intensive coordination and treatment for families and students. In

Hamilton County a special education certified teacher has a goal of helping to remediate the low reading level of many of the students, without regard to disability status. She has adapted the Orton-Gillingham multi-sensory method to the short-term environment of the detention center, by sequencing the learning skills at a faster pace than in a regular setting. This teacher reports that most students demonstrate substantial reading progress in a very short time. Also in the Hamilton County facility, teachers routinely post on the classroom wall or blackboard the ODE standard that is being taught on that particular day. This keeps the teachers and the students focused.

Most facilities do not offer electives, but art and music are often mixed into classroom assignments. In many facilities artwork related to science and literature projects is posted on the classroom walls. Both Hamilton County, with an award-winning art teacher and Lucas County Juvenile Detention Center in Toledo have noteworthy programs in which students show remarkable creativity and skill. It is not uncommon for students from these facilities to have artwork displayed outside of the detention center. Lucas County has supplemented the educational program provided through the LEA by using Title I money to hire an art teacher who combines art and math and to employ a creative writing teacher. The intent of the art teacher is to find a creative and enjoyable way of learning math as well as providing expressive outlets for students whose creativity is often overlooked.<sup>24</sup> In the creative writing class, students share their own poems, lyrics and short stories. The director of the facility indicated that he now has a goal of

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<sup>24</sup> Staff in a number of the facilities referenced the artistic and other fine arts skills of many of the students they are serving.

introducing creative movement to these students and hopes to have a dance program implemented soon.

All facility directors are challenged to provide meaningful programming beyond the classroom hours, and many have developed innovative approaches to enhance their educational program. These programs are not technically part of the school curriculum, but they are educational and contribute to the student's quality of life. The Stark County Attention Center has converted the edges of its concrete outdoor exercise area to a garden and water feature. Female students, with guidance and instruction, are constructing a pond with a fountain and decorative stonework. Planters contain growing vegetables, tended by the girls, many of whom have never previously seen a vegetable before it reached the grocery store. This skill enhancement has also improved the quality of the girls' lives at the facility—stories were related about girls concerned with leaving because their vegetables were growing and a girl who watched out her window for the rabbit that was eating the vegetables. Community mental health agencies and volunteer groups such as Girl Scouts and 4-H provide courses on sex education, domestic violence, drugs and alcohol, and life skills, and in one facility, the Jason Foundation provides a suicide prevention program. The Recovery Center provides "Reconnect," a youth program directed toward alleviating the effects of drug and alcohol addiction. Project Learn, funded through a United Way grant provides tutors for students that are performing below grade level. A final example of educational programming that supplements the curriculum was found at a facility that obtained an Americorps grant that provides 12 additional tutors for students in need of 1:1 attention.



## Detention Centers - General Data

### Common Characteristics in Detention Schools

Virtually all facilities require school-aged students to attend school, with consequences if they decline to do so.<sup>25</sup> All facilities report that students rarely (and briefly) fail to comply with this requirement, perhaps because the alternative to school attendance is very unattractive—remaining in one’s room alone, in addition to other consequences consistent with the facility’s behavior plan. In all classrooms observed, students were orderly, compliant, and apparently focused on their studies.

The curriculum in the facilities generally consists of core subject class work. Most all facilities have available GED preparation materials for students for whom this option is appropriate. None have vocational programs,<sup>26</sup> but most provide Life Skills classes that may address such issues as completing job applications and work performance, and one facility has a work-oriented class conducted by a local businessperson. Most facilities give preference to school work from the students’ LEAs when that work is available, but most also report that LEA work is not available for the majority of students.

With the exception of one facility that has a self-contained special education classroom, all special education students are educated in the same classrooms as nondisabled students. Thus, the data collected in this study

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<sup>25</sup> One facility reported that students with GEDs are not required to attend classes; all others reported that even these students are expected to attend school classes.

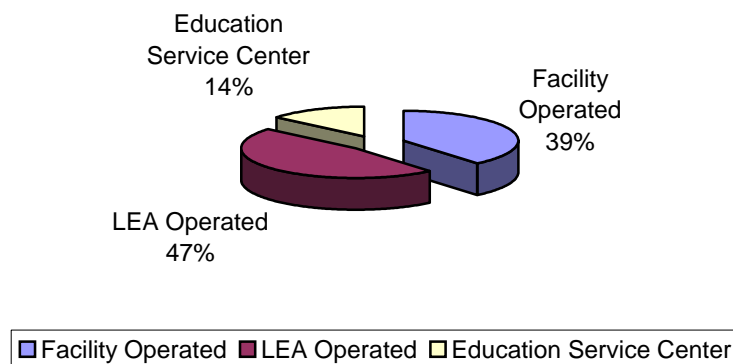
<sup>26</sup> However, one facility has a school release program available on an individualized basis. This program permitted one student to leave the facility daily to attend vocational classes. Another facility permitted a student to work in the kitchen to complete a vocational requirement from the LEA program.

relating to the general detention program and general education classrooms are pertinent to students with disabilities.

#### Administration of Detention Center Schools

A school cannot be effective without a reliable funding source, strong leadership, and dedicated staff. With this in mind directors were asked to identify the entity that provides the educational services and staff in their facilities. Facilities provide the educational services and staff in 39% of the cases (one of these facilities notes that it has signed a contractual agreement with a charter school), an LEA is the provider in 47% of the cases, and ESCs account for the remaining 14%.

**Chart 1.2 Entity Operating School Program**



Each of these delivery systems has its strengths. Directors of facility-operated schools cite the ability to manage the school as an integral part of the facility operations. One director stretched the budget by cross-training the certified teachers as correctional officers. In that way the teachers were well versed in facility operations and could manage the classrooms without additional correctional officers. Facility directors note that management responsibility over

the educational staff is invaluable in ensuring a good fit with the overall detention center philosophy and program.

Schools managed and staffed by the LEAs often have an employee of the facility as an onsite co-supervisor and the two systems share responsibilities. In cases where the educational supervisor is an off-site person, the educational supervisor, with one reported exception, meets as needed with the facility director and education staff. These arrangements appear to help LEA-managed schools remain in sync with the overall detention program. The majority of the funding for the teachers, books and educational materials comes from the LEA budget. The LEA usually selects the teachers for the detention facility but, in many cases, gives the facility an opportunity to rule out teachers that are not a good fit with the detention program.<sup>27</sup> In most cases, facility funds are used to supplement the LEA programs in the area of summer school or to provide additional materials when needed.

The situation with ESC-managed school is similar to that of LEA management. The ESC representative serves as a liaison between the facility director and the educational staff. In one cited case, the ESC representative is particularly vigilant about providing supervision and feedback to the teachers and supplying the classrooms with requested furniture, technology and other materials.

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<sup>27</sup> In some situations, however, teacher placement is governed by collective bargaining agreements and cannot be impacted by the facility management.

Forty-four percent of the facilities report accreditation through an LEA, the ACA, or some other accrediting agency.<sup>28</sup>

A policy manual serves as a school management tool for the director and a guide to the teacher as it lays out the parameters of the educational program. The policy manuals vary widely but almost always include educational mission statements with a statement of the school calendar and the minimum length of school day. Seventy-five percent of the facilities have a policy manual with a section devoted to the educational program. Eleven percent of the facilities do not have a policy manual that addresses educational services, and in the remaining 14%, the status of a policy manual is unknown.

### Funding Issues

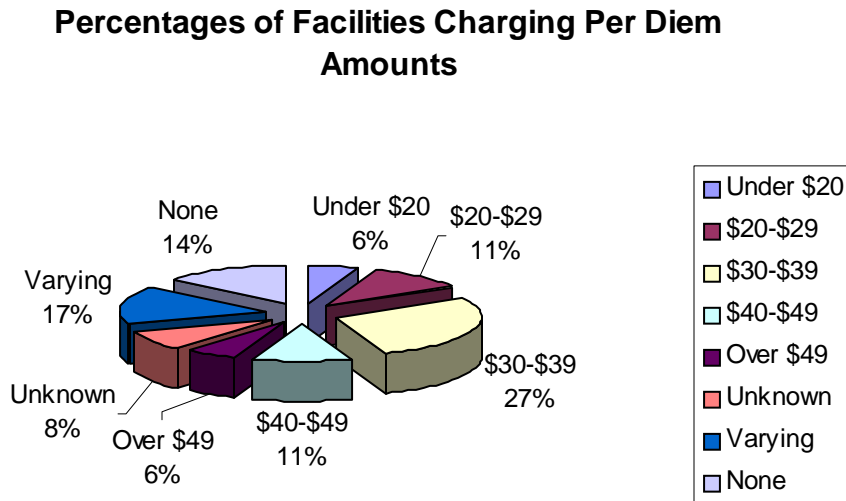
Ohio law authorizes the billing of per diem amounts to LEAs for educational programs in detention facilities. Services are billed in all but five facilities, with the billing sometimes being done by the LEA or ESC providing the services and other times by the facilities directly. The per diems vary in amounts from \$13.50 (\$2,457 per 182-day year) to \$52 (\$9,464 per 182-day year). Some facilities indicate that they bill only for teachers' salaries; others attempt to include all direct costs related to the provision of educational services to the students. Some facilities appear to regularly recalculate the per diem to accurately reflect

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<sup>28</sup> This figure does not reflect the number of detention centers that are monitored for the total program. A DYS official notes that he monitors 32 of the centers.

As a consequence of budget issues in Ohio, the facilities are no longer receiving DYS subsidies referenced in the section on Applicable Legal Provisions. This has generated some confusion about the role of DYS in approving facility programs. Several facilities advise that compliance with DYS guidelines is now voluntary, although one program director states that if the county receives any money from DYS, the detention facility is subject to certain minimum standards. This view is consistent with ORC Ann. 5139.34 (2005) referenced in Applicable Legal Provisions and with information received from a DYS official. Even among those facilities that believe that compliance is voluntary, a substantial number continue to cite to DYS Rules and participate in DYS monitoring visits.

the costs; other facilities note that their per diems have not changed for several years. The range of per diems is graphically depicted:



The charging of per diems is just one of many ways Ohio funds educational programs in the various residential programs in the state.<sup>29</sup> In theory, the per diem should fully reimburse the facilities for their educational expense, thus permitting the provision of appropriate programming without the fiscal limitations of a set budget. In fact, several facility directors note that a portion of the educational programming is funded by their facility budgets. No facility director indicated dissatisfaction with the per diem method of funding the education programs, although there are some complications that affect collection of these amounts.

First, several facilities note that some LEAs decline to pay the per diem, arguing that the student no longer belongs to the district since s/he has been

<sup>29</sup> Legislative Office of Education Oversight. (2002) *Education Funding for Residential Facilities.*, Columbus, OH.

expelled or “withdrawn for nonattendance.”<sup>30</sup> Other districts, despite court orders identifying the LEA, refuse to pay because they believe the student was never in their district and they should not be responsible.<sup>31</sup> Although these bills are sometimes collected, detention center staff time is expended in collection efforts.

Additionally, because of the way Ohio defines district of residence, facilities often are required to bill an extraordinary number of LEAs. One facility responsible for serving two counties billed 38 different school districts from August 2003 through March 2004. Another director of a facility serving four counties stated that he is billing districts in over fifty different counties for educational services, and many of these counties have more than one LEA being billed.

A second funding issue raised during the visits relates to access to education funds available through ODE. One facility director expressed his understanding that the detention centers are not eligible for various ODE funding streams, such as technology money, even though the detention centers are providing important educational programs with certified teachers. Virtually all programs report receiving free and reduced lunch money, and 29 facilities report receiving Title I money that flows through local districts.<sup>32</sup> However, it is unknown whether other funding streams through ODE are available to these facilities.

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<sup>30</sup> The practice of school districts “disenrolling” students of compulsory school age because they are not attending school seems highly problematic in light of the clear intent of ORC Ann 3321.191 (2005) to “ameliorate” truant behavior. However, this issue is beyond the scope of this report.

<sup>31</sup> Because Ohio defines district of residence (and therefore fiscal responsibility) as the district where the parent resides, it is possible that the student has not resided in the district that is fiscally responsible.

<sup>32</sup> Title I funding presents examples of communication challenges discussed more fully in the section entitled Findings Related to Transition. One facility director acknowledged eligibility for Title I funds but noted that despite several telephone calls to the LEA, she had been unable to obtain the funds or learn when they would be accessible. Another director of a facility being served by an LEA said he knew there were

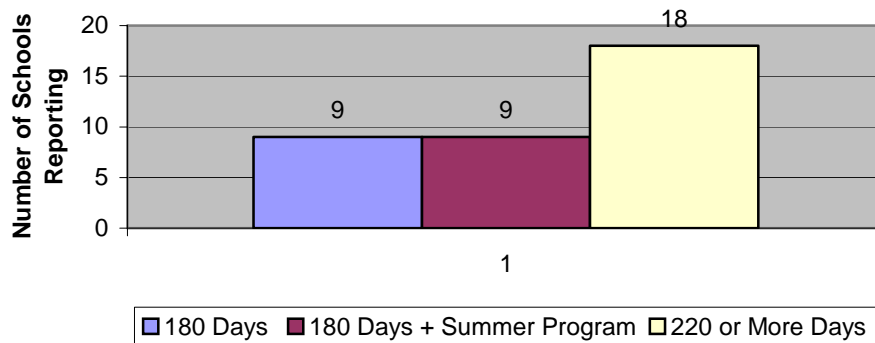
### Length of Day, School Calendar, and Timing of Admission to School

A common trait of youth in detention is the lack of success in public school. With individual attention and lack of distractions, the detention school provides an environment where the student can achieve academic success. Youth in detention discussed their school experience with positive statements such as, "It is quiet here, and I can focus." "I have never read a book before but now I actually like reading!" "The teachers are good; they will help you when you need it." With this in mind and recognizing the important role of education in the rehabilitative function of detention, facility directors make every effort to maximize the amount of time that the youth spends in the classroom. With rare exceptions, facility directors make diligent efforts to stretch their budgets to ensure as many days in the school year as possible and many facilities supplement short academic school days with educational activities led or directed by non-certified staff and volunteers. Fifty percent of the facilities report a school calendar of 220 or more days. Twenty-five percent report a calendar with 180 days plus at least two additional weeks of summer school. The remaining 25% report a nine-month school calendar.

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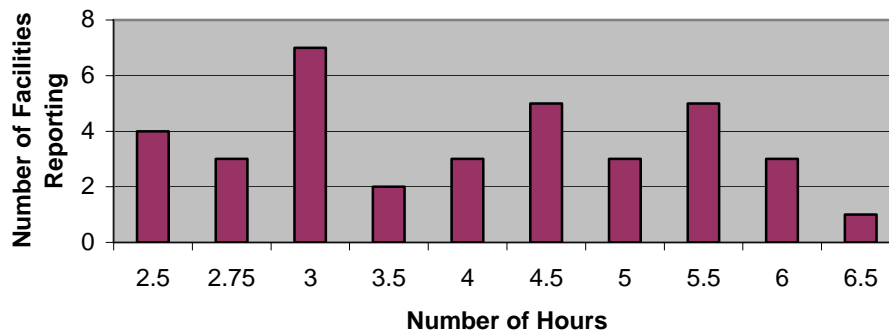
Title I funds for the facility but had no idea of how they were being allocated. He noted he would "just like to take the mystery out of it."

**Chart 1.4 Length of School Year**



The average length of the school day in the standard detention center programs is calculated based upon the number of hours the students are under the direction of educationally certified staff and is depicted in the following chart:

**Chart 1.5 Hours in School Day**



Pertinent to the discussion about length of school day is the question of whether facility educational programs have received waivers from state standards, which could include length of school day. Thirty facilities responded “No,” with the remaining six responding that they did not know. An ODE official has reported a “blanket waiver” that has been verbally granted by ODE, permitting any range of school hours per day, essentially nullifying ORC 3313.48



(2005) and Ohio Rules 3301-35-06 and 3301-51-09, referenced in this report at pp. 14-15. Written documentation of this blanket waiver has not been provided.

Facilities with only 2.5 to 3.0 hours of programming usually have two additional hours of life skills and physical training that are taught by non-certified instructors.<sup>33</sup> Other facilities offer one-to-one tutoring by non-certified personnel or community volunteers. In one facility there is an extensive computer and word processing class taught by a non-certified teacher.

Twenty-five facilities report that whenever possible youth begin the classroom experience immediately following admission. Four facilities start the youth in the classroom the first day after admission, three facilities admit youth to the classroom following intake or facility orientation period, and another two facilities admit after a 48-hour orientation/holding period. One facility delays admission to the classroom until after the first court appearance. One facility admits girls to the education program immediately, and boys are admitted three days after admission. Included in the above statistics are two facilities noting that admission to the education program is dependent upon space.

#### Teacher Certification, Substitutes, and Teacher-Student Ratio

All detention centers have certified teachers. When a substitute is necessary, forty-seven percent of the facilities report having certified teachers as substitutes. Thirty-one percent of the facilities have a certified special education teacher on staff. Typically, teachers in detention centers hold certification in

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<sup>33</sup> DYS standards require one hour per day of large muscle activity. This hour is included in the calculation of total school hours for facilities that provide the program through a certified teacher.

elementary or secondary education with 89% teaching some students out of their certified area.<sup>34</sup>

In terms of the impact on students, directors and facility educators note that the effect of teaching outside the area of certification is somewhat mitigated by three factors. The first is teamwork. For the most part, teachers in detention facilities are assigned in areas that fall within their comfort zone, and they rely on each other for consultation in areas outside of their field of expertise. Teachers with special education certification make themselves available to regular education teachers and in five facilities, Title I tutors offer 1:1 remedial work. In the spirit of cooperation, teachers from some facilities have formed a work group open to all facility teachers called Teachers Educating Adolescent Misguided Students (TEAMS). TEAMS meets on a regular basis. Typical agendas include discussions on testing, communication with home schools and parents, curriculum, techniques for teaching a class with a wide range of student abilities, classroom policies, information about individual instruction, homework, grading policies, rationale for getting home school work, GED preparation, career guidance program and summer school program and credit recovery issues, developing rapport, student follow-up, grades and transcripts.

The second mitigating factor is a favorable teacher/student ratio. Fifty percent of the detention classrooms have a teacher student ratio of 1:11 to 1:15. Fourteen percent report a ratio of less than 1:10. Thirty-six percent of the facilities report a ratio of greater than 1:15, with the highest reported ratio at 1:25.

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<sup>34</sup> Typically this is an age-range issue—elementary-certified teachers teaching secondary students and visa-versa.

The facility that reports the highest teacher-student ratio has a policy of separating male and female students into separate classrooms. The number of female youth has increased significantly in the past several years, resulting in a substantially higher student-teacher ratio for the girls. However, the education budget does not allow for more teachers to keep the teacher-student ratio down in the female classrooms.

Finally, a few centers have educational paraprofessionals (usually funded through Title I) that offer invaluable assistance in one-to-one tutoring, grading papers, and completing the clerical work necessary to communicate with the LEAs. Virtually all detention centers place juvenile correctional officers in the classrooms. At a minimum these officers help promote a disciplined classroom environment and in some cases the officers provide varying degrees of assistance to the youth.

### Class Divisions

Safety and well-being of the youth are the primary factors in setting class division policy. Some facilities believe safety is best served by separating young, less violent offenders from the older students who may have committed more serious offenses. Many facilities separate males and females but some facilities do not have sufficient numbers of faculty or classroom space to be afforded this option.

Seventy-five percent of the detention schools divide their classes according to subject matter. Twenty-two percent of the facilities separate the

students according to ability level, which allows more individualization of instruction.

#### Access to Texts and Material Appropriate to Ability Level

Eighty-six percent of the facilities report that the students have access to current materials that are appropriate to their ability level. Seventy-five percent report that all students have access to appropriate texts. In the remaining cases, the facilities rely on self-paced programs, and only a few facilities report that they rely heavily on worksheets and materials obtained on the Internet. Although indicating that they have sufficient materials, several teachers commented on the embarrassment that students express when it becomes obvious to their peers that they function below grade level. In response to a question about whether the facility has sufficient materials for all ability levels, a number of teachers acknowledged sufficient materials but noted that they would like more texts that appear to be grade level but have below-grade-level content.

Seventy-two percent of the facilities allow the students to take one or two paperback books to the housing unit. Hardback books and pencils are not allowed for safety reasons. In most facilities students are allowed to work on homework in a common area where they can be observed from the control center.

#### Staff Development

There is general agreement that incarcerated youth are at least one to two years below grade level and that the special education population is overrepresented in detention centers. The majority of the teachers in these

centers report satisfaction in working in this setting with this type of student. These teachers report that they seek out and benefit greatly from continuing education that features the needs of challenged learners. Fifty-three percent of the facilities report that they rely on the LEA for educational staff development. A number of teachers indicate that they attend SERRC training, but other teachers and facility directors generally indicate a desire for more special education training. If systematically informed of professional development workshops related to special education, it is highly likely that some facility directors and teachers would attend. Two facility directors report that they pay for some job-related workshops and conferences. Forty-one percent of the facilities report that they do not have an educational staff development plan. In these cases teachers are expected to keep up with continuing education requirements on their own.

### **Findings Related to Assessment and Curriculum**

It has been noted that:

“ . . .(P)roviding adequate services to youth in corrections involves communicating with the home school, developing effective screening and assessment procedures, and providing quality special education and related services.”<sup>35</sup>

This section will describe the survey findings on assessment and curriculum.

Carol Cramer Brooks and Adam T. Histed, in an article on the enormous difficulties that face educators of students in detention facilities, cite short length of stay, distrust on the part of the LEA, lack of clarity on where the responsibility

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<sup>35</sup> Quinn, Mary, Rutherford, Robert B., Jr., Leone, Peter E. *Students with Disabilities in Correctional Facilities*. (2001). Arlington, VA: ERIC Clearinghouse on Disabilities and Gifted Education. (ERIC Document Reproduction Service No. EDO-EC-01-16)

of educating these students lies, and a dearth of best practice on how to conduct educational experience in the detention setting.<sup>36</sup>

This survey reveals that Ohio detention centers face each of these challenges. The variables that occur with each center include: size of geographic area,<sup>37</sup> philosophy and input of the juvenile court and district Boards of Trustees, source of administration and finances, and rural v. urban setting. Because of the interplay of these variables, a system that works in one facility may not work in another. Each facility is unique and has developed its own unique methods of attacking the problems.

#### Educational Assessment Upon Entry to the Detention Center

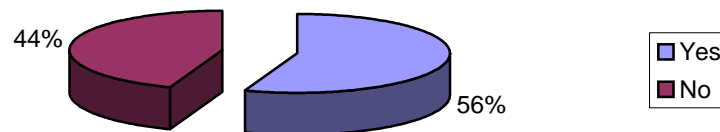
Facility directors and educators were asked if the educational needs of the students are formally assessed when the students are admitted to the detention center. Sixteen facilities report that no formal assessment is used. These facilities rely on informal assessment to determine the individual's ability level in core subjects of reading, writing and math.

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<sup>36</sup> Brooks, Carol Cramer and Histed, Adam T. (2002). *The Status of Detention Education Programs*. Washington, D.C., p.2.

<sup>37</sup> A concomitant challenge for LEAs as they begin working more closely with detention centers will be the geographical dispersal of their students. Overcrowding and other facility issues may affect whether a student is placed in his county detention center. Additionally, some counties do not have facilities and contract with other county or district facilities. Also see Footnote 46, *infra*.

**Chart 1.6 Percentage of Facilities Formally Assessing Academic Skills on Admission**



Twenty facilities report using a formalized assessment tool. The most frequent assessment tool used is the Wide Range Achievement Test (WRAT). One facility uses the Kurtzweil software package that is designed for special education students. Other assessment tools include components of: PACE, PLATO, New Century, Brigance, Saxon Math Kit, and Success Maker. After completing the assessment students are given assignments that match their ability levels. The self-paced programs provide immediate feedback when the youth successfully complete an assignment. The non-computerized assessment tools also provide information that allows teachers to individualize the assignments according to the students' abilities.

The unfortunate part of this scenario is that an estimated 28% to 70%<sup>38</sup> of these children have already been identified, assessed, and placed in the public schools as special education students. The brief assessments performed at the facilities cannot begin to provide the valuable information that is found in the MFEs, IEPs, BIPs and transition plans. Yet, as discussed in Findings Related to

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<sup>38</sup> See, Incidence Data discussion, pp. 43-44.

Special Education, only four facilities report that they consistently obtain IEPs and none regularly or even frequently receive MFEs.

### Curriculum in Detention Centers

Facility directors report that the majority of students are at least two years below grade level. These estimates are consistent with those contained in an EDJJ article, "Juvenile Correctional Education Programs," which cites a national study finding more than one-third of youth incarcerated at the median age of 15.5 read below the 4th grade level (Project READ, 1978) *Id.* at p. 1. There is an array of curricular choices for these students in the Ohio detention centers. Along with the core courses, Life Skills, remedial reading and GED preparation are offered in virtually all facilities.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has done extensive research on the difficulties of providing a meaningful education to students in detention centers. In quoting Emily Martin, former Director of OJJDP's Training and Technical Assistance Division, Brooks and Histed distinguish education in the detention setting in the following way:

- "1. Delivering education in a short-term, pre-adjudicated facility is different from educating in a facility where residents stay from six months to years.
2. The short lengths of stay of detention residents contribute to the difficulty in measuring quality education, thus researchers seldom include detention education as an entity separate from corrections education. This contributes to the limited amount of detention-specific data and information available.
3. There is no standard system of delivery of educational services in short-term detention education programs, thus no established model programs or best practices to promote."

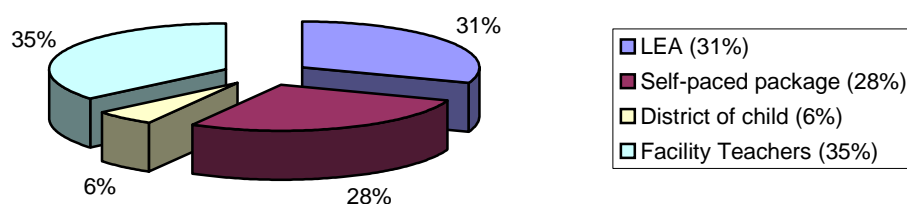
Brooks and Histed NJDA, (Dec.2002) p. 3. All of these problems were cited many times during discussion with Ohio detention facility educators.



Short length of stay and the fact that students are admitted and discharged without any notice are problems plaguing all of the detention educational staff. Many of the facility teachers handle this problem by focusing the curriculum on assignments that center on short-term (one to three days) high-interest material. Teachers in several facilities were observed to lead discussions in which they present a concept and followed with assignments individualized according to ability level. One memorable example was a lively discussion on the various types of spiders and their habits. The material discussed was part of the LEA science curriculum.

Fourteen facilities (35%) report that they rely on facility teachers to establish curriculum. Eleven facilities (31%) use the curriculum of the LEA providing educational services in the facility. Ten facilities (28%) rely on self-paced curriculum and two facilities (6%) report regularly using the schoolwork of the child's LEA.<sup>39</sup>

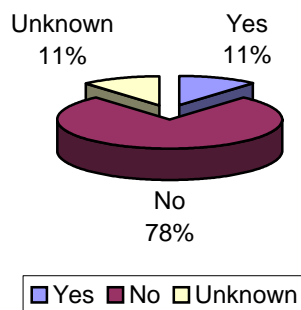
**Chart 1.7 Source of Facility Curriculum**



<sup>39</sup> This option is reportedly available in all of the facilities, but is used with a small minority of students in most of the centers. Communication and exchange of records pose substantial barriers. See pp. 56-62 of this report.

Twenty-seven of the responding facilities indicate that they place pre- and post-adjudicated youth in the same classroom and do not distinguish between educational goals for the two groups. Four facilities attempt to provide different curriculum to the longer-term students. One of these facilities encourages GED completion and the others have the student use a self-paced program. Course work from the local district is also a possibility for these students, and these facilities indicate that they attempt to obtain IEPs for the longer-term students.

**Chart 1.8 Facilities with Curricular Differences for Short and Long Stays**



## **FINDINGS RELATED TO IDEIA-SPECIFIC REQUIREMENTS**

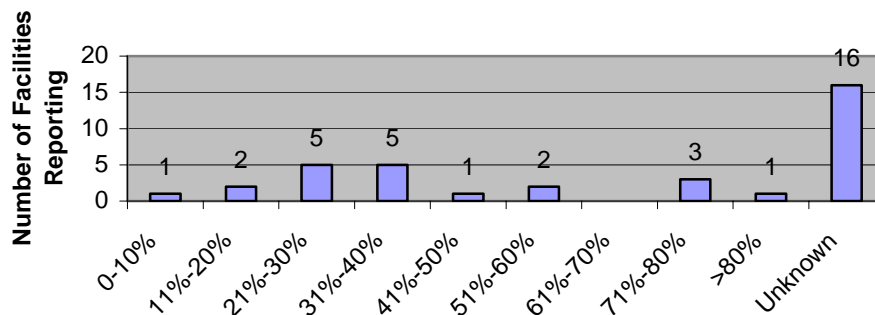
### **Incidence Data**

The OCECD Report previously referenced at p. 6 of this report notes that there are more than three times the number of special education students in Ohio DYS facilities (44%) than in the general Ohio public school population (14%). That report also discusses national incidence rates and explains that numbers of special education students in the juvenile justice system vary, depending upon the study and database consulted. Using 1996 data from the U. S. Department of Education, Office of Special Education Programs, approximately 32% of the

juvenile correctional population was identified as special education students. ODECD Report p. 1. The Children's Defense Fund reports that 28% to 60% of the juvenile offender population is disabled, and in 2000 OJJDP reported studies indicating as many as 70% of incarcerated youth have disabling conditions. *Id.*, pp. 1-2.

Facility directors were asked the number of special education students at their facilities. Most facilities estimated the number of special education students because they do not consistently ask for and/or receive such identifying records as IEPs. Many facilities, in their admission process, question the student about whether s/he receives special education services, and that provides the basis for many of these estimates. Four facilities likely have accurate figures because they obtain IEPs of their students,<sup>40</sup> but the rest of the facilities estimate figures ranging from as low as 10% to as high as 80%.

**Chart 1.9 Estimates of Special Education Students in Facility**



<sup>40</sup> One of these facilities is Franklin County that reports that 10% of the detention students are special education, although 13% of the student population of the Columbus city school system is identified. The LEA liaison could offer no explanation for these data.

### Compliance with State Standards

Because students with disabilities are generally served in the regular education classrooms of facilities, the findings discussed previously related to length of school day and school year, student-teacher ratio, and curricular options apply equally to these students.

### Child Find and Identification

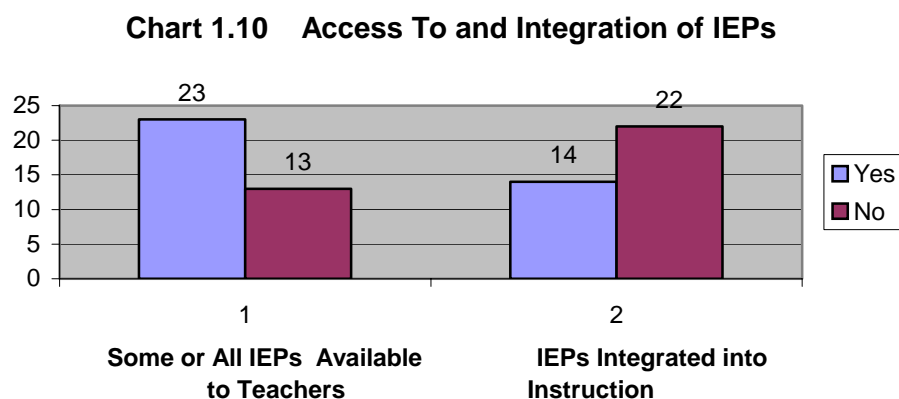
Responses to the survey reveal that most facility directors accurately believe that the LEAs, not the facilities, have the responsibility to identify and locate special education students. Facility staff was asked what actions are taken when they believe that there is a student who may need special education but has not been identified. Reflecting the missed opportunities to identify and refer poorly performing students, and again reflecting the communication gaps between the two systems, only ten facilities report that they routinely notify the LEAs in this situation; 26 report that usually they take no action.

### IEPs, MFEs, BIPs and Transition Plans

A frequently cited barrier to accessing IEPs and other LEA records is the short length of stay of the average detention student. Although there are some instances where facilities report excellent communication with LEAs with telephoned requests for records resulting in faxed records within a day or two, in most instances the records exchange system does not lend itself to timely exchange of these important documents. Conversely, the short length of stay is the very reason that timely access to IEPs is essential. The IEPs can provide facility teachers with important individual information that is impossible to obtain

during the brief assessments performed by facility staff. Additionally, these IEPs can be used to drive the educational program for the more long-term students and for the 21% to 85% that will return to the facility, some repeatedly.

Continuity of special education programming requires ongoing systematic communication between the facilities and the LEAs. With some notable exceptions, special education students are not consistently tracked by the LEAs or facilities and therefore are not served as special education students after admission to the facility. In the vast majority of situations the LEAs do not send IEPs and other supporting records to the facilities, nor do the facilities routinely request these special education records. Twenty-three facility teachers report that they have access to IEPs when the LEAs send them, but with four exceptions, they also note that they infrequently receive IEPs from the LEAs.<sup>41</sup> Only fourteen facility teachers report that they actually integrate parts of the IEP into their instruction. Thirteen facilities report that they never see an IEP. In most cases facility teachers do not have the benefit of IEPs when planning instruction for special education students.



<sup>41</sup> During interviews, the majority of these facilities, when questioned about the number of IEPs received, responded with a figure that is less than ten.

When asked about MFEs and BIPs all but two facilities state that they rarely if ever receive them and/or that they consider MFEs and BIPs not applicable to the correctional setting. 100% of the facilities have their own behavior plan, and in all cases, the facility discipline system overrides any individualized behavior plan. While this may be appropriate on a student-by-student basis, a blanket override appears inconsistent with the requirement of individualization in IDEIA. Further, access to and review of BIPs may alert facility teachers to strategies that are effective with the student and also consistent with facility's discipline system.

The four facilities that consistently obtain IEPs and serve students as identified special education students have certain characteristics in common. The school staff in each of these facilities is employed and supervised by an LEA. There is a certified special education teacher in each of these facilities. In two cases the special education teachers are available to consult with the regular education teachers. In one case the special education students are taught in a self-contained classroom and in the other case the special education teacher is the only teacher at the facility.<sup>42</sup>

In two facilities that consistently obtain IEPs, the teachers have access to the LEA computerized data system. In one facility the special education teacher personally calls the LEA to obtain the pertinent records. In another facility a list

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<sup>42</sup> It is important to note that this success flows directly from the shared communication system of the LEA and facility education staff. Comparable levels of communication were identified in some facilities operating their own educational program. Additionally, there are LEA-operated programs where the communication between the facility and the LEA is minimal, with predictable consequences for the educational programming.

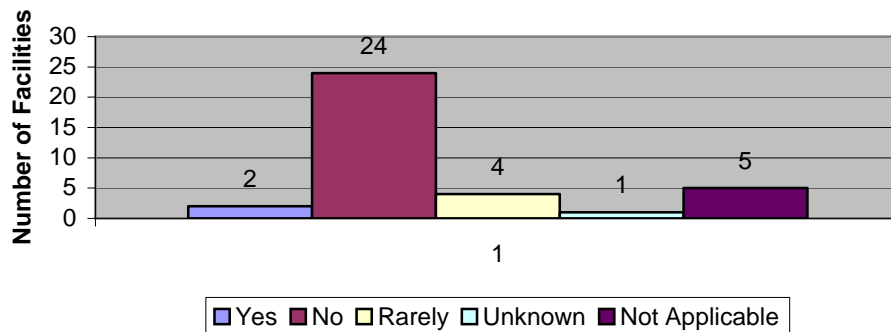
of students with IEPs is posted for the information of all teachers, and the IEPs are readily available for lesson planning purposes.

Part of the IEP is the transition plan required for all special education students 16 years of age and older to assist them in transitioning to successful adult life. These transition plans are not only useful in planning meaningful learning experiences for the child but are especially valuable when guiding the child with vocational choices or appropriate curricular choices.

Two survey items addressed the use of transition plans. Facilities were asked if they received written transition plans from the LEAs for students who are 16 or over. The follow up question was "What are the facilities' responsibilities for implementing transition plans for special education students?" Only three facilities reported that they receive transition plans, and all of the facilities report that they believe that responsibilities related to transition plans are not applicable to the facility. These transition plans and BIPs, even if they cannot be fully implemented in the correctional setting, can provide some guidance and direction for the student's educational program and behavioral strategies that may be effective. However, the facilities currently do not have this information.

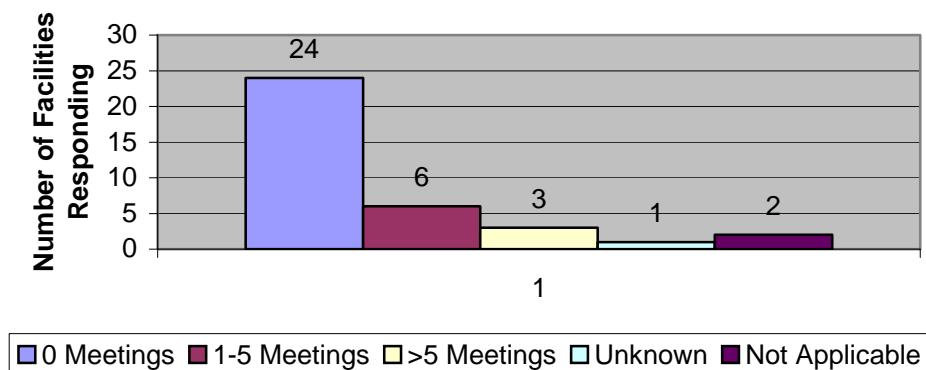
Facilities were asked whether there were IEP team meetings to redraft IEPs for students admitted to the facilities. Only two facilities stated, "Yes," and four additional facilities responded, "Rarely." Several referenced the short length of stay as making this impractical. One program, served by an LEA, "does an LRE change," but does not take any other action with the IEPs. The facilities noting "Not applicable" in response to this question explained that they do not see IEPs.

**Chart 1.11 Facilities Reporting that IEPs Are Redrafted on Admission**



Facilities were asked about IEP team meetings for their students. Several facilities referenced the number of meetings in a two-year period; others did not limit the time frame. Only three facilities had more than five meetings. Of these, one facility had 20-30 meetings involving its' students and a second had 11 meetings. Chart 1.12 provides additional data on IEPs.

**Chart 1.12 Facility Students Having IEP Meetings**

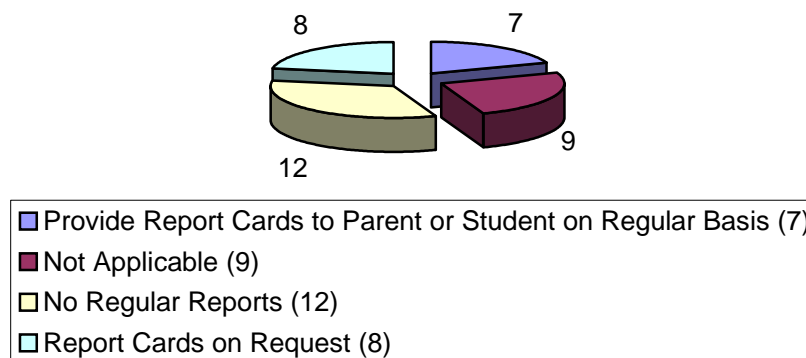


IDEIA and state law currently require that LEAs inform parents of IEP progress at least as often as parents of nondisabled students are informed of their children's progress. It is not known to what extent LEAs keep parents informed of the progress of their children in detention, but facilities were asked



about their parental reporting efforts. No facility reports progress on IEP goals to parents. Seven facilities regularly provide report cards to parents or students. Eight facilities feel that report cards are not appropriate because of the short length of stay, and one educator stated that reports to parents are not necessary because parents are rarely interested parties. Eight facilities indicate that they will provide report cards on request to parents, and all facilities report that they either do provide or will provide grades and attendance to LEAs upon request. All facilities report that students receive daily feedback in all cases. One facility provides each student with a folder when s/he leaves containing work completed, grades and attendance information.

**Chart 1.13 Facilities Providing Feedback to Parents**

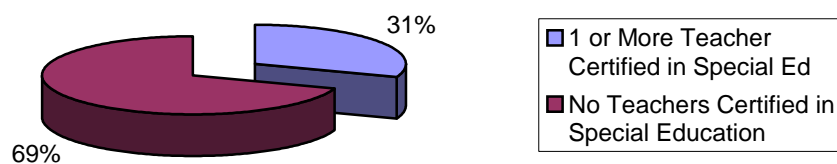


#### Presence of Special Education Teachers

Eleven facilities report the presence of one or more teachers certified in special education. An additional facility currently has a teacher completing her Masters degree in special education. With the exception of the facility with a self-contained special education classroom, the special education certified teachers serve general education classrooms, without regard to whether the students have

disabilities. Facilities report, however, that they add valuable skills and a valuable perspective to the facilities' education programs, as well as informally consulting with regular education teachers. Absent access to IEPs, however, the expertise of these teachers cannot be fully maximized.

**Chart 1.14 Number of Facilities with Special Education Teachers**

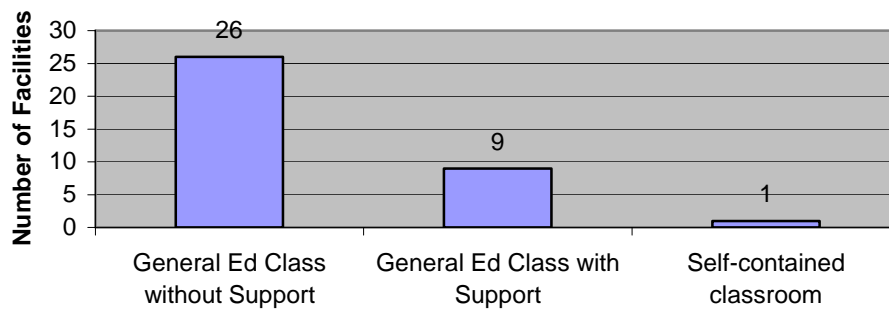


### Classroom Placement

Although students come from a variety of educational settings, their classroom placement in the facilities is dependent on what is available. The availability of classroom space in most facilities is a function of the size of the facility and population. Particularly in the older structures, there simply is no extra room to create a space where a resource or self-contained class could be located.

Twenty-six facilities have only general education classrooms without special education support. One facility has a self-contained class, and the remaining facilities have general education classrooms with special education support. Typically support in the general education classroom consists of teacher or student access to the special education teacher located in the facility.

**Chart 1.15 Special Education Placements  
Available in Detention Centers**



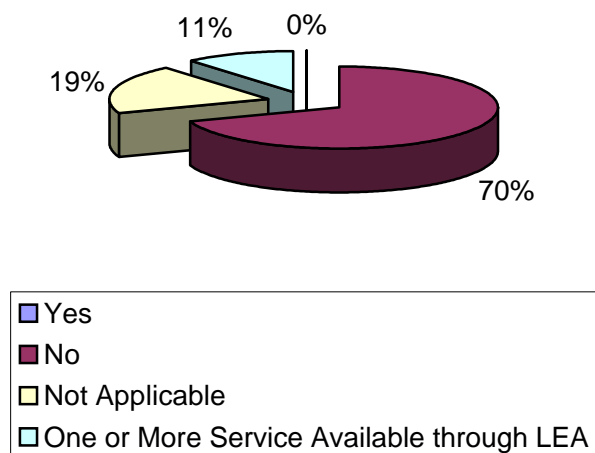
It may be that because of the structure that exists in facilities and the typically low student-to-staff ratios, students who required self-contained classrooms in the public school do not require this in the facility. However, as noted in the section addressing IEPs, MFEs, BIPs and Transition Plans, IEPs are not usually redrafted to consider and address placement and service issues.

### Related Services

Facilities were asked about related services that might be listed on IEPs. Many facility directors were unfamiliar with this term. Even in most facilities where LEAs provide the educational program, related services have not been provided, although four facilities note that one or more related services are available through the LEA if needed. Two facilities indicate that they had received a deaf student, and both accessed interpreter services through the court system. One director explicitly stated, “Of course, this wasn’t for the education program.” Another facility had served a low-vision student and was able to access appropriate materials through the court system. All facilities have psychological services and assessment available for crises, and some facilities

have arrangements with community mental health centers to provide services to the youth at the facility. A few facilities have counselors on staff. None of these services, however, is tied to students' IEPs. The facilities responding, "Not applicable," were acknowledging that they do not see IEPs on their students.

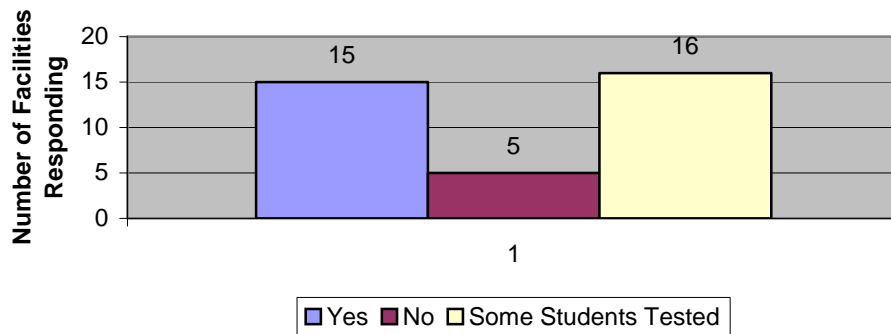
**Chart 1.16 Related Services Available for Students**



### State and Districtwide Assessment

LEAs are obligated by IDEIA to include students with disabilities in district and statewide assessments. Fifteen facilities report that their special education students are included in Ohio's proficiency and graduation tests; five facilities indicate that the students are not included and 16 facilities report that testing is sporadic and varies from LEA to LEA. One facility director of a program that is served by an LEA indicated that the LEA's own students in the facility are not tested. Another liaison from an LEA providing services acknowledged that students from her LEA are tested but that the students with disabilities in the facility from other districts are not tested unless the LEA requests it.

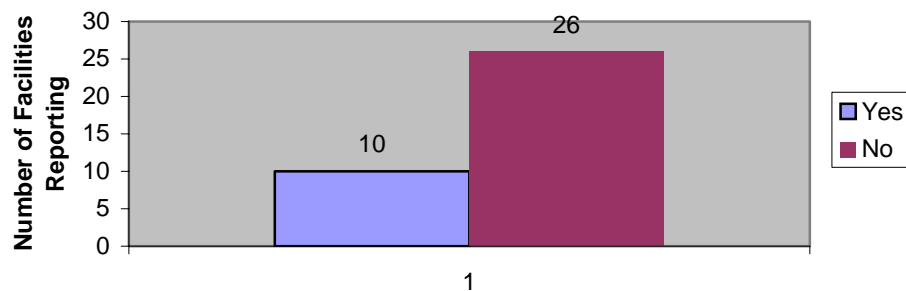
**Chart 1.17 Inclusion of Students with Disabilities in Statewide Testing**



### Monitoring

Facilities were asked whether any state or local authority monitored their special education programs. Ten facilities responded, “Yes,” and included are those monitored by the ACA. Many of the facilities served by LEAs stated that they are a part of the LEA monitoring process, although one facility served by an LEA explicitly stated that their program had never been monitored.

**Chart 1.18 Facilities Reporting Monitoring of Special Education Program**



One facility director stated that nobody had shown interest in his educational program until the visit occasioned by this report, and several other facility directors expressed appreciation for the visits.

## Findings Related to Transition

In *Transition/Aftercare*, the National Center on Education, Disability and Juvenile Justice (EDJJ) defines transition and explains the importance of transitional services:

"The timely exchange of the IEP is important to the success of the incarcerated child as he attempts to transition back into the LEA or the community at large. Transition is a "coordinated, outcome-based set of aftercare services for youth with disabilities in the juvenile justice system. Transition services help youth achieve social adjustment, employment, and educational success once they leave the juvenile justice system. The ultimate goal of transition interventions is to promote successful re-integration of juveniles into the community. In order to provide appropriate educational and vocational services to adjudicated youth, it is imperative that assistance be available for service providers and youth during transition periods."<sup>43</sup>

Detention center directors and educators express a strong desire to create a positive turning point for special education students. Directors cite a number of factors inherent in the detention experience that actually provide special education students with the opportunity to recover lost learning opportunities. These inherent factors can be summed up as attendance and attention. Although students in detention facilities may choose to not attend classes (albeit with consequences), virtually all students do opt to attend simply because alternative activities in the facilities are much less attractive than those the student is used to finding.

Once in the classroom, special education students benefit from a respectful, quiet, orderly environment. This environment allows the student to concentrate on the learning experience. One 16-year-old student self-identified as a student with learning disabilities poignantly stated that his time in the

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<sup>43</sup> National Center on Education, Disability and Juvenile Justice. *Transition/Aftercare*. University of MD, College Park, MD. Accessed July 6, 2005, at <http://www.edjj.org/focus/TransitionAfterCare/>

detention center had been “the only time I really learn anything.” The facility uses a self-paced program, and the student states that the teacher answers any questions. When asked about his public school experience, he stated that he “was mostly out of school.” He noted that he stopped all but sporadic attendance in the 8<sup>th</sup> grade, stating that when he attempted attendance, “I was in classes I don’t know anything about, and I quit even writing my name on the papers.” While other detention facility students have had more positive experiences, this student does speak for a segment of the population for whom academic success in the facility can be a new experience.

#### Communication between Detention Centers and LEAs

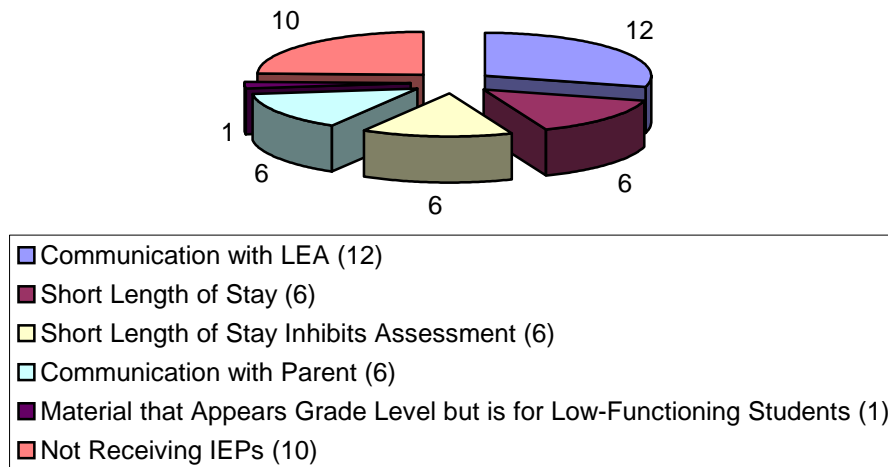
Communication, cooperation and coordination between the detention centers and the LEAs are critical keys to ensuring that these learning opportunities translate into turning points rather than just isolated events in students' troubled lives. This point is emphasized in *Transition/Aftercare*, defining effective transition practices as:

“...(T)hose that are shared by correctional education staff as well as by personnel from the public schools and other community-based programs such as mental health and social services that send and receive students. The quality of educational and vocational services for students is contingent upon successful interagency collaboration.” *Id.*

Because of the importance of communication between the detention centers and the LEAs several items on the assessment tool were designed to capture the methods of communication and the efficacy of these methods. Facility directors identify “Communication” as a significant issue. In response to the question, “What do you consider your greatest challenge in providing a special education

program," one-third of the detention center staff cites communication between the detention center and the LEA.<sup>44</sup>

**Chart 1.19 Facility-Identified Greatest Challenges in Serving Special Education Students**



Facility staff members were asked to describe the communication system that exists between the facility and the LEA regarding special education students in the detention center. The most frequent response was that the facility notifies the LEA of the admission and release of its students. This notification can serve at least two purposes: First, to request school records and inform the LEA of the student's location; and, second, to facilitate processing the per diem charged by all but five facilities in the survey. The timing of the communication varies and when the primary goal is billing, the communication is most often directed to an attendance or fiscal employee of the LEA rather than to a counselor, principal, teacher or special education administrator. One facility representative stated that although records were requested during this call, they were almost never

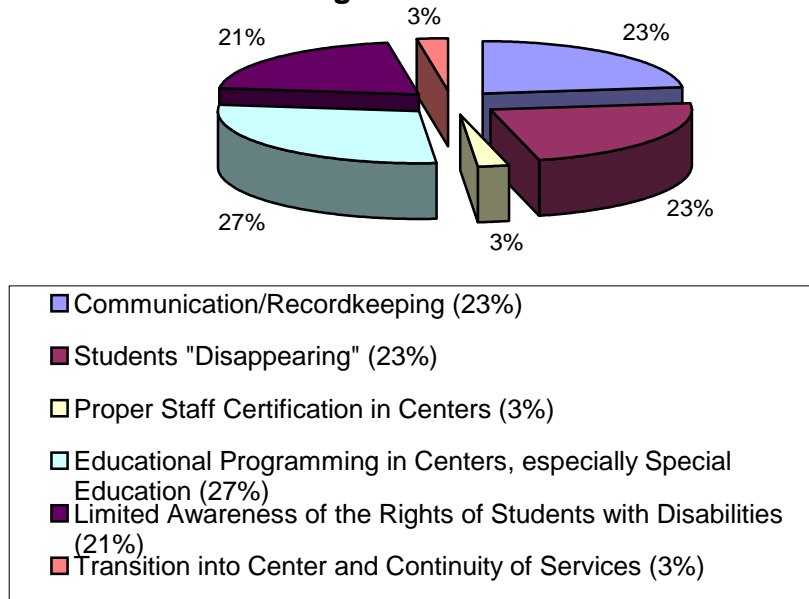
<sup>44</sup> Some facilities referenced more than one challenge, thus resulting in a total of more than 36.



obtained from a particular district. The facility staff then noted that the call was to a fiscal employee of the LEA and commented that it was possible that the LEA programmatic people might not be receiving the messages that records were needed.

It is important to note that although a survey of LEAs was beyond the scope of this study, the concerns expressed by facility directors about communication are mirrored by comments of SERRC directors in telephone contacts regarding the project. Twenty-three percent express a significant concern about communication and recording keeping between the facilities and LEAs, an additional 23% express concern about students getting “lost” between the systems, and 3% reference concern about transition into the centers and continuity of services.

**Chart 1.20 Significant Concerns of Special Education Regional Resource Centers**



Some facilities report excellent communication with the LEAs. The current president of OJDDA notes that in her experience, “education . . . comes to the table.”<sup>45</sup> Several facilities over the years have developed relationships with particular LEA staff, and this has facilitated trust and communication. Several facilities referenced visits to incarcerated students by LEA teachers and principals. One principal was referenced who comes to the facility to visit every child from that school. Another facility referenced a school person who simply appears with school records when a child from that school is placed at the center.

Communication efforts are also made by facilities. The educational supervisor at one center makes periodic visits to LEAs to pick up and deliver school assignments. She visits individual schools and reports that from time to time, she will walk to a classroom to get work if the teacher has not already sent it to the principal's office for her to pick up. This facility's educational staff keeps and provides to the LEAs detailed records of the lesson content and performance of the student, to enhance the likelihood that the LEAs will award academic credit for completed work. In some cases the facilities designate a staff person to call or fax the LEA on a regular basis to notify the district of admissions and discharges, to request records, and to report attendance, subjects and grades. In other instances, the facilities use a courier to pickup and hand-deliver schoolwork and other communiqués between the facility and the LEA. In one case the courier is an employee of an LEA with the facility contributing to the cost.

Certain facilities and LEAs have educational liaisons that meet on a periodic basis with facility and LEA staff. These liaisons are able to communicate

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<sup>45</sup> “The Third Message from the President,” Accessed on July 6, 2005, at <http://ojdda.com/index.html>

the needs of both the facility and the LEA and can assist in ironing out many of the communication problems that may arise. In some cases the liaison is an employee of the LEA, some are court employees, some are employed by the educational service center, and some are employed by the facility.

Prior to the beginning of last school year, one detention center director invited the public school superintendents to a facility "open house" meeting. This meeting allowed the director to familiarize the superintendents with the facility's educational programming. Some directors cited instances where judges attempt to use commitment orders to require specified communication or transition efforts, and several centers rely on parole officers to handle communication with the LEAs once the students leave the facilities.

Communication strategies vary from facility to facility, and often vary within facilities, with communication being good with some LEAs and poor to nonexistent with others. There is no systematic communication strategy with LEAs and detention centers—the communication networks have developed on an ad hoc basis, some of which are substantially more effective than others.

#### Records Exchange between Detention Centers and LEAs

The gaps in the communication process are especially apparent in the area of record exchange. Most facilities do not believe that confidentiality guidelines prohibit timely exchange of records, although one facility director stated he had been told that confidentiality rules prohibit facility access to LEA records.<sup>46</sup> A facility teacher who was employed by the LEA serving the facility

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<sup>46</sup> This Director stated it would be helpful if ODE could clarify the right of the detention centers' educational staff to obtain educational records from the LEAs.

stated, in response to a question about whether she obtains IEPs, that confidentiality can be a problem when she tries to access IEPs from her own district.

It appears that FERPA provisions and the confidentiality provisions of IDEIA permit the detention center educational programs to access LEA records on their students without signed parent permission so long as the LEA notifies the parents. Because the parents of these students are often unavailable to the facilities, this is an area that could benefit from ODE clarification.

Statutes governing the confidentiality of juvenile proceedings will require the facilities to make the initial contact with LEAs since the LEAs will not usually know when students have been placed in detention.<sup>47</sup> However, the survey reveals that even after notification is accomplished, many facilities rarely receive requested records and students' LEA class work. As noted above this may be the result of communication breakdowns in local district offices when only a fiscal person is contacted about the detention. However, some detention directors and educators also report that they make contact with the student's home school and still do not receive records.

Facility directors were asked about the process used to send records from the facility to the LEA when the child is released. All facilities report that they will send grades and attendance to the LEAs upon request. Two facilities do not routinely give any type of notice to the LEA upon discharge of a student. As part of the billing procedure, all but five facilities routinely notify the LEAs at some

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<sup>47</sup> With 3900+ schools in the state, the burden on facilities is substantial, although some facilities manage to do it. A teacher in a facility serving one county stated that the center's education program served students from 107 different schools the previous year. Coordination with, and the assistance of, LEAs are critical for a systematic communication and records exchange program to be created.

point after the child is discharged. This notification is often done by fax or telephone call at the end of each week. Twenty-seven facilities routinely send attendance, grades and course records to the LEAs upon discharge and one facility provides departing students with folders containing all completed work, grades and attendance information.<sup>48</sup>

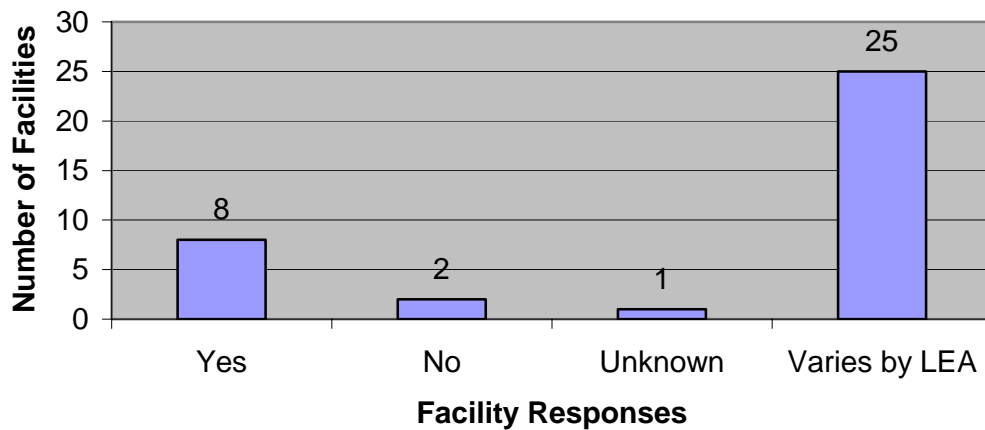
#### Academic Credit for Work Completed in Detention Centers

All of the centers offer instruction in the core curriculum courses, either through texts and materials or through self-paced programs, and all students are graded on their work. Incarcerated students and facility teachers both report that previously poorly performing students show interest and make academic progress while in detention. Whether this academic progress is averaged into the LEAs' grades for the students is often uncertain. Two facilities report that the LEAs do not give students credit for time spent and work completed in detention. Eight facilities report that the LEAs do give such credit, and twenty-five facilities report that awarding of credit is sporadic and the practice varies from LEA to LEA. Inexplicably, two large LEA-operated programs report that even within their own LEA, schools have discretion to grant or deny credit for the time spent and work completed by students in the LEA-managed facility classroom.

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<sup>48</sup> See, Appendix IV for examples of forms used by some facilities.

**Chart 1.21 Facilities Reporting that LEAs Grant Academic Credit for Detention Center Work**



Many facility directors feel that awarding academic credit for detention schoolwork is important to the continued success of the student. In discussing communication efforts previously referenced on pp. 57-59 of this report, directors note that a positive outcome of some of these efforts has been increased acceptance of grades by LEAs. Additionally, two directors state that when they learn that a school has not granted academic credit for work in the facility, they call the school districts and are usually successful in getting credit awarded for the student. However, this happens on a case-by-case basis only after it is called to the facility directors' attention.

As previously noted, although all but five facilities routinely notify the LEAs at some point after the child is discharged, nine facilities send attendance, grades and course records only upon request. Those facilities note that they rarely receive requests for this information from schools, although sometimes students ask for their grades.

## CONCLUSIONS AND RECOMMENDATIONS

In a letter advising the state's juvenile court judges and district facility directors of this study and seeking their cooperation, ODE officials advised that there would be a collaborative effort to develop a plan addressing issues identified in the survey. This report is a call to action, requiring prompt development of a comprehensive plan targeting the identified issues.

In all but a few of Ohio's detention centers, special education services consistent with students' IEPs are not being provided. Facility administrators and staff and SERRC directors identify the same barriers preventing the effective delivery of these services in the facilities. Additionally, there are general education issues that impact students with disabilities in the detention centers, such as uniform acceptance of grades and the effect of statutes, rules and purported waivers related to the length of the school day. These issues need to be addressed.

Because of the commitment to education found in virtually all of the facilities, the presence of special education teachers in one-third of the facilities, and the recognized need by SERRC and facility directors and to improve communication and coordination, it is believed that a concentrated, targeted focus on special education services can resolve many of the identified problems. This must include implementation of existing special education policies and rules, strengthened monitoring at the SEA and LEA levels and development or improvement of communications systems, including record exchange between facilities and LEA special educators. There must be a systematic effort to ensure that implementation occurs and that communication and coordination strategies

are developed and embedded. Recommendations for both immediate action and collaboratively-developed long-range solutions follow.

### **Immediate Action**

Ohio Department of Education - The Department should assume a leadership role in addressing compliance concerns identified in this report and should:

1. Promptly communicate to LEAs the findings contained in this report; the requirements of Ohio Rule 3301-51-07(C) that the district of residence is responsible for ensuring that IEPs are implemented, including related services, regardless of where the student is placed; and ODE's expectation that every LEA will immediately take steps to ensure that it is in compliance with this rule as it relates to the district's students who are placed in detention centers.
2. Promptly communicate to districts a reiteration of their obligation to include all students with disabilities, including those in detention centers, in State and districtwide assessments, and communicate the Department's expectations related to this area.
3. Strengthen its current special education monitoring system to ensure that all LEAs are explicitly monitored on services provided to their students in detention centers, including teacher certification issues and inclusion of these students in assessments. Initially, the monitoring should specifically target these areas for all LEAs, and particular focus should be maintained until data establish that this is no longer a substantial compliance issue.
4. Communicate to those LEAs providing detention center education programs their obligation to ensure that all students with disabilities in the



centers receive appropriate special education services, including related services from appropriately certified staff, and that all be included in assessments, and not just the students from the LEA providing the services. This, too, should be an area of enhanced monitoring until data establish that this is no longer a substantial compliance issue.

5. Clarify the existence and validity of any verbal blanket waivers or other waivers that impact the length of school day for special education students in the detention facilities.
6. Review ODE funding streams to determine existing legal impediments to the ability of detention centers to access funds. Make accessible to the centers all funding streams that do not have statutory or regulatory impediments. Review existing statutory and regulatory impediments to evaluate their value and necessity.
7. Communicate with LEA special education administrators that special education records may be transmitted to detention center education programs under IDEIA without the requirement of parental consent so long as there is an attempt to notify the parent or, alternatively, so long as there is annual notification to parents of this disclosure practice.
8. Take necessary steps to ensure that detention centers are on all listserves and mailing lists for special education training opportunities through ODE/OCE, SERRCs and other such providers.

LEAs - With the legal obligation for child find and to ensure a FAPE for students with disabilities, LEAs must take a leadership role in working with detention

centers to ensure that the LEA identifies all appropriate students and that identified students receive FAPE. Thus, the LEAs should:

1. Promptly take all necessary actions within the LEAs to ensure that they are fully meeting their obligations under Ohio Rule 3301-51-07(C) to their students in detention facilities, including the provision of services in the facilities consistent with the students' IEPs and the provision of related services.
2. Special education administrators should promptly identify the detention center(s) to which the district's students are admitted and meet with facility administrators and educators to determine what areas of special education services need to be addressed. Determinations should be made about procedures that can be immediately put in place to facilitate communication, records exchange, referrals, and acceptance of grades of special education students in the facilities. Determinations should additionally be made about the reporting of IEP progress to parents of students in detention centers and about ensuring that all students with disabilities are served by appropriately certified staff and are included in State and districtwide assessment programs. Procedures should then be put in place to implement the determinations made.
3. Ensure that intra-agency systems are in place in the LEA so that special education administrators or their designees are informed of communications about admissions and discharges from the detention centers.

4. Special education administrators should initiate a process by which students' IEPs, including BIPs and transition plans, and other relevant documents are faxed, mailed or hand delivered to detention centers promptly upon notification of the students' admission.
5. With the pertinent detention centers, special education administrators should develop a communication system that results in the LEA being notified when students' IEPs cannot be fully implemented in the center.
6. For students for whom their IEPs cannot be fully implemented in the center, ensure that IEP team meetings are convened by the district to review the students' IEPs for a determination of whether additional services need to be put in place or whether the student's needs have changed upon admission to the facility, thereby necessitating changes in the IEPs.
7. Engage in self-monitoring of services provided to students with disabilities in detention centers until such time as data establish that the district has met its obligations under Ohio Rule 3301-51-07(C).
8. Special education administrators should take necessary steps to ensure that detention centers are on the districts' listserves and mailing lists for special education training opportunities.
9. LEAs that provide the educational programs in detention centers should review, and as necessary amend, their procedures to ensure that IEPs, including related services, are fully implemented in the facilities; that all special education students' IEPs are implemented and not just those of students from the district; and that all students are included in State and

districtwide assessments and not just those students from the district. If students' IEPs cannot be fully implemented in the facility, the LEA should convene IEP team meetings to review the students' IEPs for a determination of whether students' needs have changed upon admission to the facility, thereby necessitating changes in the IEPs, or whether additional services need to be established.

Detention Centers - As temporary care providers for the students in their facilities, it is incumbent upon detention centers to work closely with the pertinent LEAs to meet the educational needs of students with disabilities in the facilities. To address immediate needs, the detention centers should:

1. Meet with LEA special education administrators from districts served by the facility to determine what areas of special education services need to be addressed. Determinations should also be made about procedures that can be immediately put in place to facilitate communication, records exchange and acceptance of grades of special education students for work completed in the facility. Determinations should additionally be made about the reporting of IEP progress to parents of students in detention centers.
2. To the extent necessary, establish procedures to address issues identified in Recommendation 1.
3. As a part of the assessment process upon admission, attempt to identify students with disabilities who have IEPs.

4. Promptly upon admission of students to the detention centers, notify the pertinent LEAs of admission and request all pertinent educational records, including special education records.
5. Promptly review the IEPs upon receipt and proceed to implement the IEP to the extent possible in the facility, advising the LEA of instances where the IEP cannot be fully implemented and request IEP team meetings to address these areas.
6. Make referrals to the pertinent LEA when facility education staff identifies a student who may have a disability and requires special education services, but who has not yet been identified by the LEA.
7. Maintain educational records on course content and performance of each special education student, including IEP objectives, and provide this information to the pertinent LEA upon discharge of each student.
8. Participate to the extent appropriate in IEP team meetings convened by LEAs on behalf of detention center students.

### **Comprehensive Long-Range Action**

It is anticipated that implementation barriers will be encountered as the above recommendations are initiated. It is therefore recommended that ODE exercise a leadership role and, in consultation and coordination with the juvenile justice system, develop statewide work groups that include juvenile court judges, court administrators and Board of Trustee representatives; facility directors and educators; probation officers; LEA educators and

administrators; and ODE Office for Exceptional Children (ODE/OEC) representatives to at least:

- A. Identify and consider barriers that impair the provision of FAPE to students with disabilities in detention centers, and develop strategies to address those barriers. Recommendations for necessary statutory or regulatory changes should be communicated to the appropriate systems for action. ODE should track recommendations to determine whether implementation is accomplished and, if not, ODE should then work with the appropriate work group to devise alternative strategies to implement the recommendation or alternative strategies to address the concerns.
- B. Identify any statutory or regulatory changes necessary to ensure compliance with ODE special education rules in the provision of services for these students. These areas should then be communicated to ODE/OEC for action on each identified area.
- C. Identify strategies to create or improve communication and records exchange between LEAs and detention centers so that LEA special education administrators receive prompt communication when students with disabilities are admitted or discharged to and from the facilities, and so that student records are promptly exchanged, including all relevant special education records from the LEAs and student attendance and assignment records from the facilities. Consideration should be given to providing detention center

educational staff access to LEA computerized databases containing educational records of students with disabilities being served in the facilities. Recommendations for necessary statutory or regulatory changes should be communicated to ODE/OEC for action. ODE should track recommendations to determine whether implementation is accomplished and, if not, ODE should then work with the appropriate work group to devise alternative strategies to implement the recommendation or alternative strategies to address the concerns.

- D. Identify and document best practices strategies for the delivery of special education services in detention facilities. These strategies should then be communicated to the appropriate systems for statewide dissemination and action.
- E. Consider and evaluate the current division of responsibilities that makes students' districts of residence programmatically responsible for FAPE for detention center students. Specific consideration should be given to instances where there is substantial geographical distance between the students and districts of residence. Conclusions and proposals for changing statutes or regulations should be communicated to ODE for action.