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## **An assessment of special education services provided for juvenile offenders with disabilities in Alabama.**

Rebecca Ann Wilson Seales  
*University of Alabama at Birmingham*

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**AN ASSESSMENT OF SPECIAL EDUCATION SERVICES PROVIDED FOR  
JUVENILE OFFENDERS WITH DISABILITIES IN ALABAMA**

**by**

**REBECCA ANN WILSON SEALES**

**A DISSERTATION**

**Submitted to the graduate faculty of The University of Alabama at Birmingham in partial  
fulfillment of the requirements for the degree of  
Doctor of Philosophy**

**BIRMINGHAM, ALABAMA**

**2000**

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**ABSTRACT OF DISSERTATION  
GRADUATE SCHOOL, UNIVERSITY OF ALABAMA AT BIRMINGHAM**

**Degree** Ph. D.    **Program** Educational Leadership

**Name of Candidate** Rebecca Ann Wilson Seales

**Committee Chairs** Drs. Richard M. Gargiulo and Harold Bishop

**Title** An Assessment of Special Education Services Provided for Juvenile Offenders with Disabilities in Alabama

The purpose of this investigation was to assess the demographic characteristics of facilities serving adjudicated juvenile offenders (AJO) in Alabama and the level of implementation of the mandates of the Individuals with Disabilities Education Act (IDEA) in facilities identified as providing educational services to AJO with disabilities. The specific aims of this study were to (a) identify the number of facilities providing educational services to AJO in Alabama; (b) determine the relationship of facilities serving AJO in Alabama to the Alabama Department of Youth Services (DYS); (c) determine the extent to which the mandates of the IDEA are implemented in these facilities; and (d) determine if trends are present between various demographic characteristics of facilities represented and the level of implementation of the mandates of IDEA.

The study found that differences do exist in the implementation of the mandates of the IDEA related to the relationship of the facility with the DYS. It was also determined that differences in the implementation of the mandates of the IDEA related to certain variables do exist. In addition, it was determined that differences do exist in the implementation of the individual mandates of the IDEA in the provision of educational services to juvenile offenders eligible for a special education and related services.

## DEDICATION

I am grateful to and thankful for the support of my family and friends as I have endeavored to complete this dissertation. However, I must dedicate the purpose, intent and hopeful outcome of these studies to my son Jason and the thousands of students like him that have experienced the trauma of education through the eyes of those that do not “fit the mold.” His experiences in public school were the motivation to my becoming a teacher. He and others whose educational needs require a commitment well beyond the average are why I am an educator today.



## **ACKNOWLEDGMENTS**

**The gratitude that I owe, if itemized and listed individually, would out number all of the pages in this dissertation. The support of my husband, family, friends, instructors and students, past and present has been remarkable.**

**To all of the members of my committee, I say thank you for taking the time to direct me to the proper path. To Dr. Richard Gargiulo, thank you for asking me to finish and for holding my feet on the ground.**

**To the staff at the facilities who responded to my survey questions thank you, not just for what you have done for me; thank you for caring enough to work with these very special children.**

**To my friends, lifelong friends are the very best. That is the kind of friends you are and I thank you for being there.**

**To my family, there are no words that can ever express the magnitude of my gratitude to every one of you. You have supported me emotionally, physically and financially. Your belief in me, the pride you have shown in my efforts and the love you have shared with me, as well as anyone I have ever brought into our lives, was remarkable.**

**To my husband, Dale, no words exist that can express the gratitude I feel for your love and support. Thank you.**

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## **CHAPTER 1**

### **INTRODUCTION**

Although national attention has focused on the provision of a free and appropriate public education (FAPE) for individuals with disabilities, there is a subpopulation of eligible students whose needs and rights are oftentimes neglected. Juvenile offenders with disabilities frequently do not receive the educational services to which they are entitled (Leone & Meisel, 1997; Puritz & Scali, 1998; Rutherford, Nelson, & Wolford, 1985; Snyder & Sickmund, 1999). The practices of ignoring or improperly implementing the mandates of the Individuals with Disabilities Education Act (IDEA), Public Law (PL) 105-17, in the education of Adjudicated Juvenile Offenders (AJO) eligible for special education services may be costly both monetarily and in the development of human potential (Puritz & Scali, 1998).

Every year thousands of juvenile offenders with disabilities “move through the labyrinth of the U. S. criminal justice system” (Coffey, 1987, p. iii). Whether it is at arrest, pretrial detainment, court appearance, incarceration, or ultimately upon release, these juvenile offenders with one or more disabilities pose unique challenges and problems for personnel in criminal justice and education.

Because of the lack of training and information available regarding the juvenile offender with disabilities, many criminal justice personnel do not recognize or understand the behaviors or special needs of the juvenile offender who exhibits a learning disability, an



emotional-behavioral disorder, or is mentally retarded. The outcome of this lack of understanding is often an inappropriate placement or unfair treatment of the juvenile offender with disabilities (Coffey, 1983).

The U. S. Department of Justice reported that in February 1989, there were approximately 90,000 juveniles in custody in public and private correctional facilities in the United States (U. S. Department of Justice, 1991). In 1997, there were almost 126,000 juveniles in custody in approximately 3,500 public and private facilities in the United States (Snyder, 1998; Snyder & Sickmund, 1999). This represents a growth of approximately 38% in 8 years.

As the number of juveniles involved with the juvenile justice system increases, the need for educational services within facilities serving AJO with disabilities increases. Yet, research has shown that many facilities continue to neglect to implement the mandates of the IDEA, thus violating the rights of the AJO with disabilities as guaranteed by the IDEA (Rutherford et al., 1985; Snyder & Sickmund, 1999). The mandates of the IDEA are as follows:

1. All students eligible for special education services are to be identified and served through a FAPE with zero reject.
2. All students eligible for special education services are to receive educational services in the Least Restrictive Environment (LRE) as determined appropriate by the Individualized Education Program (IEP) committee.
3. All students eligible for special education services are to have an IEP as determined by the IEP committee to include all of the requirements as stated in Section 601 of the IDEA.

4. If a parent of a student eligible for special education services does not agree with the actions of the IEP committee, the parent has full access to procedural due process.

5. All students eligible for special education services are to participate in appropriate nondiscriminatory assessments.

6. Parents of students eligible for special education services are to participate fully in the decision-making process that affects their child's education.

Youth with disabilities are often faced with circumstances and issues that make it more likely that they will be removed from their home and placed in an alternative setting by the juvenile justice system. They often have poorly developed social skills and lack the ability to comprehend and respond appropriately to questions. The presence of these behaviors increases the probability that offenders with disabilities will be incarcerated (Leone, 1991; McIntyre, 1993; Murphy, 1986a; Quinn, Newman, & Cumblad, 1995; Robinson & Rapport, 1999; Santamour, 1987). Thus, it is important that educators address these behavioral deficits with remediation through educational services as guaranteed by the IDEA.

In 1985, Rutherford et al. conducted a national survey obtaining data on special education services provided for incarcerated juveniles in correctional facilities. The reported percentages of incarcerated juveniles with disabilities, as a proportion of the total population of incarcerated juveniles, in correctional facilities ranged from a low of 4% in South Dakota to a high of 99% in Kansas. The data also showed that of those AJO determined to be eligible for special education services, the percentage receiving any type of special education services ranged from 0% in five states to 100% in twenty-five states. The five states reporting 0% received no federal funding provided by Public Law 94-142,

the Education for all Handicapped Children Education Act (EAHCA), now called the IDEA.

Investigators (Bullock & McArthur, 1994; Leone, Rutherford, & Nelson, 1991; Robinson & Rapport, 1999) reported that the most common disabilities identified within the juvenile offender population were learning disabilities, emotional-behavioral disorders, and mental retardation. The rate has been reported as being disproportionately three to five times higher than the percentage of the public school population identified as disabled (U. S. Department of Education, 1993). Snyder and Sickmund (1999) indicated that 10% of all AJO are mentally retarded, approximately 50% are diagnosed as learning disabled, and more than 60% exhibited an emotional-behavioral disorders. At one extreme, Wolford (1987a) reported that some authorities would argue that by definition all incarcerated adults and juveniles could be classified as having learning and-or emotional-behavioral disorder. Although the numbers vary widely from study to study what is known is that within the population of the AJO, the rate of those with disabilities is alarmingly high (Robinson & Rapport, 1999; Rutherford et al., 1985).

Despite state and federal regulations governing the education of all school-aged youths with disabilities and many investigations showing an overrepresentation of AJO having disabilities, many states and several local educational agencies have failed to provide a FAPE to juveniles incarcerated in detention and correctional facilities (Coffey, 1983; Leone, 1994; Rutherford et al., 1985). This failure to provide a FAPE to AJO eligible for special education and related services has led advocates to use the IDEA and Section 504 of Public Law 93-112 to pursue legal remedies on behalf of incarcerated

youth with special needs. According to Allen (1992), some advocacy groups consider PL 94-142 as a vital first step in securing the constitutional rights of citizens with disabilities. Evidence of the dedication of advocacy groups is manifested in the fact that over the past 25 years, almost two dozen class action lawsuits involving special education services for adolescents in juvenile corrections have been filed (Leone & Meisel, 1997).

### Statement of the Problem

Although other investigators have studied various aspects of special education within the state of Alabama, a comprehensive survey of the professional literature failed to locate an assessment of the implementation of the mandates of the IDEA relative to AJO with disabilities. Without a valid assessment of the services being provided, this population may not be receiving appropriate services as mandated by the IDEA. If this is the situation then the civil rights of AJO eligible for special education services, as guaranteed by the IDEA and as interpreted by the U. S. Supreme Court, are being violated. In recent years, many states have experienced litigation regarding the civil rights of incarcerated juveniles with respect to the IDEA (Puritz & Scali, 1998).

### Purpose of the Study

The purpose of this investigation was to assess the demographic characteristics of facilities serving AJO in Alabama and the level of implementation of the mandates of the IDEA in facilities identified as providing educational services to AJO with disabilities . The specific aims of this study were to (a) identify the number of facilities providing

educational services to AJO in Alabama; (b) determine the relationship of facilities serving AJO in Alabama to the Alabama Department of Youth Services (DYS); (c) determine the extent to which the mandates of the IDEA are being implemented in these facilities; and (d) determine if trends are present between various demographic characteristics of facilities represented and the level of implementation of the mandates of the IDEA.

### **Limitations of the Study**

This study was limited to facilities operating with a relationship with the Alabama DYS by which educational services are provided for AJO with disabilities. These facilities may be (a) operated by the Alabama DYS; (b) licensed by the Alabama DYS; or (c) provide services to AJO through a contractual agreement with the Alabama DYS.

Specifically, the study focused on the demographic characteristics of the organizational structure and staff composition of the facility and the level of provision of special education services provided in these facilities as mandated through the IDEA.

Additionally, this study was limited by the cooperation of representatives from the identified facilities to provide accurate information to the researcher. All respondents were informed that all data received was confidential and that no facility would be individually identified.

### **Assumptions of the Study**

The following assumptions were made in the development and implementation of the survey instruments and in the analysis of the data. It was assumed—within the popula-

tion of facilities identified as providing services to AJO in the state of Alabama, (a) operated by the Alabama DYS, (b) licensed by the Alabama DYS, or (c) providing services to AJO through a contractual agreement with the Alabama DYS that an adequate sample was available to provide substantive information for the assessment of the demographic characteristics of facilities serving AJO in Alabama and the level of implementation of the mandates of the IDEA in facilities identified as providing educational services to AJO with disabilities. It was also assumed that (a) all respondents would understand the questions asked and (b) would respond with accurate and honest information.

### **Significance of the Study**

This investigation was needed to assist decision makers and administrators who are responsible for delivering educational services to adjudicated juveniles with disabilities and to identify areas of strength and weakness in the implementation of special education services to AJO in Alabama. An empirical study was also necessary (a) to ensure that the educational services provided at these facilities are appropriate for students with disabilities, (b) to provide information for staff development and inservice training, and (c) to avoid litigation and possible loss of federal funding. Data from this study will also provide decision makers at both the state and local level with a body of knowledge needed to solve chronic problems associated with providing special education services for AJO with disabilities.

## Methodology

Several methods were used to achieve the purposes of this study: (a) a comprehensive review of the professional literature was conducted; (b) a telephone interview with representative of all facilities providing services to AJO in Alabama was completed to identify the sample population; and (c) survey instruments were identified to determine the demographics of the organizational structure and staff composition of the facility and the level of implementation of educational services to AJO eligible for special education services. Responses to the request for additional comments question in Educational Services Interview Survey were analyzed to determine if trends exist between the demographic characteristics of the organization structure and staff composition of the facilities and the level of special education services provided according to the mandates of the IDEA.

## Key Terms

The terms presented in this section are to clarify the legal identification and classifications discussed in this study. A comprehensive list of terms can be found in Appendix A.

**Adjudicated:** A youth is classified as adjudicated when it is determined by the juvenile court or affiliated court that the juvenile has exhibited a behavior that is an adult crime or a status offense (Vitto & Wilson, 1985).

**Adjudicated Juvenile Offender (AJO):** A youth under the statutory age determined to have exhibited a behavior determined to be a criminal or status offense (American Correctional Association, 1991).

**Boot camp:** “A nonsecure residential program located in a relatively remote area. The residents participate in a structured program that emphasizes outdoor work, including conservation and related activities. There are often twenty to sixty residents in these facilities” (American Correctional Association, 1991, p. 122).

**Correctional facility:** “A facility used for the incarceration of individuals accused or convicted of criminal activity” (American Correctional Association, 1991, p. 123).

**Delinquent youth:** “Also referred to as a juvenile delinquent or a criminal-type offender, a youth who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense is committed, be a crime if committed by an adult” (American Correctional Association, 1991, p. 123).

**Department of Youth Services:** “DYS is a local educational agency and is required to implement all rules in AL Administrative Code Chapter 290-080-090. When students with disabilities are placed in a DYS Program, they become the responsibility of the DYS for as long as they reside in one of the Department’s facilities.”

**Detention facility:** A detention facility is a temporary custody facility, Youths are usually held for less than 48 hours, unless a petition for a court hearing has been filed. A youth may be held in a detention facility, before trial when, but not limited to, the following conditions exist: (a) the youth is considered a threat to public safety; (b) the parents are uncooperative and may not return the child for the hearing; (c) no responsible adult is willing to accept supervision of the child; (d) there exists the possibility that injury or harm may come to the child; (e) the child may run away; or (f) the child is beyond the control of the parent (Vitto & Wilson, 1985). A youth may be held in a detention facility after trial,



awaiting placement in another facility, or may serve a short period of incarceration as mandated by the juvenile court judge.

**Juvenile:** A youth under the statutory age of a given area. This age varies from state to state (Vitto & Wilson, 1985). In the state of Alabama, the statutory age is 18.

**Juvenile corrections:** The function of juvenile corrections is to alter the behavior of the adjudicated delinquent (American Correctional Association, 1991).

**Juvenile delinquent:** In general, youth that commit acts that violate social norms (Vitto & Wilson, 1985).

**Juvenile detention:** “Temporary care of juvenile offenders and juveniles alleged to be delinquent who require secure custody in a physically restricting facility” (American Correctional Association, 1991, p. 127).

**Juvenile group home:** “A nonsecure residential program emphasizing family-style living in a homelike atmosphere. Program goals are similar to those for large community residential programs” (American Correctional Association, 1991, p. 127). Group homes can house AJO and abused or neglected youths placed there by social agencies. The ages of the residents of the group home often ranges from ten to seventeen, with an emphasis on the ages thirteen to sixteen.

**Juvenile justice system:** The juvenile justice system is composed of three units, each with a distinct purpose that is related to the purpose of every other unit, ultimately to accomplish the goals of detection, adjudication, and rehabilitation and control of juvenile delinquents. The three units of the juvenile justice system are the police, the juvenile court, and juvenile corrections. These parallel those of the adult criminal justice system (Vitto & Wilson, 1985).

**Juvenile offender:** A juvenile convicted or adjudicated of a criminal offense (American Correctional Association, 1991).

**Juvenile treatment:** A facility operated for profit or nonprofit that provides intensive counseling and therapy to assist individuals to understand and redirect anti-social or destructive behaviors. This may be a secure or a nonsecure facility.

**Special needs inmate:** “An inmate whose mental and/or physical condition requires special handling and treatment by staff. Special needs inmates include, but are not limited to, drug or alcohol addicts or abusers, the emotionally disturbed, mentally retarded, suspected mentally ill, physically handicapped, chronically ill, and the disabled or infirmed” (American Correctional Association, 1991, p. 131).

### Operational Definitions

The relationship of the facilities providing educational services to AJO and the levels of compliance with the mandates of IDEA were each identified in three categories. To clarify the results of this study these categories are defined in this section.

#### Relationship to DYS

**Contracted by the DYS:** Contracted facilities are also licensed by the DYS and may provide many services for the DYS. Services are provided for AJO that have been committed to the DYS and may include, but are not limited to, juvenile detention centers, treatment centers, group homes, hospital facilities, and boot camps. Placement at these facilities may be short term or long term. These facilities may be operated for profit or non-profit.

**Licensed by the DYS:** Because of the nature of the children served at these facilities, the facility must be licensed by the DYS. These facilities may be, but are not limited to, juvenile detention centers, treatment centers, group homes, hospital facilities, and bootcamps. Licensed facilities may be short term, long term, or temporary holding facilities for juveniles committed to the DYS. Periodic audits and inspections are performed by representatives of the Alabama DYS to determine compliance with the standards of the DYS.

**Operated by DYS:** Facilities operated by the Alabama DYS are owned and operated by the State of Alabama. They are under the direct administration of the Superintendent of Schools for the Alabama Department of Youth Services. Educators are hired by the Department of Youth Services.

### **Level of Compliance**

**Full compliance:** Facilities were considered to be in full compliance with the mandates of the IDEA if they reported that within the educational component of the facility (a) all students eligible for special education services are identified and served through a FAPE with zero reject; (b) all students eligible for special education services receive educational services in the LRE as determined appropriate by the IEP committee; (c) all students eligible for special education services have an Individualized Education Program (IEP) as determined by the IEP committee, including all of the requirements as stated in Section 601 of the IDEA; (d) if a parent of a student eligible for special education services does not agree with the actions of the IEP committee they have full access to procedural due process; (e) all students eligible for special education services participate in appropri-

ate nondiscriminatory assessments; and (f) parents of students eligible for special education services are to participate fully in the decision-making process that affects their child's education.

Noncompliant: Facilities were considered noncompliant if they reported that they did not identify students as having special education needs.

Partial compliance: Facilities were considered to be in partial compliance if it was reported that educational services are provided to AJO eligible for special education and related services are guided by the implementation of one or more of the mandates of the IDEA.

## **CHAPTER 2**

### **A SELECTIVE REVIEW OF THE LITERATURE**

During a comprehensive review of the literature, considerable information regarding the rights of children and youths with disabilities was located. However, literature related to educational services for AJO was found to be substantially limited. In order to better present the importance of the delivery of appropriate educational services to AJO eligible for special education and related services, a historical review of the development of educational facilities within the juvenile justice system and civil rights in regard to education is presented.

#### **Historical Data on Education**

Since the opening of the first school for prisoners Philadelphia, in 1784 (Forbes, 1991), there has been a struggle to balance the needs of the offender and the demands of society. Only recently, however, have the educational needs of the juvenile offender been considered.

This is not surprising for the period during which a free public education is available to all citizens has a relatively short history. Public schools were originally established for educating individuals to be productive members of society. Community schools were established to teach the basics of literacy to the children of common citizens during the

seasons when chores or the responsibilities of home could be set aside. Private or finishing schools were attended by the privileged and wealthy. Individuals who were considered to be “feeble of mind” (Forbes, 1991, p. 31) or who challenged the rules and standards of society were customarily hidden away in institutions or prisons, cast out, chastised, and routinely denied access to any type of formal education. As communities established societal norms and values, the story of education began.

As struggles to determine the needs of the citizenry of the United States ensued, many issues surfaced. There was a need for a strong and fair government, and an educated citizenry would be essential to raise the public awareness of social problems leading to changes in social justice. The 20th century brought forth issues of equality of the races and gender, women’s suffrage, abolition of poverty, welfare, and prison reform (Vitto & Wilson, 1985). A product of these struggles was the development of the juvenile justice system. In 1899, in Chicago, Illinois, a separate division of the justice system was established for the sole purpose of processing cases involving juvenile delinquents. Although long in coming, most other states had followed the example set by Illinois, and by 1925 all but two states had established separate juvenile justice systems. By 1945, the remaining two states had followed their example (Forbes, 1991).

#### **Provision of Educational Services in the Newly Developed Juvenile Justice System**

Following the establishment of the juvenile justice system, juvenile courts and juvenile correctional facilities were established. Schools in the first juvenile correctional facilities were housed in institutions and were operated with little or no input from local

educational professionals. The schools were private entities separated from the local school system.

Wardens or superintendents made all of the decisions on the basis of prison or personal policies. The structure of the first correctional education programs emphasized work, not academics or training. The prevailing concept of work over an academic education, as the education practice, was based on “quasi-scientific studies linking juvenile delinquents to feeble-mindedness” (Forbes, 1991, p. 31).

Because of the absence of professional educators, there was no guarantee of the provision of a formal education. When formal education programs were present, they were usually administered by a harsh and heavy-handed schoolmaster or by missionaries who taught only the word of God.

This was a time of extreme change in the United States. Two world wars had taken citizens from all over the nation, from farms and cities, to far-away places and exposed them to a plethora of values they had never before experienced. The Great Depression, the Dust Bowl, and the end of World War II had brought changes to the American way of life. The citizenry was no longer predominantly agrarian, women no longer were confined to their homes, minorities began to challenge their role in society, and many of the dominant citizenry of the nation were maimed emotionally, financially, and physically by injuries sustained during the previous decades. The beliefs and values of the American people were challenged.

With the 1960s came a move toward correctional schools where professional correctional educators gained control over the curriculum, budget, and personnel. Before this time, correctional education had competed with building maintenance and other daily ex-

penditures. Teachers were at the mercy of the warden or superintendent, or the charity of social groups, to provide basic supplies such as pencils, paper, and books.

Research conducted during this time showed that juvenile delinquents were not significantly less intelligent than nondelinquents (Eggleston, 1987). This defaced the erroneous policies and practices of the early correctional education programs. Continued research, over the past three decades and currently, has focused on the identification and placement of individuals with disabilities in appropriate educational programs. Using these data, it was soon determined that many juvenile delinquents could be identified as individuals with disabilities and were, therefore, entitled to a FAPE (Rutherford et al., 1985).

### Civil Rights and Education

For more than 200 years, the dominant citizenry of the United States has been represented to be White, Eurocentric, and male (Aronson, 1994). Any person who dared challenge the societal norms of the dominant culture was met with severe ridicule, ostracized, and often times severely punished. To succeed, individuals had to mask their differences, language, race, and religion, denying their cultural heritage, and melt into the role deemed acceptable.

As the issue of civil rights was thrust upon the public in Plessy v. Ferguson (1896), even the Supreme Court upheld the sanctity of the dominant culture by ruling that separate but equal was acceptable. It was not until after World War II that the Supreme Court upheld the rights of a minority to successfully challenge the status quo.

In West Virginia State Board of Education v. Barnette (1943), it was declared that all children attending public school must salute the American flag as a general part of their



school program. Students who refused would be expelled and their parents prosecuted. Many Jehovah's Witnesses risked prosecution by instructing their children not to participate in the ceremonial pledges to the flag. This occurred at an intense time in history: Pearl Harbor had just been bombed, and intolerance of actions viewed as unpatriotic was rampant. Many states passed unconstitutional laws banning Jehovah's Witnesses. Religious services often were disrupted and buildings were frequently burned.

In West Virginia State Board of Education v. Barnette (1943), Walter Barnette and several other Jehovah's Witnesses had sought an injunction against West Virginia's flag salute order in the Charleston Federal District Court. On June 14, 1943, Justice Robert H. Jackson read the majority opinion, stating

To sustain the compulsory flag salute we are required to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what was not in his mind.

Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard. It seems trite but necessary to say that the First Amendment was designed to avoid these ends by avoiding these beginnings.

If there was any fixed star in our constitutional constellation, it was that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us. (Lawson, 1991, p. 94)

In 1954, questions of equality in education were presented to the Supreme Court in Brown v Board of Education of Topeka. The decision of the Supreme Court was to change the educational structure of the entire nation. With this ruling, the Supreme Court overturned the decision in Plessy v. Ferguson (1896). Now, separate but equal was not equal, and segregation was a violation of the Constitution (Lawson, 1991).

After the legal termination of racial segregation, the abolition of dual school systems began. Although the decision of the Supreme Court was based on racial issues, the utilization of the equal protection clause opened the door for all citizens to receive an equal education. With the utilization of the equal protection clause to determine a case involving an educational decision, a new area of law was opened. For the first time, the rights of students were examined using the Constitution as a guide.

In the years following the decision of the court in Brown v. Board of Education of Topeka (1954), federal programs continued to assist local schools in the development and implementation of programs to advance the American people. Now there was a new issue: federally assisted programs were not available to schools that refused to comply with desegregation orders. Discrimination was barred under federally assisted programs.

#### Educational Rights Guaranteed by the Individual With Disabilities Education Act

Although national attention has been placed on the provision of a FAPE for individuals with disabilities, there is a subpopulation of students whose educational needs and rights are frequently neglected. Juvenile offenders with disabilities often do not receive the educational services to which they are entitled (Leone & Meisel, 1997; Nathanson, 1993; Puritz & Scali, 1998; Rutherford et al., 1985). In all of the fifty states and the District of Columbia, children are compelled to attend school through compulsory attendance laws. Each of these sovereignties provides educational services through local school districts, private schools, or home schooling. Constitutions provide for education of all children between designated ages of mandatory attendance. Yet, the education of many of the most

difficult to teach children is often overlooked. These are children with disabilities in correctional facilities.

When Public Law 94-142, the Education for All Handicapped Children Act, now called the IDEA, was initially passed and signed into law in 1975, all children and youths with disabilities were guaranteed special education services. The mandates of the IDEA are reinforced by Section 504 of the Rehabilitation Act of 1973 and by the Fourteenth Amendment to the Constitution. These laws ensure the legal right to a FAPE in the LRE to all children and youths with disabilities who are between the ages of 3 through 21 years. This legislation, and the reauthorization of the IDEA in May 1997, continues to support that the wording “all children and youths” includes adjudicated juveniles eligible for a special education and related services. In “Congress Approves the IDEA” (1997), it is made clear that the rights to a FAPE for children and youths with disabilities and the responsibility to provide appropriate educational services to these incarcerated youths as mandated by the IDEA does not terminate upon incarceration.

Even though the courts and Congress have emphasized the responsibility of correctional educators to provide programs that appropriately identify and meet the educational needs of incarcerated juveniles with disabilities, few programs have been developed to fully serve the educational needs of incarcerated juveniles with disabilities (Congress Approves the IDEA, 1997; Leone, 1994; McIntyre, 1993; Robinson & Rapport, 1999). Leone presented evidence which suggested that many AJO with disabilities receive substandard educational programs with deficits in identification procedures, development of appropriate IEP processes, and individualized instruction from qualified teachers. Additionally, Robinson and Rapport noted that these deficits occur as a result of di-

verse interpretations of statutes in case law rulings regarding services to detainees eligible for special education and related services, correctional personnel who are unfamiliar with the mandates of the IDEA, and logistical constraints of the youths' placement.

Pertinent issues to providing appropriate educational services to AJO eligible for special education and related services as addressed by legislation, the courts, and education professionals include (a) an understanding of the population of facilities providing educational services to AJO; (b) the prevalence rates of disabilities among the juvenile offender population; (c) issues of concern and problems facing educators and other correctional facility personnel in providing educational services to AJO eligible for special education and related services; and (d) recent developments in case law regarding the implementation of educational services to AJO eligible for special education and related services.

#### Prevalence of Disabilities in the Juvenile Offender Population

Determining the number of youths with disabilities in correctional programs is a difficult task. Variations in the definitions of learning disability, emotional-behavioral disorder, and mental retardation can hinder accurate counts from state to state. In addition, fear of litigation and the potential loss of state and federal funds, resulting from noncompliance with the IDEA, often cause reluctance on the part of programs and states to report the large number of youths with disabilities in correctional education programs.

The overrepresentation of the juvenile offender with disabilities is not new. As early as 1883, Brockway (cited in Eggleston, 1987) reported a need at the Elmira Reformatory in Elmira, New York, to develop classes for "dullards" (Eggleston, p. 20) who

were not interested in school. In 1896, at Elmira Reformatory, a program was designed for “inmates who were unable to behave properly or who had an academic deficiency in one specific area” (Eggleston, p. 20).

In the 1930s, correctional education experienced a rebirth (Eggleston, 1987). This was probably based on the results of a national study of correctional facilities conducted in the late 1920s by Austin MacCormack. He determined that inmates exhibited a higher incidence of psychological and emotional problems than the general population. The results of his study and recommendations for the provision of a specialized education for inmates were included in his book The Education of Adult Prisoners, published in 1931.

Again, in 1939, the need for special education was presented in a book published by the American Prison Associations Committee on Education. The book entitled Correctional Education Today included a list of suggestions, some of which are still valid teaching practices. In particular, it stated that “ the whole program should be representative of a satisfactory way of living within attainable limits so that social competence within such limits can be vividly illustrated” (Wallack, 1939, p. 245).

Characteristics of the inmates presented by Wallack in 1939 showed a strong resemblance to the profile of students identified today as special needs learners. The inmates were described as being slow to recognize hazards, being highly suggestible, having a lack of appreciation of goals and little perseverance, possessing a lack of ability for self-criticism, showing emotional instability, and having low mental and motor skills. These characteristics are easily aligned with those currently used to identify students with disabilities.

The U. S. Department of Justice reported in February 1989 that there were approximately 90,000 juveniles in custody in public and private correctional facilities (U. S. Department of Justice, 1991). In 1997, there were almost 126,000 juveniles in custody in approximately 3,500 public and private facilities in the United States (Snyder, 1998; Snyder & Sickmund, 1999). This represents a growth in the overall population of incarcerated AJO of almost 38% in only 8 years.

It is difficult to state the actual percentage of adjudicated juveniles with disabilities within the corrections population. The accepted percentage varies widely because “methodological problems and variability in policies across jurisdictions have made it extremely difficult to come up with reliable figures” (Leone & Meisel, 1997, p. 3). Casey and Keilitz (1990) conducted a meta-analysis of all of the prevalent studies of developmentally and learning disabled AJO. Their analysis showed that, approximately 13% of AJO had developmental disabilities and that almost 36% of AJO had learning disabilities. There was no meta-analysis completed for AJO with emotional disturbances because of insufficient available data. These findings were supported by a survey of state facilities for juveniles (Bullock & McArthur, 1994), which showed the range in reported disabilities varied from a low of 2% in Michigan to a high of 64% in Nevada.

A survey completed by Bullock and McArthur (1994), and supported by Snyder and Sickmund (1999), found that the prevalence rates of juveniles with emotional or behavioral disorders being served in state correctional facilities ranged from a low of 0% in two states to a high of 48% in Iowa, with the national prevalence rate at 10%. In 1992, Otto, Greenstein, Johnson, and Friedman estimated that approximately 22% of the incarcerated juveniles have significant mental health problems. Previous studies (Rutherford et

al., 1985) reported that 28% of all juveniles incarcerated had significant learning disabilities compared to 10% in the general population. The highest percentage was reported by Coffey (1983). The results of this study of incarcerated adults and juveniles determined that 40% of all incarcerated individuals manifested some type of disability. Coffey found that three states categorized all of their juvenile population as disabled. At one extreme, Wolford (1987a), reported that some authorities would argue that by definition all incarcerated adults and juveniles could be classified as having learning or emotional-behavioral, or both, disorders. Although the numbers vary widely from study to study and from state to state (Robinson & Rapport, 1999; Rutherford et al.), what is known is that within the population of the AJO, the rate of those with disabilities is alarmingly high.

Investigators (Bullock & McArthur, 1994; Leone et al., 1991; Robinson & Rapport, 1999) reported that the most common disabilities identified within the juvenile offender population are learning disabilities, behavioral disorders, and mental retardation. The rate has been reported as being disproportionately three to five times higher than the percentage of the public school population identified as disabled (U. S. Department of Education, 1993). Snyder and Sickmund (1999) indicated that 10% of all AJO are mentally retarded, approximately 50% are diagnosed as learning disabled, and more than 60% exhibit an emotional or behavioral disorder.

Youth with disabilities are often faced with circumstances and issues that make it more likely that they will be removed from their home and placed in an alternative setting by the juvenile justice system. They often have poorly developed social skills and a lack of ability to comprehend and respond appropriately to questions. The presence of these behaviors increases the probability that offenders with disabilities will be incarcerated (Leone

et al., 1991; McIntyre, 1993; Murphy, 1986b; Quinn et al., 1995; Robinson & Rapport, 1999). Thus, it is important that educators address these behavioral deficits with remediation through educational services as guaranteed by the IDEA.

### Learning Disabilities

A review of the literature determined that more investigators have focused more on the relationship between learning disabilities and juvenile delinquency than on any other disability type. According to Larson (1988). A lack of social skills and problem solving skills negatively affects overt behavior, which leads to a disproportionate number of juveniles with learning disabilities being arrested and adjudicated. In a similar vein, Brier (1989) identified inadequacies in social skills as possible causes of increased rates of delinquency in youths with learning disabilities. Youth with learning disabilities are easily distracted and possess low self-esteem, poor adjustment, and social skills. Outside of the classroom, these deficits may readily lead to activities associated with delinquency.

### Emotional-Behavioral Disorders

Children and youth identified with emotional-behavioral disorder have a greater tendency toward negative behaviors frequently associated with delinquency than do children without emotional-behavioral disorders. They often exhibit low self-esteem, poor social and problem solving skills, and problems in school (Robinson & Rapport, 1999; Taliento & Pearson, 1994). It is difficult to determine national prevalence rates for AJO with emotional-behavioral disorders because of the variance in definition of this disability category. Studies have shown that the prevalence rate for adjudicated juveniles with emo-



tional-behavioral disorders is alarmingly high. Reported rates vary from 0% in two states to a high of 64% in Nevada, with a national prevalence rate in excess of 20% (Bullock & McArthur, 1994; McIntyre, 1993; Murphy, 1986b; Robinson & Rapport, 1999).

There is no conclusive evidence to support a definitive theory as to why youths with emotional-behavioral disorders are over represented in the population of the AJO. Predictive conditions and behavioral trends of the youth with emotional-behavioral disorders have been identified through research efforts as factors leading to the high prevalence rates. Investigators (Proust, 1981; Quinn et al, 1995; Wagner, Blackerby, Cometo, Hebbeler, & Newman, 1993) have reported that a majority of students identified as having emotional-behavioral disorders drop out of school, fail to seek further education, obtain menial employment, and of those who drop out a majority is arrested within 3 to 5 years.

The incarcerated juvenile offender with emotional-behavioral disorders creates unique challenges for the correctional educator. It is imperative that these youths are properly identified to allow development of appropriate interventions (National Center, 2000).

### Mental Retardation

Although youth identified with mental retardation are overrepresented in the population of AJO, the reported percentage varies greatly from study to study and often from state to state (Bullock & McArthur, 1994; Snyder & Sickmund, 1999). As with the definition of emotional-behavioral disorders, the definition of mental retardation varies from state to state.

The relationship between mental retardation and delinquency has been a subject of great debate for many years. Between 1890 and 1920, attempts were made to link mental retardation to economic and social issues such as criminality, poverty, insanity, and general moral and physical degeneration (Santamour, 1987). As early as 1916, Goddard (cited in Santamour) went so far as to state that “the number of criminals falling into the mentally retarded range was close to 100%” (p. 106).

Since the 1960s, concern for the overrepresentation of mentally retarded individuals in the criminal justice system has increased. In 1967, the President’s Panel on Mental Retardation determined that often the disproportionate representation of mentally retarded inmates was due in part to administrative and legal procedure rather than a casual relationship with criminality.

Mentally retarded offenders may not understand the nature of their actions, and they may not understand their rights (Moschella, 1986). Often their disability is overlooked, not understood, or both by representatives of the justice system, including their legal representatives (Haggarty, Kane, & Udall, 1972).

A desire to please and difficulty with communication are a benchmark characteristics of many mentally retarded individuals. This characteristic may increase the number of confessions to criminal behavior among mentally retarded individuals. This may lead to fewer attempts to acquire a plea bargain, leading to an inflated rate of incarceration (Brown & Courtless, 1982).

Additionally, according to Santamour (1987), factors associated with mental retardation that may assist in the understanding of the overrepresentation of mentally retarded in the justice system are

1. People with retardation often display poor judgement. They do not understand fully the significance of their actions and the consequences that ensue.

2. Often in an effort to be accepted and recognized, retarded persons may unknowingly involve themselves in criminal activity.

3. People with retardation may be more easily led into criminal activity by others because of their heightened suggestibility. A person with retardation may then become the perfect scapegoat in an illegal activity.

These factors may help one to understand how an overrepresentation of the mentally retarded occurs in correctional facilities. They do not, however, explain the complete problem.

#### **Practices, Concerns, and Issues Facing Educators in Facilities Providing On-site Educational Services**

Providing appropriate educational services to AJO creates many challenges for the correctional educator. The addition of the placement of the AJO eligible for special education and related services greatly expands and intensifies those challenges (Eggleston, 1987). Correctional educators must consider the special conditions that exist within the confines of the correctional facility, while being reminded that all of the mandates of the IDEA apply to all children and youths with disabilities, including the AJO.

### Free and Appropriate Public Education

Juveniles with special needs and their right to a FAPE in the LRE often conflicts with the structure and purpose of the facility in which the juvenile offender is placed. However, the courts have held that correctional facilities must provide the juvenile offender with disabilities with appropriate educational services in an expedient manner (Alexander S. v. Boyd, 1995; Gary H. v. Hegstrom, 1987; Nashua School District v. the State of New Hampshire, 1995; Unified School District #1, 1995).

### Governance

Regardless of the nature of the confinement, punitive or rehabilitative, the responsibility for ensuring that appropriate educational and related services are provided to incarcerated AJO with disabilities is complex. The courts have held that the administrative agencies of correctional facilities are responsible for the identification and evaluation of the detainee with special needs. Administrative agencies of facilities providing rehabilitative or punitive services to AJO are required to provide FAPE and related services to eligible detainees.

The nature of the confinement may create complications in the provision of appropriate educational services to the juvenile offender with disabilities. The education of detainees may not be considered a priority to the facility administration. The governance of the facility, although responsible for the education of the juvenile offender eligible for special education and related services, may often choose to ignore the mandates of the IDEA in lieu of the administration of punishment (Leone & Meisel, 1997). These actions are in violation of the civil rights of the AJO eligible for a FAPE. Through these actions, the ad-

ministration of the facility, the local school district, and the state department of education can be held liable.

Upon review of applicable court decisions administrators of the local school district may determine that provision of a FAPE to AJO eligible for a special education and related services, is the responsibility of the juvenile justice system. However, in Unified School District #1 (1995) the court ruled that the local school district was also responsible for the provision of educational services to the juvenile offender eligible for special education and related services.

According to Wolford (1987b), each state educational agency is required to monitor all educational programs within its jurisdiction on a periodic basis; this includes those educational programs within correctional facilities. The nature of the involvement of multiple agencies in the educational process of the AJO complicates the role that each agency is required to assume. The courts have repeatedly ruled that all agencies involved in the care and education of the AJO eligible for a special education and related services share in the responsibility of providing appropriate educational services to the incarcerated juvenile (Alexander S. v. Boyd, 1995; Gary H. v. Hegstrom, 1987; Nashua School District v. the State of New Hampshire, 1995; Unified School District #1, 1995).

### Administration

The administrative requirements of the IDEA can present obstacles for the correctional educator as attempts are made to ensure education for the AJO. Time constraints of the IDEA are often difficult for the educator within the juvenile justice system. Lengths of placements are often unsure. The IDEA sets specific limitations for notification time lines,

guidelines for parental involvement, and mandates for the education of children and youths with disabilities in the LRE. These limitations were designed to provide substantive and procedural due process rights for youths with disabilities and their parents.

Often, funds are not readily available for the provision of qualified personnel (for example, social worker, counselor, psychologist) needed to provide appropriate services. The need for and funding of counseling services for the juvenile offender with emotional-behavioral disorders is a controversial issue. However, the IDEA as interpreted by the courts in T. G. v. Board of Education of Piscataway (1983) upheld that if a juvenile offender requires counseling services to benefit from the educational process, then it must be provided. In another case, Nashua School District v. the State of New Hampshire (1995), the Supreme Court of New Hampshire ruled that the school district of attendance immediately before adjudication was responsible for the costs related to special education. These costs included the provision of appropriate evaluations, identification, and IEP development, as well as related services.

### Mobility

The length of stay or placement of the AJO may vary greatly as AJO are often moved through the courts, detention centers, medical facilities, holding facilities, and various school programs without advance notice (Webb & Maddox, 1986; Wolford, 1987b). Often, the correctional educator has no knowledge of the location of the offender after the transfer. Considering the other extreme, the educator may be told that the offender is a temporary placement until a bed is available at another center, and the short-term placement, extended day by day, becomes a long-term placement.

Education records may be lost or misdirected in this process. Home schools or previous placements may be difficult to identify and once identified, may have policies that require parental releases that are not available to the correctional educators within the time constraints of the youth's confinement, thus delaying the acquisition of records.

The issues connected with record exchanges and length of placement are seriously complicated by the constraints of the IDEA. In Alexander S. v. Boyd (1995), one of the issues was the development of an IEP at all facilities providing educational services to AJO. The court contacted the U. S. Department of Education to obtain a ruling. The U. S. Department of Education responded with a memorandum that stated that in the case of short-term confinements (less than 45 days), the educational agency could provide educational services by implementing the IEP from the previous school district. A new IEP must be developed, however, when the juvenile offender who is eligible for a special education and related services is assigned to a long-term facility.

Because of time factors, educators at a short-term facility may choose to implement the IEP as written at a previous school or facility. By implementing the IEP as written elsewhere, the facility of placement becomes liable for the provision of all aspects of the existing IEP, including counseling and other related services. These issues were addressed in Unified School District #1 (1995).

### Safety and Security Issues

The nature of the facilities where AJO are often placed restricts the provision of an education in the LRE. Because of the nature of the facilities and the residents, the LRE for the AJO must be somewhat restrictive. According to Wood (1987), an acceptable in-

terpretation of the mandate of the IDEA with regard to placement of the juvenile offender eligible for a special education and related services in the LRE is that the juvenile is to be allowed to associate socially with other juveniles without disabilities.

The interpretation provided by Wood, (1987) was upheld by the court In re Christopher V. T. (1994). In this case, a juvenile who was emotionally disabled attempted to avoid placement in a correctional facility on the basis of his right to a FAPE in the LRE. The court determined that the juvenile's educational rights could be served in a correctional facility. It was determined that the level of supervision, treatment, and confinement would be determined at a hearing. The decision of the court was based on the issues of a FAPE in the LRE, as well as the safety of the community. This decision protected the community from a juvenile offender attempting to avoid placement by the juvenile justice system based on the right to a FAPE as guaranteed by the IDEA.

A second notable case is In re Mark A. (1994). Mark A. had been placed in a maximum-security unit of a juvenile correctional facility. The facility had applied an existing IEP that stated that Mark A. would receive 5 1/2 hr of education per day, but they failed to provide the 5 1/2 hr per day of educational services. The courts ruled that he was entitled to the educational service as designated by the IEP and that the correctional facility could provide this service in the maximum-security facility or in the education building with extra security.

The importance of these two cases is that both the safety of the community and the educational rights of the juvenile offender with disabilities must be considered. Students with special needs cannot avoid incarceration on the basis of their right to a FAPE in the LRE. Second, the rights and safety of a community are important, but the educational



rights of the inmate with special needs must be addressed and met by the correctional facility.

### Parental Involvement

The issue of parental involvement in decisions regarding AJO with disabilities must be addressed in the provision of appropriate educational services. However, the incarcerated juvenile is a special situation. It is often difficult to contact the parent of the incarcerated juvenile in a timely manner, as was acknowledged by the court in Alexander S. v. Boyd (1995). Yet, in this case, the court ruled that documented attempts must be made to notify the parent of a juvenile offenders with special educational needs. The rights of the parent as well as those of the adjudicated juvenile do not terminate at the courthouse door.

### Educational Components of Correctional Facilities

Although education is considered fundamental to the rehabilitation of delinquent youths, the education of special needs inmates can be a great challenge. Youths with learning disabilities, emotional-behavioral disorders or mental retardation often present themselves as unmanageable, unskilled, and unwilling to learn. In 1999, Robinson and Rap-  
port stated that juvenile offenders often possess experiences and exhibit behaviors that place them at high risk of failure. Delinquency is often connected to poor academic skills and illiteracy. The pathway to delinquency may be complex. Risk factors leading to delinquency include, but are not limited to, academic failure, low self-esteem, and the lack of social skills. These risk factors are but a few that underscore the need to administer well-prepared and comprehensive educational and treatment plans to the AJO (Meisel,

Henderson, Cohen, & Leone, 1998). For AJO in correctional facilities, receiving an appropriate education may mean the difference between success and failure in their lives (Forbes, 1991).

Policies and procedures used by educators working with AJO with disabilities are still in their infancy (Forbes, 1991; Puritz & Scali, 1998). Correctional education policies and procedures should be developed and implemented based on current research and in alignment with the mandates of the IDEA. Educational services should be provided as a proactive experience, even though they may be an improvisational and, in many instances, last resort alternative program to those students who have failed to respond to traditional schooling (Curry, 1993).

With large numbers of adjudicated youth returning to their local communities, it is important that juvenile justice advocates continue to work with juvenile facilities to “balance public safety with the equally compelling need for treatment and rehabilitation of young offenders” (Puritz & Scali, 1998, p. xi). Research supports the existence of

well-documented deficiencies in living space, security, control of suicidal behavior, health care, education and treatment services, emergency preparedness, and access to legal counsel that threaten not only the well-being of youth, but the community that will receive them after their release. (Puritz & Scali, p. xi)

It is important to note that 95% of all incarcerated juveniles will be released (Mauer, 1997) and will return to local communities. Development of publicly sponsored educational programs in juvenile correctional facilities has been slow; however, programs are increasingly available that specialize in the identification of the needs of this unique population (Coffey & Gemignani, 1994; Forbes, 1991; Puritz & Scali, 1998; Vitto & Wil-

son, 1985). Where appropriate special education services, including transition services, are provided, the recidivism rate is reported to be lowered (Brier, 1994).

A substantial body of case law (Alexander S. v. Boyd, 1995; Gary H. v. Hegstrom, 1987; Nashua School District v. the State of New Hampshire, 1995; Unified School District #1, 1995) has shown that the practices of ignoring or improperly implementing the mandates of the IDEA may be costly both monetarily and in the development of human potential. Motivated by increased litigation (see Appendix B) correctional educators are developing policies and procedures that, when properly implemented, secure an appropriate education for AJO, including those with disabilities.

#### American Correctional Association Standards

Standards are set for the education of all children. AJO with disabilities do not lose their right to an education upon adjudication. The standards as set by the American Correctional Association specifically address the educational programs within the confines of juvenile detention facilities. The American Correctional Standards for Juvenile Detention Facilities (American Correctional Association, 1991), stated that a written policy shall exist "that makes available a range of resources appropriate to the needs of juveniles, including individual, group, and family counseling; drug and alcohol treatment; and special offender treatment" (p. 101). Furthermore, there is a need for "written policy, procedure, and practice [to] provide that facility and staff identify the collective service needs of the juvenile population at least annually. Special programs are provided to meet the needs of juveniles with specific types of problems" (p. 101). In addition there is to be "a comprehensive education program for juveniles" (American Correctional Association,

p. 103). This is to be a broad educational program that is suited to the needs and abilities of all juveniles in the facility.

The education program should include but not be limited to “developmental education; remedial education; special education; multi-cultural education; bilingual education, when the profile indicates; and tutorial services as needed” (American Correctional Association, 1991, p. 103). The educational program is to be staffed by trained individuals capable of performing assessments to determine the needs of the student and provide appropriate instructional interventions. Specialized equipment is to be provided to support the educational program determined appropriate for the juveniles.

Robinson and Rapport (1999) stated

Correctional facilities are unique entities that are faced with unusual difficulties when attempting to provide services to offenders with disabilities (e.g., record exchange, mobility issues, and safety-security issues). Such issues must be recognized and addressed before substantive change in the administration of services can be realized. The courts have held that correctional facilities must provide juveniles with appropriate educational services in an expedient manner. (p. 4)

Education services provided are to be linked to meaningful academic and correctional activities. Support for the administration and delivery of appropriate educational services within correctional facilities has been determined through rulings of case law.

#### **Educational Needs that Exceed the Traditional Sector**

Adjudicated juveniles often require services that exceed the bounds of the traditional public sector. As the needs of this population change, so do the responsibilities of a variety of agencies with respect to these troubled youth. The uniqueness of providing a FAPE to juveniles in correctional facilities is often complicated by the multitude of agen-

cies involved in the responsibility for and control of the juvenile. Courts, school districts, social service agencies, and others may all be involved in the provision of services to special needs students. In 1972, a class action suit, Nelson v. Heyne, was presented on behalf of boys incarcerated in a training school in Indiana. The suit claimed that the constitutional rights of these young men were being violated in regard to the 1st, 8th, and 14th amendments. In Nelson v. Heyne, it was affirmed that the boys had an affirmative right to treatment. This was the beginning of education as a "treatment right" (Eggleston, 1987). Pope (cited in Eggleston) makes a compelling argument for educating the incarcerated:

A state is not obligated under the Constitution of the United States to provide any educational opportunities. However, if a state chooses to provide educational opportunities for some children, the Equal Protection Clause of the 14th Amendment mandates that the state provide that opportunity equally to all. (p. 22)

Members of the complex team of individuals responsible for the welfare of the adjudicated juvenile bring with them varying theories as to treatment and intervention services. The cost and administration of these services may be divided equally with structure or sporadically with great confusion. Regardless of where the services are provided or of the pedagogy used, the state is ultimately responsible for the deliverance of an appropriate education as established by the IDEA (Leone, Price & Vitolo, 1986; Meisel et al., 1998; Robinson & Rapport, 1999).

The specificity of the IDEA represents unprecedented involvement in state and local education by providing statutory educational guarantees to all children aged 3 to 21 years with disabilities. The IDEA establishes a framework for parents and advocates that allows them to present their special education concerns to correctional facilities in an attempt to avoid litigation. It has been applied to public schools and state-operated pro-

grams (including juvenile detention and correctional facilities) since its passage in 1975. Reauthorization of IDEA in 1997 made it clear that all eligible children were to receive a FAPE in the LRE. In addition, Congress has made it clear that the education of incarcerated juvenile with disabilities was to be conducted within the guidelines of the IDEA (Congress Approves IDEA, 1997).

Although the legal requirement to provide services for incarcerated juveniles is clear, the implementation of the mandates of IDEA within facilities providing educational services for the adjudicated juveniles are seriously deficient:

Consequently, youth with disabilities in correctional settings do not participate in education programs to which they are entitled, and which can prepare them to re-enter their schools and communities. The previous educational experiences of youthful inmates with disabilities, the distance of youths from their homes and prior school districts, and the sometimes competing objectives of rehabilitation and punishment present unique problems to the design and delivery of special education services within juvenile facilities. However, appropriate education programs for youths with disabilities can be and have been developed in juvenile correctional facilities. (Meisel et al., 1998)

#### Federal Mandates for Correctional Special Education

The IDEA, passed in 1975, was a landmark civil rights enactment because it guaranteed a FAPE for all eligible children and youths with disabilities. In addition, the IDEA provided for the screening, evaluation, and identification of all eligible youth and for ensuring the participation of parents and guardians in all phases of the decision-making process. This process includes the development, implementation, and review of the IEP complete with related services as needed.

Section 504 of the Vocational Rehabilitation Act of 1973 (P. L. 93-112) and Title II of the Americans with Disabilities Education Act (P. L. 101-336; ADA) prohibit dis-

crimination of persons with disabilities by any entity or program that receives federal funding. Correctional facilities are not exempt from either of these civil rights entitlements.

Students with disabilities who do not qualify for services under IDEA may meet the guidelines for service through Section 504. Those eligible for the development of a 504 plan are entitled to accommodations that will allow the youth to participate in the general curriculum.

Correctional educators should be aware and recognize that those students with academic or behavioral problems, or both, may be eligible for program modifications under Section 504. A person is identified as eligible for modifications under Section 504 if he or she (a) has a physical or mental impairment which substantially limits one or more major life activity; (b) has a record of such an impairment; or (c) is regarded as having such an impairment. Section 504 identifies learning as a major life activity.

The ADA expands the nondiscrimination policy of Section 504 for persons with disabilities while incarcerated in government institutions or programs provided by government agencies. The ADA requires correctional facilities to conduct a self-evaluation to determine whether the written policies and practices provide or prevent equal access for those individuals with disabilities.

### Advocates

Advocates for incarcerated juveniles are increasing in number and strength. In the fiscal year 1995, the Office of Juvenile Justice and Delinquency Prevention offered states "challenge grant " money that was ear-marked for ten specific activities. One of these activities was for the establishment and operation of a state ombudsman office to help chil-

dren and families with the investigation and resolution of complaints with respect to out-of-home care that may adversely affect the health, welfare, safety, or rights of the resident children and youth. Included in this group are juvenile detention facilities, residential care facilities, and correctional institutions. Puritz and Scali (1998) stated that there are more than 25 child welfare ombudsman programs in the United States. Although they have been enacted through various means such as the legislative process, executive order, or judicial decree, some programs report having a positive impact on the way services are provided to youth in state care (Snyder & Sickmund, 1999).

### Summary

The provision of educational services for AJO has been a challenge since the first schools in correctional facilities in the late 1700s. Before the social reform movements of the 1920s and the civil rights movement of the 1950s and 1960s, little concern was given to the needs and rights of the criminal offender. The establishment of the juvenile justice system in the mid 1940s brought about concern for the future of the child or youth involved in criminal activity.

Forbes (1991) stated that early studies linking juvenile delinquency to children with profiles comparable to today's youth identified as having learning disabilities, emotional-behavioral disorders, and mental retardation were completed using quasi-scientific methods. Eggleston (1987) wrote that information gathered in the 1960s defaced the previous erroneous findings. Although youth with disabilities are overrepresented in the juvenile



justice system, there is no proven direct link between disabilities and delinquent behavior (Keilitz & Dunivant, 1986; Murphy, 1986b).

The passage of the IDEA granted rights to individuals with disabilities. These individuals were now guaranteed a FAPE in the LRE, nondiscriminatory assessments, access to due process, and parental involvement in educational decisions. Violation of these rights by educators can cause complicated litigation to ensue.

In the face of potential litigious actions, the provision of a FAPE for the eligible AJO is further complicated by the nature of juvenile offenders and their placement in the juvenile justice system. The governance and administration of facility policies may hinder adherence to the mandates of the IDEA. These managing entities do not, however, have the legal right to violate the entitlements of the IDEA (Bannon & Leone, 1987).

## **CHAPTER 3**

### **METHODOLOGY**

#### **Purpose of the Study**

The purpose of this investigation was to assess the organizational demographic characteristics and staff composition of facilities serving AJO in Alabama and the level of implementation of the mandates of the IDEA in facilities identified as providing educational services to AJO with disabilities. The specific aims of this study were to (a) identify the number and types of facilities serving AJO in Alabama; (b) determine the extent to which the mandates of the IDEA are being implemented in these facilities; and (c) determine if trends are present between various demographic characteristics of facilities represented and the level of implementation of the mandates of the IDEA.

This investigation is presented as a mixed study. The study used a combination of quantitative and qualitative research methods. Analysis of quantitative data employed a number of descriptive statistical techniques to examine the data. Qualitative data were analyzed using identified categories and trends. Information from past research (Rutherford et al., 1985) regarding services provided to juvenile detainees at the national level and a proposed follow-up study (Quinn & Snow, 1998), contributed to the development of the research questions. Chapter 3 presents (a) the purpose of the study, (b) research questions, (c) a description of the population and identified sample, (d) a description of the instrument development procedures, (e) a description of the method of instrument valida-

tion, (f) a description of dependent and independent measures, and (g) data collection and analysis procedures.

### **Research Questions**

Research questions for this study were developed to assist in the data collection process. The questions seek answers regarding the implementation of the mandates of the IDEA as they relate to the provision of educational services being provided to AJO in Alabama.

#### **Question 1**

In facilities providing on-site educational services for AJO in the state of Alabama, do differences exist in the level of compliance with the mandates of the IDEA as it relates to the provision of educational services for students identified as eligible for special education and related services in (a) facilities operated directly by the Alabama DYS, (b) public facilities that are licensed by the Alabama DYS, and (c) private for profit or nonprofit facilities that have a contractual agreement with the Alabama DYS to provide services for AJO?

#### **Question 2**

In facilities providing on-site educational services for AJO in the state of Alabama, do differences exist in the level of compliance with the mandates of the IDEA as it relates to the provision of educational services for students identified as eligible for special education and related services relative to (a) the student-teacher ratio at facilities providing

on-site educational services, (b) the presence of teachers certified in special education on staff, (c) the average length of placement, (d) the employing agency; and (e) maximum number of students served per day?

### Question 3

In facilities providing on-site educational services for AJO in the state of Alabama and reporting partial compliance with the mandates of the IDEA, do differences exist in the level of compliance with the mandates of the IDEA as they relate to the provision of educational services for students identified as eligible for special education and related services relative to (a) all students eligible for special education services being identified and served through a FAPE with a zero rejection rate; (b) determination of the LRE for students eligible for special education and related services; (c) development of an individualized education program for students eligible for special education and related services; (d) participation in nondiscriminatory assessments of students eligible for special education and related services; (e) adherence to due process procedures; and (f) involvement of parents of AJO eligible for special education and related services in decisions regarding the determination of appropriate educational services for their child?

### **Sample**

The population was defined by a list of facilities obtained from the Superintendent of Schools for the Alabama DYS that provide services to AJO in Alabama. The population was composed of 107 facilities identified by the Alabama DYS as being (a) operated by the DYS; (b) licensed by the DYS to provide services to AJO, or (c) operating with a

contractual agreement to provide services to AJO. This population includes, but is not limited to, boot camps, day treatment facilities, juvenile detention facilities, hospital treatment centers, outdoor treatment centers, residential group homes, residential training schools, residential treatment centers, and juvenile correctional facilities.

From the data collected in Phase 1, facilities were sorted into two groups. One group represented those facilities not providing on-site educational services, and a second group represented facilities providing on-site educational services to AJO. In this study, only data from the second group were examined. Fifty-one of the facilities were identified as meeting these criteria.

### **Instrument Development**

Researcher-developed surveys were used to gather the data for this investigation. Three surveys were used in the data gathering process. The Preliminary Population Survey measure was developed for use in identifying facilities meeting the criteria for inclusion in the sample of this study. The Sample and Staff Composition and the Educational Services Interview were developed to determine the various demographic characteristics and the level of implementation of the mandates of the IDEA in the sample (see Appendix C). The items and questions included in these two surveys were based on the literature review as reported in chapter 2.

#### **Preliminary Population Survey**

General demographic information was obtained using the Preliminary Population Survey. Data were examined, and a determination was made identifying facilities to be ex-

amined in this study. The established criteria were that on-site educational services were provided at the facility and that the facility was either operated by, licensed by, or had a contractual agreement to provide services to AJO with the Alabama DYS.

#### Sample and Staff Composition Survey

Licensure, organizational, and staff demographics were obtained using the Sample and Staff Composition Survey. This survey was composed of two sections. Section 1 consisted of four questions that identified the maximum and average length of placement and the number of individuals for which the facility is licensed to serve. Section 2 was composed of five questions that addressed the number and classification of educational staff, teacher certification, and employing organization or agency.

#### Educational Services Interview

The final survey was a structured interview to be used as a guide for either a telephone or on-site interview. It was composed of five sections. Section 1 confirmed maximum student population. Section 2 consisted of five questions used to identify the daily class schedule and subjects taught. Section 3 consisted of three questions used to determine contact or interaction with the students' home school, previously attended school, or next school of attendance. Section 4 consisted of five questions used to obtain faculty and staff information. Section 5 consisted of nine questions that address the implementation of the specific mandates of the IDEA in the education of AJO eligible for special education and related services.

### **Instrument Validation**

One judge was selected to validate the Preliminary Population Survey, the Sample and Staff Composition Survey, and the Educational Services Survey to determine the extent to which the items addressed the research questions. This judge was selected on the basis of the following standards: (a) he holds a terminal degree in the area of investigation; (b) he has served as an educational administrator for more than twenty years; (c) he is currently employed by a local board of education as the Counseling and At Risk Student Specialist. On April 4, 2000, the Preliminary Population Survey, the Sample and Staff Composition Survey, and the Educational Services Survey were examined to determine the extent to which the items addressed the research questions. He examined each item in the surveys for content validity. He determined the instruments to be compliant with acceptable research techniques, valid, and reliable (see Appendix D).

In addition, on April 20, 2000, the surveys were reviewed by a panel of three experts in the fields of educational leadership and special education. These individuals all hold terminal degrees in the area of investigation. They have all completed postgraduate research and are published authors. All instruments were determined to be valid able to provide the data necessary to assess the special education services being provided and the extent to which the mandates of the IDEA were being implemented in facilities identified as providing educational services to AJO in Alabama.

Qualitative data recorded as additional comments were determined to be trustworthy through peer review. Comments were reviewed by three special education and correctional facility teachers to determine appropriate placement within the six designated

categories. Additionally, the categorized comments were reviewed to determine the possibility that trends might be determined.

### **Procedures--Data Collection**

Data were gathered for each specific component of this study through accepted techniques for conducting quantitative and qualitative research approved by the Institutional Review Board of the University of Alabama at Birmingham (see Appendix E). To maximize response rates, multiple techniques were used to collect data. Data were collected in three phases from the population and sample. Surveys and letters were faxed, and telephone calls along with personal visits were made to the facilities to secure a high level of participation.

#### **Phase 1**

First, a letter of introduction of the study and a letter of endorsement from the Superintendent of School District 210, operated by the Alabama DYS, was sent to each facility serving AJO in Alabama (see Appendix F). Second, telephone interviews were completed with one key educational decision maker at all facilities in the initial population, using the Preliminary Population Survey. A general introduction of the study was given at the time of the telephone interview. Respondents identified as representing facilities where on-site educational services are provided to AJO were asked for their cooperation in the completion of the Educational Services Interview.



## Phase 2

To encourage participation of a representative of the educational staff, a written survey, the Sample and Staff Composition Survey, and a letter of introduction were sent to representatives of all facilities identified as providing on-site educational services. Respondents were asked to return the completed survey to the researcher (see Appendix G).

## Phase 3

Telephone interviews were conducted by the researcher between May 19, 2000 and June 1, 2000. A structured telephone interview was completed with one key decision maker from each facility included in the sample. The Educational Services Interview was used to determine the daily schedule and subjects taught, contacts made with previous and subsequent educational facilities, the practices of the educational staff with regard to the implementation of the IDEA for the AJO eligible for special education related services, and to confirm data collected using the Sample and Staff Composition Survey. At this time, additional comments of the respondents were recorded as qualitative data.

## **Data Analysis**

Data obtained from the Student and Staff Composition Survey were analyzed through the use of descriptive statistics. The results were depicted in chart, table, and graph formats.

Data collected from the Educational Services Interview were presented as percentages in varying states of compliance. The extent of the implementation of the mandates of the IDEA was analyzed through qualitative methods. Themes and categories were deter-

mined through the analysis of qualitative data collected via additional comments made during the interviews.

After data collection, the results were analyzed and conclusions were drawn as to the relationship of various demographic characteristics of the organizational structure and staff composition and the level of implementation of the mandates of the IDEA in the provision of educational and related services to AJO with disabilities in these facilities. Additionally, qualitative data were analyzed for the presence of categories and trends.

## **CHAPTER 4**

### **RESULTS**

The purpose of this investigation was to identify and assess the demographics of the organizational structure and staff composition of facilities and the level of implementation and compliance with the mandates of the IDEA in facilities identified as providing educational services to AJO with disabilities. Written and oral surveys were used to gather data. In this chapter, definitions of the compliance levels, results of the Preliminary Population Survey, the Sample and Staff Survey, and the Educational Services Interview have provided results that are presented in narration, tables, and a figure.

#### **Population and Sample**

The population was defined by a list of facilities operated by, licensed by, or contracted by the Alabama DYS to provide services to AJO in Alabama, and comprised 107 facilities. The list was provided by a representative of the Alabama DYS.

The sample was determined to be the number of facilities that provide on-site educational services. Fifty-one facilities met this criteria. Representatives, special education teachers, lead teachers, and administrators from 49 facilities responded to the Sample and Staff Composition Survey and the Educational Services Interview.

## Findings for Research Questions

### Findings for Research Question 1

In facilities providing on-site educational services for AJO in the state of Alabama, do differences exist in the level of compliance with the mandates of the IDEA as it relates to the provision of educational services for students identified as eligible for special education and related services in facilities operated (a) directly by the Alabama DYS, (b) public facilities that are licensed by the Alabama DYS, and (c) private for profit or nonprofit facilities that have a contractual agreement with the Alabama DYS to provide services for AJO?

For this analysis facilities were categorized with respect to the reported relationship of the facility to the Alabama DYS. Descriptive statistics were used to present data for full compliance, partial compliance, and noncompliance (see Table 1).

Table 1

#### Relationship of the Facility with the Alabama DYS and the Level of Implementation of the Mandates of the IDEA

Relationship to DYS	Number of facilities	Compliance (%)		
		Full	Partial	Non
Operated by DYS	5	60	0	40
Licensed by DYS	26	7	48	41
Contracted by DYS	18	32	32	32
No Response	2 <sub>a</sub>			

Note. Four percent of facilities licensed by DYS and 4% contracted by the DYS did not respond.

Five facilities were reported as being operated directly by the Alabama DYS. This represented 10% of the sample. Implementation levels ranged from three facilities (60%) identified as providing educational services in full compliance with the mandates of the IDEA, to two facilities (40%) identified as providing educational services with no consideration to the mandates of the IDEA. No facilities operated by the Alabama DYS were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA. This was determined to be the smallest group in the sample. Within this group, the facilities were identified as either being in full compliance or being non-compliant with the mandates of the IDEA in the provision of a FAPE to AJO eligible for special education and related services. Facilities operated by the DYS were found to have the highest level of full compliance and also the highest level of noncompliance.

Twenty-six facilities (51%) were reported as being licensed by the Alabama DYS. Implementation levels of the mandates of the IDEA ranged from two facilities (7%) identified as providing educational services in full compliance with the mandates of the IDEA, to eleven facilities (41%) were identified as providing educational services with no consideration to the mandates of the IDEA. Thirteen facilities (48%) in this group were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA. One facility (3%) did not respond. Comments regarding the respondents' justification for partial compliance and noncompliance are found in the analysis of Research Question 3.

Nineteen facilities (37%) were reported as being contracted by the Alabama DYS to provide services for AJO. Implementation levels were equal; no difference was deter-

mined in the level of compliance across each of the three groups. Representatives from one facility (4%) did not respond.

### Findings for Research Question 2

In facilities providing on-site educational services for AJO in the state of Alabama, do differences exist in the level of compliance with the mandates of the IDEA as it relates to the provision of educational services for students identified as eligible for special education and related services relative to: (a) the student-teacher ratio at facilities providing on-site educational services, (b) the presence of teachers certified in special education on staff, (c) the average length of placement, (d) the employing agency, and (e) maximum number of students served per day?

#### Student-teacher ratio and the level of implementation of the mandates of the IDEA.

For the analysis of this demographic variable, student-teacher ratios were categorized for use in the data reduction process. Data used in the determination of percentages of facilities reporting to be in full compliance, partial compliance, and noncompliance were determined independently for the three groups listed. The categories were determined to be facilities with a student-teacher ratio greater than 20:1, 11:1, to 20:1, and less than or equal to 10:1. Table 2 presents these data.

Nineteen of the facilities (37%) were identified as having a student-teacher ratio >20:1. This group showed the greatest range in the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. Implementation levels were identified as ranging from one facility (8%)

identified as providing educational services in full compliance of the IDEA, to eight facilities (67%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Nine facilities (25%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Seventeen facilities (33%) were identified as having a student-teacher ratio of  $\geq 11:1$  and  $\leq 20:1$ . The range of the level of the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services was 24%. Implementation levels were identified as ranging from five facilities (30%) identified as providing educational services in full compliance of the IDEA to eight facilities (47%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Four facilities (23%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Table2

Student-Teacher Ratio and the Level of Implementation of the Mandates of the IDEA

Variable	Number of facilities	Compliance (%)		
		Full	Partial	Non
>20:1	19	8	25	67
$\geq 11:1 \leq 20:1$	17	30	23	47
$\leq 10:1$	12	21	58	21
No Response	3 <sub>a</sub>			

Note. Six percent of the sample did not respond.

Twelve of the facilities (24%) were identified as having a student-teacher ratio  $\leq 10:1$ . This group showed the smallest range in the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. Four facilities (21%) were identified as providing educational services in full compliance of the IDEA, whereas four other facilities (21%) were identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Eleven facilities (58%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

The presence of teachers certification in special education on staff and the level of implementation of the mandates of the IDEA. Levels of compliance were reported with respect to the type of certification held by the teachers on staff. Data used in the determination of percentages of facilities identified as being in full compliance, partial compliance, and noncompliance were determined independently in each of the three groups listed. The sample was divided into three groups. The groups were determined to be facilities with a full-time teacher certified in special education on staff, a part-time teacher certified in special education, and those with no teacher certified in special education on staff. Table 3 presents these data.

A majority of the facilities were determined to have a teacher certified in special education on staff. Twenty-six of the facilities (51%) were identified as having at least one teacher certified in special education on staff. One facility (2%) was identified as having a



teacher certified in special education on staff part time. Twenty-two facilities (43%) were identified as having no teacher certified in special education on staff.

Table 3

Teachers Certified in Special Education on Staff and the Level of Implementation of the Mandates of the IDEA

Teacher Certification	Number of Facilities	Compliance (%)		
		Full	Partial	Non
Special Education	26	30	33	37
Part time Special Education	1	0	100	0
No Special Education	22	8	46	46
No Response	2 <sub>a</sub>			

Note. Four percent of the sample did not respond.

Facilities with a special education teacher on staff were identified as having a limited range in the implementation of the mandates of the IDEA in the provision of education services to AJO eligible for special education and related services. Implementation levels were identified as ranging from eight facilities (30%) identified as providing educational services in full compliance of the IDEA, to ten facilities (37%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Nine facilities (33%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Facilities with no special education teacher on staff were identified as having a large range in the implementation of the mandates of the IDEA in the provision of educa-

tion services to AJO eligible for special education and related services. Implementation levels were identified as ranging from two facilities (8%) identified as providing educational services in full compliance of the IDEA and ten facilities (46%) were identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Ten facilities (46%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Average length of placement and the level of implementation of the mandates of the IDEA. For this analysis, facilities were categorized with respect to the average length of placement. The four categories used were determined to be facilities identified as having an average placement of less than or equal to 30 days, greater than 30 days but less than 180 days, greater than 180 days but less than 365 days, and greater than 365 days. Data are presented in Table 4.

Eighteen of the facilities (35%) were identified as having an average placement of less than or equal to 30 days. This group showed a significant range in the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. Implementation levels were identified as ranging from one facility (6%) identified as providing educational services in full compliance of the IDEA, to thirteen facilities (72%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Four facilities (22%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Eight of the facilities (16%) were identified as having an average placement of greater than 30 days but less than 180 days. This group showed a significant range in the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. Implementation levels were identified as ranging from five facilities (28%) identified as providing educational services in full compliance of the IDEA, to one facility (5%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Twelve facilities (67%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Table 4

Average Length of Placement and the Level of Implementation of the Mandates of the IDEA

Average Placement	Number of Facilities	Compliance (%)		
		Full	Partial	Non
< 30 days	18	6	22	72
> 30 < 180 days	8	0	38	62
< 180 < 365 days	18	28	67	5
> 365 days	5	80	0	20
No response	2a			

Note. Four percent of the sample did not respond.

Five of the facilities (10%) were identified as having an average length of placement of greater than 180 days but less than 365 days. Implementation levels were identi-

fied as ranging from four facilities (80%) identified as providing educational services in full compliance of the IDEA, to one facility (20%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. No facilities were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Agency employing teachers and the level of implementation of the mandates of the IDEA. For this analysis the agency employing the teachers were categorized for use in the data reduction process. The five categories were determined to be facilities with teachers employed by the Alabama State Department of Education, the Alabama DYS, the local school district, a private entity, and a combination of the local school district and a private entity. These data are presented in Table 5.

Two of the facilities (4%) were identified as having teachers employed by the Alabama State Department of Education. Implementation levels identified an equal number of facilities; one facility (50%) was identified as providing educational services in full compliance of the IDEA, and one (50%) facility was identified as providing educational services for AJO with no consideration to the mandates of the IDEA. No facilities were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Six facilities (12%) were identified as having teachers employed by the Alabama DYS. Implementation levels were identified as ranging from four facilities (67%) identified as providing educational services in full compliance of the IDEA, to two facilities (33%) identified as providing educational services for AJO with no consideration to the mandates

of the IDEA. No facilities were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Table 5

**Agency Employing Teachers and the Level of Implementation of the Mandates of the IDEA**

Employing Agency	Number of Facilities	Compliance (%)		
		Full	Partial	Non
State Dept of Education	2	0	50	50
Dept of Youth Services	6	67	0	33
Local School District	11	14	41	45
Private	29	14	45	41
Combination Local School District and Private	2	50	0	50
No Response	2 <sub>a</sub>			

Note. Four percent of the sample did not respond.

Eleven facilities (22%) were identified as having teachers employed by the local school district. Implementation levels were identified as ranging from four facilities (14%) identified as providing educational services in full compliance of the IDEA, to twelve facilities (41%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Thirteen facilities (45%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Twenty-nine facilities (57%) were identified as having teachers employed by a private entity. Implementation levels were identified as ranging from four facilities (14%)

identified as providing educational services in full compliance of the IDEA, to twelve facilities (41%) were identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Thirteen facilities (45%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Two facilities (4%) were identified as having teachers employed by a combination of the local school district and a private entity. Implementation levels identified an equal number of facilities; one facility (50%) was identified as providing educational services in full compliance of the IDEA, and one facility (50%) was identified as providing educational services for AJO with no consideration to the mandates of the IDEA. No facilities were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Maximum student-resident population per day and the level of implementation of the mandates of the IDEA. For this analysis, facilities were categorized with respect to the maximum number of AJO served per day. The categories were determined to be facilities with a maximum population of less than or equal to 25, greater than 25 but less than 50, greater than 50 but less than 100, and greater than 100. Data are presented in Table 6.

Seventeen of the facilities (33%) were identified as having a maximum daily population of 25 or less. This group showed the greatest range in the implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. Implementation levels were identified as ranging from no facility identified as providing educational services in full compliance of the IDEA, to eight facilities (47%) identified as providing educational services for AJO with no consideration

to the mandates of the IDEA. Nine facilities (53%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Table 6

**Maximum Student--Resident Population Per Day and the Level of Implementation of the Mandates of the IDEA**

Maximum Population	Number of Facilities	Compliance (%)		
		Full	Partial	Non
<25 students	17	0	53	47
$\geq 26 \leq 50$ students	16	31	31	38
$\geq 51 \leq 100$ students	9	22	33	45
>100 students	7	42	28	28
No response	2 <sub>a</sub>			

Note. Four percent of the sample did not respond.

Sixteen facilities (31%) were identified as having a maximum daily population greater than 25 but less than 50. Implementation levels were identified as ranging from five facilities (31%) identified as providing educational services in full compliance of the IDEA, to six facilities (38%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Five facilities (31%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Nine of the facilities (18%) were identified as having a maximum daily population greater than 50 but less than 100. Implementation levels were identified as ranging from two facilities (22%) identified as providing educational services in full compliance of the

IDEA, to four facilities (45%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Three facilities (33%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

Seven facilities (14%) were identified as having a maximum daily population greater than 100. Implementation levels were identified as ranging from three facilities (42%) identified as providing educational services in full compliance of the IDEA, to two facilities (28%) identified as providing educational services for AJO with no consideration to the mandates of the IDEA. Two facilities (28%) were identified as providing educational services to AJO in partial compliance with the mandates of the IDEA.

### Findings for Research Question 3

In facilities providing on-site educational services for AJO in the state of Alabama and reporting partial compliance with the mandates of the IDEA, do differences exist in the level of compliance with the mandates of the IDEA as they relate to the provision of educational services for students identified as eligible for special education and related services relative to (a) all students eligible for special education services being identified and served through a FAPE with a zero rejection rate, (b) determination of the LRE for students eligible for special education and related services, (c) development of an individualized education program for students eligible for special education and related services, (d) participation in nondiscriminatory assessments of students eligible for special education and related services, (e) adherence to due process procedures; and (f) involvement of parents of AJO eligible for special education and related services in decisions regarding the determination of appropriate educational services for their child?



For this analysis, the implementation of each of the individual mandates were categorized for use in the data reduction process. Data used in the determination of percentage of facilities being reported as providing educational services to AJO with partial compliance to the implementation of the mandates of the IDEA were determined independently for the six groups listed in Table 7.

Nineteen facilities (37%) were identified as providing educational services to AJO eligible for special education and related services with partial compliance to the mandates of the IDEA. Data gathered from these facilities were used to determine which of the mandates were being implemented. Data collected are shown in Table 7.

Table 7

**Compliance with the Individual Mandates of the IDEA in Facilities Identified as Providing Educational Services in Partial Compliance with the Mandates of the IDEA**

Issue of Mandate	Compliance	
	Facilities (n)	Facilities (%)
Free and appropriate public education	10	53
Least restrictive environment	0	0
Individualized education program	19	100
As written with addendum	7	37
As written by previous school	12	63
Assessment	0	0
Due process	0	0
Parental involvement	6	32

Ten of the facilities (53%) were reported as identifying students eligible for special education and related services with a zero rejection rate. All of the facilities were identified as using or developing some type of individualized education program for students eligible for special education and related services. Within these nineteen facilities, seven facilities (37%) were identified as providing educational services to AJO eligible for a special education and related services based on an existing IEP with an addendum written on-site, and twelve (63%) were identified as providing educational services to AJO eligible for a special education and related services based on implementation of an existing IEP. Six facilities (32%) were identified as attempting and involving parents of AJO eligible for special education and related services in decisions regarding the determination of appropriate educational services for their child. No facilities were identified as considering the mandates to provide educational services in the LRE, participation in nondiscriminatory assessments, and access to due process for students eligible for special education and related services.

### Additional Findings

Respondents were provided the opportunity to make additional comments related to the content of the survey. Statements made by the respondents before, during, and after the interview were recorded as qualitative data and are presented in Appendix H in a tabular format. Fifty statements are presented and grouped according to the mandate or mandates addressed by the comment. Due to the nature of the responses, a comment may be placed in more than one category.

As the interviews were conducted, many respondents openly elaborated on issues addressed by the Educational Services Interview. Comments made by respondents who reported providing educational services to AJO in facilities operated by the Alabama DYS, licensed by the Alabama DYS, or contracted to provide services on behalf of the Alabama DYS were recorded as qualitative data. Only comments from respondents reporting partial or noncompliance with the mandates of the IDEA were analyzed. Data were categorized according to the mandates of the IDEA mentioned in the comment.

Table 8

Frequencies of Mandates of the IDEA Mentioned as an Elaboration or Additional Comment Before, During, or After the Educational Services Interview

Mandate Addressed	Number of Statements	Frequency(%)
Free and appropriate public education	23	46
Least restrictive environment	3	6
Individualized education program	17	34
Due process	1	2
Nondiscriminatory assessment	6	12
Parental involvement	10	20

The mandates addressed most frequently were the entitlements to a FAPE with a zero rejection rate (46%) and the IEP (34%). Comments involving parental involvement represented 20% of the statements. Comments regarding nondiscriminatory assessments

and the least restrictive environments represented 12% and 8% frequency, respectively.

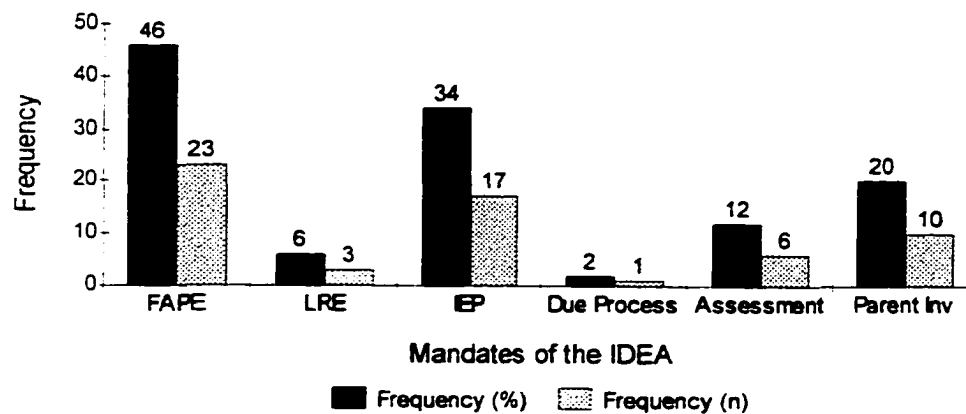
Only one respondent (2%) commented on the LRE (see Fig. 1).

Additional review of the comments determined trends are evident across the categories. Four dominant trends were identified through peer review (a) a misunderstanding of the issues relating to time and the provision of special education and related services to eligible AJO, (b) representation that all students at the facility receive a specialized education so there was no need to comply with the IDEA, (c) the belief that changing the LRE on the existing IEP was adequate, and (d) a general indifference to the law.

### Summary

Analysis of the data indicates that differences existed in the level of compliance with the mandates of the IDEA concerning the relationship of the facility to the Alabama DYS. The greatest difference was determined to be in the facilities identified as providing a FAPE for AJO in full compliance with the mandates of the IDEA. The least difference was identified in facilities providing on-site educational services to AJO with no regard for the mandates of the IDEA.

Review, analysis, and interpretation of the data indicated that demographic variables do influence the level of compliance with the mandates of the IDEA in the provision of a FAPE for eligible AJO. Primary consideration was given to identification of the differences in full compliance, followed by the identification of the differences in noncompliance and by identification of the difference in partial compliance was determined.



**Figure 1.** Frequency of mandates of the IDEA mentioned as additional comments before, during, and after the educational services interview. Three area of prominent concern are the provision of a FAPE, implementation of the IEP, and Parental Involvement. Both of these variables were determined to have a range of 22% of facilities in full compliance.

The variable with the greatest difference was identified as the average length of placement. In facilities identified as providing services to AJO for placements of more than 365 days, full compliance was reported by 80% of the respondents. In facilities identified as providing services to AJO for placements of less than 30 days, only 6% reported that a FAPE was provided to eligible AJO.

Differences existed in the agency employing the teachers and the level of implementation of the mandates of the IEP in the provision of a FAPE to eligible AJO. In facilities identified as the teachers being employed by the DYS, 67% were reported to provide a FAPE to eligible AJO in full compliance with the mandates of the IDEA. No facilities where teachers were employed by the Alabama Department of Education reported providing a FAPE to eligible AJO with respect to the mandates of the IDEA.

A 42% difference was determined in facilities reported as providing a FAPE to eligible AJO in full compliance with the mandates of the IDEA was identified in reference to the maximum student-resident population. In the facilities reporting a maximum student-resident population of less than 25 residents, no facilities were identified as being in full compliance. In facilities reporting a maximum student-resident population of greater than 100 residents, 42% of the facilities were identified as being in full compliance.

The variables with the least difference were identified as the employment of a teacher certified in special education on staff and the student-teacher ratio. In facilities identified as providing services to AJO with a teacher certified in special education on staff, full compliance was reported by 30% of the respondents. In facilities identified as providing services to AJO with no teacher certified in special education on staff, 8% re-

ported that a FAPE was provided to eligible AJO. Facilities identified as providing services to AJO with a student-teacher ratio of  $\geq 11:1$  and  $\leq 20:1$ , full compliance was reported by 30% of the respondents. In facilities identified as providing services to AJO with a student-teacher ratio of  $>20:1$ , full compliance was reported by 8% of the respondents.

Differences exist in the levels of implementation of the individual mandates of the IDEA as related to the provision of a FAPE education for AJO eligible for special education and related services. All facilities reporting partial compliance with the mandates of the IDEA were identified as attempting to provide educational services with some direction from the IEP. Of these identified facilities, 63% reported using the IEP as written by the previous school, and 37% reported writing an addendum to the existing IEP. Identification of students eligible for special education services and related services with a zero rejection rate was reported by 53% of respondents reporting partial compliance. Only six (32%) reported attempting to involve the parents-guardians in the identification or assessment processes or in the development of an IEP. No facility identified as providing on-site educational services in partial compliance with the mandates of the IDEA reported compliance with the mandates that provide for a FAPE in the LRE, participation in non-discriminatory assessments, or due process.

## **CHAPTER 5**

### **SUMMARY, FINDINGS, CONCLUSIONS, IMPLICATIONS, AND RECOMMENDATIONS**

#### **Summary**

This study examined the implementation of the mandates of the IDEA in facilities associated with the Alabama DYS. The study evolved from three research questions. Two of the questions sought information to determine whether certain demographic variables influence the level of implementation of the mandates of the IDEA in the provision of educational services to AJO eligible for special education and related services. One question sought to determine if trends could be identified in which mandates were implemented in facilities identified as providing educational services to eligible AJO in partial compliance with the mandates of the IDEA.

Three researcher-developed instruments were used to obtain data necessary to generate findings. These instruments are the Preliminary Population Survey, the Sample and Staff Composition Survey, and the Educational Services Interview.

Prior to the development of the research questions, a comprehensive review of the literature was conducted. The review focused on historical studies of education, the population within the juvenile justice system, standards for education in the juvenile justice system, civil rights and education, special education legislation, the rights of incarcerated individuals, and current legal issues regarding the education of AJO eligible for special education and related services.



In this study, a sample of 51 facilities identified as having a relationship with the Alabama DYS and providing on-site educational services to AJO was used. Forty-nine (96%) of the facilities identified as being in the sample responded to the surveys.

## Findings

### Findings for Research Question 1.

Differences existed in the level of compliance with the mandates of the IDEA in reference to the relationship of the facility to the Alabama DYS. It was determined that facilities operated directly by the Alabama DYS had a higher percentage of full compliance than either facilities licensed by or contracted to provide services to AJO on behalf of the Alabama DYS. It was also determined that facilities licensed by the Alabama DYS had the lowest percentage of full compliance with the mandates of the IDEA.

### Findings for Research Question 2.

In facilities where respondents reported providing educational services to AJO with disabilities the following differences existed:

1. Although differences existed in the level of compliance with the mandates of the IDEA in reference to the student-teacher ratio it was determined that the difference in the percentage of facilities (11%) determined to be in full compliance was of little importance.
2. It was determined that facilities where a special education teacher was on staff had a rate of full compliance 22% higher than those that employed only general educators.

3. In facilities with an average length of placement in excess of 365 days the level of compliance was 52% higher than those with an average stay of 180 to 364 days and 74% higher than facilities with an average placement of less than 30 days.

4. In facilities where teachers are employed by the Alabama DYS the level of compliance was 67%, whereas in facilities where the teachers are employed by the Alabama Department of Education no facilities reported full compliance.

5. Although differences existed in the level of implementation of the mandates of the IDEA in reference to the maximum student-resident population, it was determined that the difference in the percentage of facilities (11%) determined to be in full compliance was of little importance.

### Findings for Research Question 3.

Quantitative data was analyzed and determinations were made that in facilities where educational services are provided to AJO in partial compliance with the mandates of the IDEA differences existed in the level of compliance with individual mandates of the IDEA. The following differences were identified:

1. The implementation of a full or partial IEP was reported in all facilities.
2. Provision of a FAPE with zero reject was reported in 53% of the facilities.
3. An attempt to involve parents in educational decisions was reported in 32% of the facilities.
4. Noncompliance with the mandates regarding LRE, participation in nondiscriminatory assessments and due process was reported in all facilities.

### Additional findings for Research Question 3.

Frequency by category. Using qualitative methods of evaluation six categories matching the six mandates of the IDEA were established. Comments were separated into appropriate categories based on content. Frequency of the comments were identified as shown below:

1. Twenty-three comments (46%) related to the provision of a FAPE.
2. Seventeen comments (34%) related to the implementation of an IEP.
3. Ten comments (20%) related to parental involvement.
4. Six comments (12%) related to nondiscriminatory assessments.
5. Three comments (6%) related to the LRE.
6. One comment (2%) related to adherence to due process procedures.

Determination of trends. Peer review substantiated that four dominant trends existed (a) a misunderstanding of the issues related to time and the provision of special education and related services to eligible AJO, (b) representation that all students at the facility receive a specialized education so there was no need to comply with the mandates of the IDEA, (c) the belief that changing the LRE on the existing IEP was adequate, and (d) a general indifference to the law.

### **Conclusions**

As studies in the past have shown, there is a group of youths eligible for special education and related services whose rights, as guaranteed by the IDEA, were being violated (Bullock & McArthur, 1994; Coffey & Gemignani, 1994, Malmgren, Abbott &

Hawkins, 1999; Otto et al., 1992; Rutherford et al., 1985; Santamour, 1987; Wolford, 1987b). These are students eligible for special education and related services who have entered the juvenile justice system. The results of this study of facilities in Alabama that provide educational services to AJO support the overall findings of previous research. Educators providing services for AJO in Alabama report that many of their students are not receiving the special education and related services to which they are entitled.

Respondents expressed concern regarding limitations placed on educators in the juvenile justice system. The mobility of the AJO was a major issue in the rational of not providing a FAPE for eligible AJO. Nearly one-half of the respondents expressed concern and a lack of understanding in regard to the entitlement of a FAPE using time in placement as a key factor in their explanations of noncompliance. Many stated that because of the short-term nature of their program, they were exempt from providing a FAPE in the LRE according to an appropriate IEP.

Time and mobility were also concerns about the acquisition of school records. Records were often lost or did not catch up with the AJO until they have reached a long-term placement or returned to their home school. Educators at short-term facilities frequently do not have special education records until after the AJO is at a new placement.

As this pattern is repeated, the period of time that the AJO is not receiving a FAPE may become extensive. The findings that levels of compliance increase with a closer relationship to the Alabama DYS, teachers employed by the Alabama DYS, and average placements in excess of 365 days may be supportive of the importance of time. These findings are representative of the fact that the majority of the AJO who have a

placement of more than 365 days are placed in a facility operated directly by the Alabama DYS.

Educators providing services to AJO in the state of Alabama differ in their awareness of the laws regarding the provision of educational services to AJO eligible for special education and related services. These differences are evident in the statements recorded in Appendix H. Many educators are misinformed of the entitlements of the of the AJO eligible for special education and related services even though they are clearly stated in the IDEA.

Through the analysis of the data gathered in this study, it was determined that the closer the relationship of the facility and the educational staff to the Alabama DYS, the greater the compliance with the mandates of the IDEA. The levels of compliance reported in Research Questions 1 and 2 document this. Additional information would be needed to determine a reason for this recognizable difference in compliance with the mandates of the IDEA at facilities operated by the Alabama DYS.

It appears that educators reporting partial compliance with the mandates of the IDEA are aware that AJO eligible for a FAPE have specific rights guaranteed by the IDEA. Many of these educators are concerned that they are not providing a FAPE, as mandated by the IDEA, to their students but are convinced that they are doing the best they can in the classroom. They state that they will continue to rely on the odds that because they are doing the best they can, or what they feel is in the best interest of the child, they will avoid litigation. This ostrich-type mentality can and eventually may involve these well-meaning educators in extensive litigation (Puritz & Scali, 1998; Snyder & Sickmund, 1999).

### **Implications for Decision Makers**

Noncompliance with the mandates of the IDEA in the provision of educational services for AJO eligible for special education and related services should be of eminent concern to educational and juvenile justice decision makers at the local and state level. Legal issues, as presented in the literature review and in Appendix B, are evidence that support and advocacy groups no longer accept the views of many that the juvenile delinquent with special needs should be punished with no regard to their disability.

Although the laws are clear regarding the time constraints of the IDEA related to providing a FAPE for identified AJO eligible for a special education and related services, the fact that many respondents do not understand or do not comply with the law indicate that a monitoring system should be in place to ensure that the facility and local school system are not found liable for violation of the entitlements of the IDEA. A combined effort of the probation officers and individuals at the home school providing records to the facility where the AJO is placed could decrease the time it takes to transfer general and special education records to the facility. To protect the rights of the AJO and decrease the liability of the local schools system and the juvenile justice facility, a copy of the IEP should be faxed or delivered to the requesting facility within 3 days of placement.

As records are requested, it is important to consider the rights of privacy of the AJO. The placement of the AJO is not to be common knowledge. Thus, there should be a limited number of individuals at the home school established as contacts for educators at juvenile justice facilities. These individuals should be educated concerning issues of importance in working with the facilities to provide a FAPE to eligible AJO. Emphasis

should be placed on the importance of time in the transfer of educational records to the facility.

It is imperative that decision makers provide funding for professional development for educators and support staff regarding the IDEA in facilities providing educational services to AJO. In addition, support of educators as they attempt to comply with the mandates of the IDEA with regard to, but not limited to, time factors, privacy issues, parental involvement, and placement of these special needs AJO is crucial (Gemignani, 1994; Hockenberry, 1980).

Educational and juvenile justice decision makers must understand that the AJO eligible for special education and related services is guaranteed a FAPE by the IDEA. A lack of (a) funding, (b) knowledge of the law, (c) time impairments, (d) punishment-rehabilitation of the offender, and (e) the cries of the community to lock these youths away do not override their legal rights. Juvenile offenders and their parents do not leave their rights at the courthouse steps.

#### **Recommendations for Further Study**

The following recommendations for further study have been developed:

1. This study should be replicated in other states.
2. A multistate investigation of concerns regarding the implementation of the mandates of the IDEA should be conducted.
3. A study of professional development resources provided at facilities providing on-site educational services should be conducted in Alabama.

4. An examination of law suits filed in Alabama and other states in the southeastern region of the United States should be conducted on behalf of AJO with disabilities.

5. A multi state investigation of concerns of the implementation of the mandates of the IDEA comparing private for profit and private nonprofit facilities.

6. A qualitative study of the levels of implementation of the mandates of the IDEA using a data reported by special education teachers, general education teachers, and juvenile justice administrators.

7. A study of the professional development policies and administrative support of educators in the area of providing a FAPE for eligible AJO.



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**APPENDIX A**  
**COMPREHENSIVE LIST OF DEFINITIONS**

### Definition of Terms

**Case law:** Case law distinguishes rules of law that are articulated by the courts, as opposed to laws that originate from legislative bodies (Robinson & Rapport, 1999).

**Detainee:** “Any person confined in a local detention facility not serving a sentence for a criminal offense” (American Correctional Association, 1991, p. 123).

**Educational program:** “A program of formal academic education or a vocational training activity designed to improve employment capability” (American Correctional Association, 1991, p. 124).

**Educational Service Agency:** “A regional public multiservice agency authorized by State law to develop, manage, and provide services or programs to local educational agencies; and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and includes any other public institution or agency having administrative control and direction over a public elementary or secondary school” (IDEA 602(4)).

**Facility:** “A place, institution, building (or part thereof) that is used for the lawful custody and/or treatment of individuals. It may be owned and/or operated by public or private agencies and includes the staff and services as well as the buildings and grounds” (American Correctional Association, 1991, p. 124).

**Free Appropriate Public Education:** “Special education and related services that have been provided at public expense, under public supervision and direction, and without charge; meet the standards of the State educational agency; include an appropriate pre-



school, elementary, or secondary school education in the State involved; and are provided in conformity with the individualized education program required under section 614(d) of the IDEA" (IDEA 602(8)).

Holding facility or lockup: "A temporary confinement facility, for which the custodial authority is usually less than forty-eight hours, where arrested persons are held pending release, adjudication, or transfer to another facility" (American Correctional Association, 1991, p. 125).

Individualized Education Program (IEP): "A written plan for the provision of special education and related services for a student with disabilities (AL Adm. Code 290-080-090-. 14(34)) as designated in section 614(d) of the IDEA. The plan is approved for a specified time not to exceed one calendar year." (AL Adm. Code 290-080-090-. 14(34))

Inmate: "Any individual, whether pretrial, unsentenced, or sentenced status, who is confined in a correctional facility" (American Correctional Association, 1991, p. 126).

Juvenile nonresidential program: "A program that provides services to juveniles who live at home and report to the program on a daily basis. Juveniles in these programs require more attention than that provided by probation and aftercare services. Often the program operates its own education program through the local school district. The population of nonresidential programs is usually drawn from court commitments but may include juveniles enrolled as a preventive or diversionary measure. The program may operate as a part of a residential program and it may provide space for occasional overnight stays for program participants where circumstances warrant additional assistance" (American Correctional Association, 1991, p. 127).

**Juvenile community residential program:** “A program housed in a structure without security fences and security hardware or other major restraining construction typically associated with correctional facilities, such as a converted apartment building or private home. They are not constructed as or intended to be detention facilities. Except for day-care programs, they provide twenty-four-hour care, programs, and supervision to juveniles in residence. Their focus is on providing the juvenile with positive adult models and program activities that assist in resolving problems specific to this age group in an environment conducive to positive behavior in the community” (American Correctional Association, 1991, p. 126).

**Least restrictive environment (LRE):** “To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, shall be educated with students who are disabled, and special classes, separate schooling or removal of students with disabilities from the school which he/she would normally attend if not disabled will occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (AL Adm. Code 290-080-090-.07(1)). Educational environment where the student with disabilities will most likely attain most of his/her special education goals and objectives (AL Adm. Code 290-080-090-.14(39)).”

**Recidivism:** Recidivism is typically defined as a new arrest, conviction or being incarcerated for the failure to maintain the condition of probation within a given period of time after release from custody (Vitto & Wilson, 1985).

**Related services:** “The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathol-

ogy and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children” (IDEA 602(22)).

Secure detention: “The temporary holding, within a physically restricting environment that has locked doors and a secured perimeter, of a juvenile accused or adjudicated of a delinquent act” (American Correctional Association, 1991, p. 130).

Special Education: “The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including -

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education (IDEA 602(25)).

(C) Specially designed instruction, at no cost to the parent, to meet the unique educational needs of a student with disabilities. Special education includes classroom instruction, instruction in physical education, home instruction, instruction in hospitals and institutions, and vocational education when specially designed instruction is required. The definition of special education is a particularly important one since a student is not disabled unless he/she needs special education. Related services also depend on this definition, since a related service must be necessary for a student to benefit from special education. Therefore, if a student does not

need special education, there can be no related services, and the student is not covered under the Individuals with Disabilities Education Act” (AL Adm. Code 290-080-090-.14(88)).

Special needs inmate: “An inmate whose mental and/or physical condition requires special handling and treatment by staff. Special needs inmates include, but are not limited to, drug or alcohol addicts or abusers, the emotionally disturbed, mentally retarded, suspected mentally ill, physically handicapped, chronically ill, and the disabled or infirmed” (American Correctional Association 1991, p. 131).

## **APPENDIX B**

### **RECENT CLASS ACTION LITIGATIONS INVOLVING EDUCATIONAL CLAIMS FOR STUDENTS WITH DISABILITIES IN JUVENILE CORRECTIONAL FACILITIES**

**Table 1. Recent Class Action Litigation Involving Educational Claims for Students With Disabilities in Juvenile Correctional Facilities**

<b>Case Name, Case Number, and Court of Origin</b>	<b>Date Filed</b>	<b>Status</b>	<b>Type of Institution</b>	<b>General Conditions Claims</b>	<b>IDEA<sup>1</sup>/ 504<sup>2</sup> Claims</b>
<i>A.C. v. McDonnell</i> No. 95 WY 1838 (D. Colo.)	7/21/95	Pending	Detention center		IDEA
<i>Alexander S. v. Boyd</i> 3:90-3062-17 (D.S.C.)	12/28/90	Trial 1994; court ruling 1/25/95	Training school	X	Both
<i>Andre H. v. Sobul</i> 84 Cir. 3114 (DNE) (S.D.N.Y.)	5/3/84	Stipulation and order of settlement 9/90	Detention center		Both
<i>Anthony C. v. Pima County</i> No. CIV-82-501-TUC-ACM (D. Ariz.)	8/10/82	Stipulation and agreement 1/20/85	Detention center	X	Both
<i>Bobby M. v. Chiles</i> No. TCA-83-7003 (N.D. Fla.)	1/5/83	Settlement agreement 5/7/87; order (terminating consent decree) 11/6/96	Training school	X	Both
<i>D.B. v. Gurey</i> No. 91-6463 (E.D. Pa.)	10/16/91	Stipulation of settlement 4/9/93	Training school	X	Both
<i>Dre v. Fitt</i> No. 93-1227 (E.D. La.)	4/13/93	Partial settlement on education issues 3/95	Detention center	X	Both
<i>Dre v. Napper</i> No. 1-93-CV-642-JEC (N.D. Ga.)	3/26/93	Pending	Detention center	X	IDEA
<i>Dre v. Younger</i> No. 91-187 (E.D. Ky.)	11/21/91	Pending	Detention center	X	Both
<i>E.R. v. McDonnell</i> No. 94-N-2816 (D. Colo.)	12/8/94	Settlement agreement and order 5/9/97	Detention center	X	IDEA
<i>Earl P. v. Hornbeck</i> No. N-85-2973 (D. Md.)	7/12/85	Consent decree 10/19/87	Training school		IDEA
<i>G.C. v. Culer</i> No. 87-6220 (S.D. Fla.)	3/30/87	Court order of dismissal on education issues; consent decree on balance of issues 12/15/88	Detention center	X	Both
<i>Gary H. v. Hegstrom</i> No. 77-1039-BU (D. Or.)	12/23/77	Stipulated dismissal 7/20/89 <sup>3</sup>	Training school	X	Both
<i>Horton v. Williams</i> No. C94-5428 RJB (W.D. Wash.)	8/17/94	Partial settlement 7/26/95	Training school	X	IDEA
<i>James v. Jones</i> No. C-89-0139-P (H) (W.D. Ky.)	1/7/93	Pending	Detention center	X	See note. <sup>4</sup>

**Table 1. Recent Class Action Litigation Involving Educational Claims for Students With Disabilities in Juvenile Correctional Facilities**

<b>Case Name, Case Number, and Court of Origin</b>	<b>Date Filed</b>	<b>Status</b>	<b>Type of Institution</b>	<b>General Conditions Claims</b>	<b>IDEA/<sup>1</sup> 504<sup>2</sup> Claims</b>
<i>Jerry M. v. District of Columbia</i> No. 1519-85 (IFP) (D.C. Super. Ct.)	3/85	Consent decree 7/24/86	Detention center; training school	X	IDEA
<i>John A. v. Castle</i> No. 90-200-RRM (D. Del.)	5/1/90	Settlement agreement 3/25/94	Detention center; training school	X	Both
<i>Johnson v. Upchurch</i> No. 86-195 TUC RMB (D. Ariz.)	4/6/86	Consent decree 5/6/93	Training school	X	IDEA
<i>Nick O. v. Terhune</i> No. S-89-0755 RAR-JFM (E.D. Cal.)	5/25/89	Stipulation and order 2/16/90	Training school		Both
<i>Shaw v. San Francisco</i> No. 915763 (Cal. Super. Ct., City of San Francisco)	2/8/90	Agreement 10/4/93	Detention	X	IDEA
<i>Smith v. W'beaton</i> No. H-87-190 (PCD) (D. Conn.)	3/4/87	Pending	Training school		Both
<i>T.I. v. Delia</i> No. 90-2-16125-1 (Wash. Super. Ct., King County)	8/10/90	Partial settlement 11/26/90; stipulation and consent judgment 10/27/93	Detention center	X	See note. <sup>3</sup>
<i>T.Y. v. Shawnee County</i> No. 94-079-DES (D. Kan.)	5/19/94	Settlement agreement and consent decree 7/28/95	Detention center	X	IDEA
<i>United States v. Puerto Rico</i> No. 94-2080 (CC) (D.P.R.)	8/10/94	Consent order 10/6/94; final agreement pending	Detention center; training school	X	IDEA
<i>W.C. v. DeBruyn</i> No. IP 90-40-C (S.D. Ind.)	1/16/90	Stipulation to enter consent decree 9/29/91	Training school	X	IDEA

<sup>1</sup> Individuals With Disabilities Education Act.

<sup>2</sup> Section 504 of the Vocational Rehabilitation Act of 1973 is civil rights law for persons with disabilities. It prohibits discrimination against persons with disabilities by programs receiving Federal financial assistance. Although Sections 504 defines handicaps or disabilities more broadly than IDEA, education regulations implementing Section 504 [34 CFR 104 et seq.] are very similar to those for IDEA.

<sup>3</sup> The Ninth Circuit in 831 F.2d 1430 (1987) affirmed the 1984 district court ruling that conditions in the isolation unit violated constitutional rights of juveniles but reversed the remedial order. Special education issues were not addressed in the court rulings or the dismissal order.

<sup>4</sup> Educational claims based on 8th and 14th amendments of the U.S. Constitution.

<sup>5</sup> Educational claims based on due process clause of 14th amendment of the U.S. Constitution.

**APPENDIX C**  
**INSTRUMENTS**



**This is a preliminary screener that will allow me to sort facilities into smaller groups. Please take the time to check the statements that apply to your program and return fax to 205-669-8579 or 205-428-9333.**

**NAME OF FACILITY \_\_\_\_\_**  
 (This is for record keeping only)

\_\_\_\_ **We do not provide educational services at this facility**

\_\_\_\_ **We participated in the December 1, 1999 Child Count**

\_\_\_\_ **We did not participate in the December 1, 1999 Child Count**

\_\_\_\_ **I am not aware of the Child Count.**

\_\_\_\_ **Students receive educational services based on the IEP requested from and sent by their previous school.**

\_\_\_\_ **We write a new or amended IEP for special needs students.**

\_\_\_\_ **All of the students in our facility receive special attention but we do not follow an IEP.**

Again let me thank you in advance for your help. Please tell me the best time to reach you by phone \_\_\_\_\_

Rebecca A. Seales  
 Correctional Educator and Doctoral Candidate

**NO COVER SHEET IS NECESSARY.**  
**PLEASE FAX TO 205-669-8579 or 205-428-9333 ASAP.**

## **SAMPLE & STAFF COMPOSITION SURVEY**

### **I. SECTION I - POPULATION**

1. WHAT IS THE MAX NUMBER OF STUDENTS SERVED ON ONE DAY?

\_\_\_\_\_

2. IS THERE A GENDER LIMIT?      A. \_\_\_\_\_ YES      B. \_\_\_\_\_ NO  
IF YES, HOW MANY      a. \_\_\_\_\_ MALES      b. \_\_\_\_\_ FEMALES

3. WHAT IS THE MAXIMUM STAY AT THIS FACILITY? \_\_\_\_\_

4. WHAT IS AN APPROXIMATE AVERAGE OF A STAY? \_\_\_\_\_

### **II. FACULTY AND STAFF INFORMATION**

1. HOW MANY TEACHERS ARE ON STAFF?

\_\_\_\_\_

2. AREAS OF CERTIFICATION OF TEACHERS:

A. \_\_\_\_\_ SCIENCE    B. \_\_\_\_\_ MATH      C. \_\_\_\_\_ ENGLISH    D. \_\_\_\_\_  
SOCIAL STUDIES    E. \_\_\_\_\_ PE      F. \_\_\_\_\_ ELECTIVE AREAS  
G. \_\_\_\_\_ LD    H. \_\_\_\_\_ EC    I. \_\_\_\_\_ MR    J. \_\_\_\_\_ OHI    K. \_\_\_\_\_ MLH L  
\_\_\_\_\_ OTHER \_\_\_\_\_

3. WHO EMPLOYS THE TEACHERS?

A. \_\_\_\_\_ STATE DEPARTMENT OF EDUCATION  
B. \_\_\_\_\_ JUVENILE COURT  
C. \_\_\_\_\_ DEPARTMENT OF YOUTH SERVICES  
D. \_\_\_\_\_ LOCAL SCHOOL SYSTEM  
E. \_\_\_\_\_ PRIVATE

4. DO YOU HAVE TEACHING ASSISTANTS?

A. \_\_\_\_\_ YES (IF YES, HOW MANY \_\_\_\_\_)      B. \_\_\_\_\_ NO

5. WHO EMPLOYS TEACHING ASSISTANTS?

A. \_\_\_\_\_ STATE DEPARTMENT OF EDUCATION  
B. \_\_\_\_\_ JUVENILE COURT  
C. \_\_\_\_\_ DEPARTMENT OF YOUTH SERVICES  
D. \_\_\_\_\_ LOCAL SCHOOL SYSTEM

**PLEASE RETURN FAX. NO COVER SHEET IS NEEDED**  
**205-669-8579 or 205-428-9333**

# STRUCTURED INTERVIEW

100

DATE \_\_\_\_\_ TIME \_\_\_\_\_ INTERVIEWER \_\_\_\_\_

## I. SECTION I - POPULATION

1. WHAT IS THE MAX NUMBER OF STUDENTS SERVED ON ONE DAY? \_\_\_\_\_
2. IS THERE A GENDER LIMIT? A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO  
IF YES, HOW MANY a. \_\_\_\_\_ MALES b. \_\_\_\_\_ FEMALES

## II. DAILY SCHEDULE AND SUBJECTS TAUGHT

1. WHAT ARE THE HOURS OF CLASS? \_\_\_\_\_ A.M. TO \_\_\_\_\_ P.M.
2. HOW MANY PERIODS OF STUDY DO YOU HAVE? \_\_\_\_\_
3. HOW LONG IS EACH PERIOD? \_\_\_\_\_ MINS
4. WHAT SUBJECTS ARE TAUGHT?  
A. \_\_\_\_\_ SCIENCE B. \_\_\_\_\_ MATH C. \_\_\_\_\_ ENGLISH  
D. \_\_\_\_\_ PE E. \_\_\_\_\_ SOCIAL STUDIES F. \_\_\_\_\_ ELECTIVE AREAS

## III. CONTACT WITH HOME/ PREVIOUS SCHOOL

1. ARE STUDENT RECORDS REQUESTED FROM PREVIOUS SCHOOL?  
A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO  
IF YES, WHAT RECORDS ARE REQUESTED?  
a. \_\_\_\_\_ FULL CUMULATIVE RECORD FOLDER  
b. \_\_\_\_\_ CURRENT SCHEDULE  
c. \_\_\_\_\_ STANDARDIZED TEST SCORES  
d. \_\_\_\_\_ INTERVENTION STRATEGIES  
e. \_\_\_\_\_ DISCIPLINE FOLDER  
f. \_\_\_\_\_ SPECIAL EDUCATION REFERRALS  
g. \_\_\_\_\_ PARTIAL IEP  
h. \_\_\_\_\_ COMPLETE IEP
2. IF A STUDENT IS ENROLLED IN ANOTHER SCHOOL ARE LOCAL SCHOOL ASSIGNMENTS CONSIDERED?  
A. \_\_\_\_\_ NO  
B. \_\_\_\_\_ SHORT TERM ONLY (LESS THAN ONE WEEK)  
a. \_\_\_\_\_ PARENTS RESPONSIBILITY TO OBTAIN ASSIGNMENTS  
b. \_\_\_\_\_ ASSIGNMENTS ARE REQUESTED FROM HOME SCHOOL  
C. \_\_\_\_\_ LONG TERM ONLY (MORE THAN ONE WEEK)  
a. \_\_\_\_\_ PARENTS RESPONSIBILITY TO OBTAIN ASSIGNMENTS  
b. \_\_\_\_\_ ASSIGNMENTS ARE REQUESTED FROM HOME SCHOOL
3. ARE GRADES SENT TO FOLLOWING SCHOOL WHEN STUDENT LEAVES?  
A. \_\_\_\_\_ UPON REQUEST OF SCHOOL TO WHICH STUDENT IS GOING  
B. \_\_\_\_\_ NO

## IV. FACULTY AND STAFF INFORMATION

1. HOW MANY TEACHERS ARE ON STAFF? \_\_\_\_\_
2. AREAS OF CERTIFICATION OF TEACHERS:  
A. \_\_\_\_\_ SCIENCE B. \_\_\_\_\_ MATH C. \_\_\_\_\_ ENGLISH D. \_\_\_\_\_ SOCIAL STUDIES E. \_\_\_\_\_ PE  
F. \_\_\_\_\_ ELECTIVE AREAS G. \_\_\_\_\_ LD H. \_\_\_\_\_ EC I. \_\_\_\_\_ MR J. \_\_\_\_\_ OHI K. \_\_\_\_\_ MLH  
L. \_\_\_\_\_ OTHER \_\_\_\_\_
3. BY WHOM ARE THE TEACHERS EMPLOYED?  
A. \_\_\_\_\_ STATE DEPARTMENT OF EDUCATION B. \_\_\_\_\_ JUVENILE COURT  
C. \_\_\_\_\_ DEPARTMENT OF YOUTH SERVICES D. \_\_\_\_\_ LOCAL SCHOOL SYSTEM  
E. \_\_\_\_\_ PRIVATE
4. DO YOU HAVE TEACHING ASSISTANTS? A. \_\_\_\_\_ YES (IF YES, HOW MANY \_\_\_\_\_) B. \_\_\_\_\_ NO
5. TEACHING ASSISTANTS ARE EMPLOYED BY WHOM?  
A. \_\_\_\_\_ STATE DEPARTMENT OF EDUCATION B. \_\_\_\_\_ JUVENILE COURT  
C. \_\_\_\_\_ DEPARTMENT OF YOUTH SERVICES D. \_\_\_\_\_ LOCAL SCHOOL SYSTEM  
E. \_\_\_\_\_ PRIVATE

## V. SPECIAL EDUCATION

1. DOES YOUR EDUCATIONAL PROGRAM IDENTIFY STUDENTS WITH SPECIAL NEEDS?  
A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO (IF NO INTERVIEW IS OVER)
2. HOW ARE THE SPECIAL NEEDS DETERMINED?  
A. \_\_\_\_\_ WE ASK THE PREVIOUS SCHOOL  
B. \_\_\_\_\_ WE COMPLETE AN ELIGIBILITY ASSESSMENT
3. IF A STUDENT IS IDENTIFIED AS ELIGIBLE FOR SPECIAL EDUCATION SERVICES BY THE PREVIOUS SCHOOL WHAT HAPPENS HERE?  
A. \_\_\_\_\_ THE IEP IS IMPLEMENTED AS WRITTEN  
B. \_\_\_\_\_ WE DO THE BEST WE CAN  
C. \_\_\_\_\_ WE CAN'T FOLLOW THE IEP HERE  
D. \_\_\_\_\_ THERE IS AN IEP MEETING SCHEDULED TO MODIFY THE IEP AS DEEMED NECESSARY BY THE IEP COMMITTEE

**STRUCTURED INTERVIEW (con't)**

101

- DATE \_\_\_\_\_ TIME \_\_\_\_\_ INTERVIEWER \_\_\_\_\_
4. IF A STUDENT HAS AN IEP AND IT EXPIRES WHILE THE STUDENT IS ASSIGNED TO THIS FACILITY WHAT DO YOU DO?
- A. \_\_\_\_\_ PARENTS ARE CONTACTED TO SCHEDULE AN IEP MEETING
- B. \_\_\_\_\_ THERE IS AN IEP MEETING SCHEDULED TO WRITE A NEW IEP
- IF B, WHO ATTENDS?
- a. \_\_\_\_\_ PARENT b. \_\_\_\_\_ LEA
- c. \_\_\_\_\_ STUDENT d. \_\_\_\_\_ REGULAR ED TEACHER
- e. \_\_\_\_\_ SPECIAL ED TEACHER f. \_\_\_\_\_ SOMEONE TO INTERPRET RESULTS OF TESTS
- g. \_\_\_\_\_ OTHER \_\_\_\_\_
- C. \_\_\_\_\_ SERVICE IS CONTINUED WITH THE OLD IEP AS WRITTEN
- D. \_\_\_\_\_ A NEW IEP IS WRITTEN BY \_\_\_\_\_
3. IF THE STUDENT IS ASSIGNED HERE DURING A RE-EVALUATION YEAR WHAT DO YOU DO?
- A. \_\_\_\_\_ PARENTS ARE NOTIFIED OF INTENT TO TEST
- B. \_\_\_\_\_ STUDENT RECEIVES A FULL EVALUATION AS DEFINED IN THE IDEA
- C. \_\_\_\_\_ A PARTIAL EVALUATION IS COMPLETED
- D. \_\_\_\_\_ NO RE-EVALUATIONS ARE DONE HERE
- E. \_\_\_\_\_ PARENTS ARE CONTACTED TO SCHEDULE A MEDC COMMITTEE MEETING
- F. \_\_\_\_\_ AN MEDC COMMITTEE MEETING IS SCHEDULED
- WHO ATTENDS?
- a. \_\_\_\_\_ PARENT b. \_\_\_\_\_ LEA
- c. \_\_\_\_\_ STUDENT d. \_\_\_\_\_ REGULAR ED TEACHER
- e. \_\_\_\_\_ SPECIAL ED TEACHER f. \_\_\_\_\_ SOMEONE TO INTERPRET RESULTS OF TESTS
- g. \_\_\_\_\_ OTHER \_\_\_\_\_
4. IF A STUDENT IS NOT IDENTIFIED AS A STUDENT WITH DISABILITIES BUT APPEARS TO HAVE SIGNIFICANT AND SUSTAINED DIFFICULTIES WITH LEARNING WHAT DO YOU DO?
- A. \_\_\_\_\_ NOTHING, WE DO NOT MAKE SPECIAL EDUCATION REFERRALS HERE
- B. \_\_\_\_\_ WE MAKE A NOTE OF THE NEEDS WE SEE AND SEND IT TO THE NEXT SCHOOL
- C. \_\_\_\_\_ WE BEGIN AN EVALUATION
- D. \_\_\_\_\_ WE SEND A REQUEST TO TEST, SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES TO THE PARENT, UPON RETURN RECEIPT OF THESE SIGNED DOCUMENTS WE BEGIN TESTING
- E. \_\_\_\_\_ TIME CONSTRAINTS ARE FOLLOWED
- F. \_\_\_\_\_ AN MEDC MEETING IS SCHEDULED TO REVIEW RESULTS AND DETERMINE ELIGIBILITY
- WHO ATTENDS
- a. \_\_\_\_\_ PARENT b. \_\_\_\_\_ LEA
- c. \_\_\_\_\_ STUDENT d. \_\_\_\_\_ REGULAR ED TEACHER
- e. \_\_\_\_\_ SPECIAL ED TEACHER f. \_\_\_\_\_ SOMEONE TO INTERPRET RESULTS OF TESTS
- g. \_\_\_\_\_ OTHER \_\_\_\_\_
5. DO STUDENTS WITH DISABILITIES PARTICIPATE IN DISTRICT/STATE ASSESSMENTS?
- A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO
- C. \_\_\_\_\_ IT IS DETERMINED BY THEIR IEP
- D. \_\_\_\_\_ NO STUDENTS HERE PARTICIPATE IN THOSE EXAMS
6. IF A PARENT DISAGREES WITH THE EDUCATIONAL SERVICES THAT ARE BEING PROVIDED FOR THEIR CHILD ARE THEY GIVEN NOTICE OF ACCESS TO PROCEDURAL DUE PROCESS?
- A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO
7. ARE TRANSITION SERVICES PROVIDED FOR STUDENTS WITH DISABILITIES OVER THE AGE OF 14?
- A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO
8. IS THE STUDENTS DISABILITY CONSIDERED PRIOR TO THE IMPLEMENTATION OF PUNISHMENT?
- A. \_\_\_\_\_ YES B. \_\_\_\_\_ NO
9. ARE STUDENTS WITH DISABILITIES TAUGHT IN A SEPARATE CLASS?
- A. \_\_\_\_\_ YES
- B. \_\_\_\_\_ NO, ALL STUDENTS ARE IN REGULAR CLASSES
- C. \_\_\_\_\_ DEPENDING ON WHAT THE IEP INDICATES
- D. \_\_\_\_\_ SOME ARE IN SPECIAL CLASSES ALL DAY
- E. \_\_\_\_\_ SOME ARE RESOURCED
- F. \_\_\_\_\_ SOME ARE MAINSTREAMED
10. ADDITIONAL COMMENTS:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**APPENDIX D**  
**LETTER OF VALIDATION**

## SHELBY COUNTY SCHOOLS

POST OFFICE BOX 429

COLUMBIANA, ALABAMA 35051

TELEFAX (205) 669-5605

TELEPHONE (205) 669-5600

SUPERINTENDENT  
EVAN K. MAJOR, JR.BOARD OF EDUCATION  
LEE DOEBLER, PhD. PRESIDENT  
STEVE MARTIN, VICE PRESIDENT  
MUB HARRINGTON  
M C (TREY) IRELAND III  
DONNA MORRIS

June 13, 2000

To: The Graduate School of the University of Alabama at Birmingham

From: Dr. Ed Belue, Ph. D.

**RE: Validation of researcher prepared surveys for use in the study "An Assessment of Special Education Services Provided for Juvenile Offenders with Disabilities in Alabama".**

I have reviewed and examined the three survey instruments prepared by Rebecca for use in the data gathering process of her dissertation. I have examined each question on the Preliminary Population Survey, the Sample and Staff Composition Survey and the Educational Services Survey. It is my opinion that the instruments are valid and compliant with acceptable research techniques. I have determined that these instruments will fully allow appropriate data to be obtained from the sample.

Respectfully yours,



Dr. Ed Belue, Ph. D



**APPENDIX E**  
**INSTITUTIONAL REVIEW BOARD APPROVAL**



**Form 4: IRB Approval Form  
Identification and Certification of Research  
Projects Involving Human Subjects**

The Institutional Review Board for Human Use (IRB) has an approved Multiple Project Assurance with the Department of Health and Human Services and is in compliance with 21 CFR Parts 50 and 56 and ICH GCP Guidelines. The Assurance became effective on January 1, 1999 and the approval period is for five years. The Assurance number is M-1149, identification number 01.

---

Principal Investigator: **Rebecca A. Wilson Seales**  
 Co-Investigator(s):  
 Protocol Number: **E000414003**  
 Protocol Title: **An Assessment of Special Education Services Provided for Juvenile Offenders With Disabilities in Alabama**

---

The IRB reviewed and approved the above named project on 4/13/00. The review was conducted in accordance with UAB's Assurance of Compliance approved by the Department of Health and Human Services. This Project will be subject to Annual continuing review as provided in that Assurance.

This project received **EXEMPTION** review.

IRB Approval Date: 4-18-00

Date IRB Approval Issued: 4-18-00

*F. Urthaler, MD*

Ferdinand Urthaler, M.D.  
Chairman of the Institutional Review Board  
for Human Use (IRB)

---

**Investigators please note:**

The IRB approved consent form used in the study must contain the IRB approval date and expiration date

IRB approval is given for one year unless otherwise noted. For projects subject to annual review research activities may not continue past the one year anniversary of the IRB approval date.

Any modifications in the study methodology, protocol and/or consent form must be submitted for review and approval to the IRB prior to implementation.

Adverse Events and/or unanticipated risks to subjects or others at UAB or other participating institutions must be reported promptly to the IRB.

1120 Administration Building  
201 20th Street South  
334-3789  
Fax 934-1301  
uab@uab.edu

The University of  
Alabama at Birmingham  
Mailing Address  
AB 1120  
1530 3RD AVE S  
BIRMINGHAM AL 35294-0111



**APPENDIX F**  
**LETTER OF SUPPORT**



JOHN STEWART Ed.D. Superintendent  
School District 210

State of Alabama  
Department of Youth Services  
School District  
Post Office Box 66  
Mt. Meigs, Alabama 36057  
Telephone (334) 215-3859  
Fax Number (334) 215-3011



J. WALTER WOOD JR.  
Executive Director

March 30, 2000

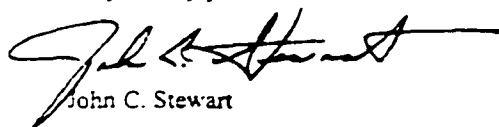
### To Correctional Educators

I am sending this as a letter of support for the research Rebecca Seales is conducting concerning "An assessment of Special Education Services Provided for Juvenile Offenders with Disabilities" in Alabama. Ms Seales has assured me that no individual facility or person will be identified publicly in or through this study. Furthermore, all materials and information shared will remain confidential.

Ms. Seales is a doctoral candidate at the University of Alabama in Birmingham in the School of Educational Leadership and Special Education. You are encouraged to share the requested information when Ms. Seales contacts you. The information you provide can be of significant benefit to Ms. Seales and each one of us who has to provide special education services to incarcerated youth.

Your assistance with this project is appreciated.

Respectfully yours,



John C. Stewart

**APPENDIX G**  
**LETTERS OF TRANSMITTAL**

March 21, 2000

**TO: Dr. John Stewart**  
Alabama Department of Youth Services

**FROM: Rebecca A. Seales, Ed.S.**  
Ph. D. Candidate  
University of Alabama in Birmingham  
School of Educational Leadership and Special Education

**RE: Support/approval of the research project and collection of data from facilities operated or licensed by the Alabama Department of Youth Services which provide educational services on site. This project is to be completed as a Ph.D. dissertation.**

**TITLE: AN ASSESSMENT OF SPECIAL EDUCATION  
SERVICES PROVIDED FOR JUVENILE OFFENDERS WITH  
DISABILITIES: AN ALABAMA STUDY**

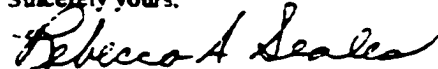
Dr. Stewart as per our telephone conversation I am sending you the basics of my study. I am including the Purpose, Research Questions, Significance of the Study, and the two survey instruments to be used to collect the data, which will be evaluated and analyzed in order to answer the research questions.

I assure you that no individual facility or person will be identified publicly through this study. All materials will be confidential with the results being presented in raw numbers and percentages.

The surveys will be completed through telephone interviews and written faxed surveys. In order to gain the assistance of the educators at each facility I am asking that you write a letter of support for my project. I will fax this letter to each facility with a letter of introduction prior to contacting the facility.

Your assistance and support in this endeavor will be greatly appreciated. If you have any questions, I can be reached by telephone at 205-669-3990 or fax at 205-428-9333.

Sincerely yours,



Rebecca A. Seales  
Ph. D. Candidate and Teacher  
Shelby County Regional Juvenile Detention Facility  
Columbiana, AL 35051  
205-669-3990

# Fax:

## **SHELBY COUNTY REGIONAL JUVENILE DETENTION FACILITY**

**Rebecca A. Seales, Ed.S.**

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Rebecca A. Seales ~ 3939 Seales Drive ~ Bessemer, Alabama 35022 ~ United States  
Phone 205-669-3990 ~ Fax 428-9333 ~ Home Phone 205-426-2824 ~ Email  
raseales@aol.com

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Wednesday, April 26, 2000

**TO: SPECIAL EDUCATION TEACHER OR LEAD TEACHER**

**FROM: REBECCA A. SEALES**

**RE: REQUEST TO ASSIST IN A DOCTORAL DISSERTATION STUDY: "AN ASSESSMENT OF SPECIAL EDUCATION SERVICES PROVIDED FOR JUVENILE OFFENDERS WITH DISABILITIES IN ALABAMA."**

I am a fellow correctional educator and doctoral candidate at UAB. I am very near the completion of my Ph. D. and I am requesting your assistance as I collect the data for my dissertation. My topic is "An assessment of Special Education Services Provided for Juvenile Offenders with Disabilities in Alabama".

Special education is of concern to most school systems and the requirements of the IDEA for the Department of Youth Services are no different than for any other system. As a fellow educator at the Shelby County Juvenile Detention Facility in Columbiana, AL, I am well aware of the complications and limitations each of us face in our attempts to provide appropriate educational services for all of our students, especially those with special needs. The information gathered will be coded in such a way that no individual facility or person will be identifiable. All information will be confidential with the results of the study presented in raw numbers and percentages.

I have contacted Dr. John Stewart, Ed.S. Superintendent of Alabama Department of Youth Services School District and have received his approval and support for this project. I will contact selected facilities in the state that currently are licensed by or who operate with a contractual agreement with the Alabama Department of Youth Services.

I am well aware that your time is valuable and you probably already have plenty to do but I am asking that you take a few minutes when I contact you to share basic information the services provided for the juveniles in your facility. Since most educators work a 9 month contract I am against working against the clock.

I am sending you a copy of the letter of support sent to me by Dr. Stewart and a preliminary fact sheet that will help me determine the facilities I need to contact. If you would please take a moment and check the statements that apply to your program and fax it right back I would be in your debt.

My contact information is at the top of the page. If you have any questions please contact me ASAP.

*Rebecca Seales*

# Fax:

## **SHELBY COUNTY REGIONAL JUVENILE DETENTION FACILITY**

**Rebecca A. Seales, M.A.**

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Rebecca A. Seales ~ 3939 Seales Drive ~ Bessemer, Alabama 35022 ~ United States  
Phone 205-669-3990 ~ Fax 428-9333 ~ Home Phone 205-426-2824 ~ Email  
raseales@aol.com

**Thursday, April 27, 2000**

**TO: SPECIAL EDUCATION TEACHER OR LEAD TEACHER**

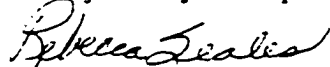
**FROM: REBECCA A. SEALES**

**RE: PLEASE HELP**

A few days ago I sent you a three page fax regarding my study. Since then I have met with my committee and they have set my defense date for June 26, 2000. What this means is I sure need your help to get my data in soon.

I am sending you the entire fax that I sent last week in case you did not receive it. If you have any questions please feel free to contact me.

Thank you for your help.



Rebecca Seales

Day Phone 205-669-3990 ~ Fax 205-669-8579 or 205-428-9333  
Home Phone 205-426-2824 ~ Email raseales@aol.com

**TOTAL PAGES 4**

# Fax:

## **SHELBY COUNTY REGIONAL JUVENILE DETENTION FACILITY**

**Rebecca A. Seales, M.S.**

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Rebecca A. Seales ~ 3939 Seales Drive ~ Bessemer, Alabama 35022 ~ United States  
Phone 205-669-3990 ~ Fax 428-9333 ~ Home Phone 205-426-2824 ~ Email  
raseales@aol.com

**Friday, April 28, 2000**

**TO: SPECIAL EDUCATION TEACHER OR LEAD TEACHER**

**FROM: REBECCA A. SEALES**

**RE: Phase 2. OF AN ASSESSMENT OF SPECIAL EDUCATION SERVICES PROVIDED FOR  
JUVENILE OFFENDERS WITH DISABILITIES IN ALABAMA**

Thank you for responding to the first fax that I sent you. This second and last fax that I am sending asks for data from the Child Count you completed, December 1, 1999. If you would rather fax a copy of your Child Find report instead of filling out the form, that would be fine.

Again I say **THANK YOU** for your help.

Sincerely,



Rebecca A. Seales

**APPENDIX H**

**ADDITIONAL COMMENTS REPORTED AS QUALITATIVE DATA**



Mandate in ViolationAdditional Comments

Free and  
Appropriate Public  
Education with Zero  
Reject

- We seek records after the child has been in the classroom 30 days. We seek grades and special education records. If a child is having difficulty, a referral would be made after 30 days. This has not happened yet. The short term nature of this facility makes it more difficult to serve special education students because records do not arrive or we don't get special education records from the former school."
- We are a 28-day program so we do not have to provide special education services here.
- Only facilities providing long term incarceration have to provide special services, we are a short-term facility.
- We just don't do it.
- We don't accept special ed kids. They cause too many problems.
- Our program is individualized. Students work at their own pace. Special ed kids can't keep up.
- We are a private facility; we do not have to follow special ed regulations.
- No. The kids don't care anyway.
- I know that I should be trying harder but I've been teaching

this way so long it's hard to change.

- They all get the same thing (education) here. By the time they get here, I guess they are all special ed but no, we don't use an IEP or any of that stuff.
- All of our students get one on one special treatment so we don't need an IEP.
- We do what we can with what records we are sent. No, we don't ask for the records, sometimes they just send them or the parents bring them to us.
- We don't have these kids but a couple of weeks; we don't have time to make a difference (in their education program).
- We used to request records from home schools but it takes so long to get the records we just don't do it anymore.
- We just do what we can.
- The kids don't care anyway.
- We cover the four basic subjects using modules. We determine where they should start and they work through each level going on to the next. Some students take longer than others but we don't really identify their individual weaknesses. We just let them work at their own pace.
- When you figure out the secret let me know. I really don't want to go to court.

- I don't understand the law. I don't think it applies to us here. I do the best I can.
- We are private, we can choose who we take here and we choose not to take special education kids. Sometimes they end up here and we find out afterwards. We use an IEP if we can get one.
- Special ed they are all special when they are in my class. We really don't do anything regular here but I don't write an IEP.
- We restrict our residents to an IQ of 75 or higher. My teacher has a master's degree in special ed but we just can't deal with really low functioning kids.
- This is a 28-day program, which is below the number demanding compliance with the IDEA. However, when an IEP is sent with the student, we work with it.

Least Restrictive Environment

- All of our special ed kids are in self-contained classes.
- I get the IEP from the home school and have a meeting with the parent or surrogate parent and then we write an addendum. We only change the LRE. We stick with the IEP as it is.
- We only have one class so everyone is in there. We do not determine the LRE. We just can't do it.
- We've never had that happen here. (In reference to an IEP expiring and a placement during a reevaluation year.)

**Individualized  
Education Program**

- With EC kids we just try to get them a GED and get them out. They usually do not succeed if we don't do it that way. We talk with the parent. If the parent is really against it, we encourage them to think about it and let us know.
- I change the IEP to reflect that the child is in here and then the probation officer signs as the parent.
- We write IEP's in May only. We use the old IEP until then.
- The IEP is followed as written (at the home school). We follow it to the letter.
- Parents are important. We invite the parent or surrogate parent and write an addendum to the existing IEP. We do this when we determine that the resident's placement is going to be more than 45 days. We don't get too involved if they are here less than 45 days.
- We use the IEP from the previous school but we will do an addendum if we think it is needed. The parents come sometimes but sometimes we don't have time to wait on them so we just go ahead and change the LRE and be done with it.
- We get the IEP from the home school, use the Test of Adult Basic Education (TABE) and work with what we have.
- We make the changes we need to make but we really can't follow the IEP. We get when we can but we really don't use

- it that much. No, we really don't use it at all.
- The home school decides what we should do here. We just take the IEP exactly as it is written and do what we can with it. No, we don't have any counseling or speech needs here.
  - I rewrite the IEP by myself, after I do some testing, not really appropriate testing just something I made up, but it gives me a place to start.
  - We seek records after the child has been in the classroom 30 days. We seek grades and special education records. If a child is having difficulty, a referral would be made after 30 days. This has not happened yet. The short-term nature of this facility makes it more difficult to serve special education students because records do not arrive and—or we don't get special education records from the former school.
  - Special ed they are all special when they are in my class. We really don't do anything regular here but I don't write an IEP.
  - This is a 28-day program, which is below the number demanding compliance with the IDEA. However, when an IEP is sent with the student, we work with it.

- We are a treatment center and complying with an education program is very low on our priority list, but we do try to follow an IEP if a parent brings one. The parents are responsible for getting all of the kids' records and stuff.
  - We get the IEP from the home school, use the TABE and work with what we have.
- Due Process
- Parents can do whatever they want with their lawyer, but we don't tell them they have any rights.
- Nondiscriminatory Assessment
- We give them the Test of Adult Basic Education, you know the TABE, that tells what level they are on. You know if they can read and stuff.
  - We use the TABE for all of our kids. That's a nondiscriminatory test isn't it?
  - We give the TABE and work from the skill prescription.
  - All testing is done annually. If they are here when we test, we test them.
  - I change the IEP to reflect that the child is in here and then the Probation Officer signs as the parent.
- Parental Involvement
- Parents are important. We invite the parent or surrogate parent and write an addendum to the existing IEP. We do this when we determine that the resident's placement is going to be more than 45 days. We don't get too involved if they are here

less than 45 days.

- We use the IEP from the previous school but we will do an addendum if we think it is needed. The parents come sometimes but sometimes we don't have time to wait on them so we just go ahead and change the LRE and be done with it.
- We are a treatment center and complying with an education program is very low on our priority list, but we do try to follow an IEP if a parent brings one. The parents are responsible for getting all of the kids records and stuff.
- The parents just don't get involved.
- We can't always find the parents.
- I try to get parents involved but usually they live far away and don't come.
- All of our kids are wards of the state so we do not ever involve the parent.
- If the parent wants to be involved, they need to let us know.  
We don't have the time to try to notify them of any meeting.
- Parents are no longer entitled to information about their child's education when they are here. It would be a violation of the Privacy Act.

**GRADUATE SCHOOL  
UNIVERSITY OF ALABAMA AT BIRMINGHAM  
DISSERTATION APPROVAL FORM  
DOCTOR OF PHILOSOPHY**

**Name of Candidate** Rebecca A. Wilson Seales

**Major Subject** Educational Leadership

**Title of Dissertation** An Assessment of Special Education Services Provided for  
Juvenile Offenders with Disabilities in Alabama

I certify that I have read this document and examined the student regarding its content. In my opinion, this dissertation conforms to acceptable standards of scholarly presentation and is adequate in scope and quality, and the attainments of this student are such that she may be recommended for the degree of Doctor of Philosophy.

**Dissertation Committee:**

Name	Signature
Richard M. Gargiulo, Co-Chair	<u>Richard M. Gargiulo</u>
Harold L. Bishop, Co-Chair	<u>Harold L. Bishop</u>
Gypsy Abbott	<u>Gypsy Abbott</u>
David L. Dagley	<u>David L. Dagley</u>
William Boyd Rogan	<u>Boyd Rogan</u>

**Director of Graduate Program** Boyd Rogan

**Dean, UAB Graduate School** Jean Herd

**Date** 9/16/12