



*Office of the Independent Ombudsman
for the Texas Youth Commission*

Senate Committee on Education

Chairwoman Florence Shapiro

Interim Hearing August 18, 2008

Written Testimony by; Will Harrell, JD, LL.M.

Chief Ombudsman

**Office of the Independent Ombudsman for the Texas Youth
Commission**

Attached please find a copy of a Special Report released by the Office of the Independent Ombudsman for the Texas Youth Commission last month. It is our understanding that this report will not be discussed in detail in today's hearing. We concur with that prioritization but if the Chairwoman or any member of the committee would like to have an in-depth discussion of this report, my expert consultant Dr. Michael Krezmien and I would be glad to accommodate.

I would like to take this opportunity draw your attention to some of the findings of the report in summary fashion. Also, I'd like to illustrate the connection between focus of this morning's hearing and the findings in this report.

As the *New York Times* editorialized on August 9, 2008 in reference to this report:

Many of America's juvenile jails would be empty if the public schools obeyed federal law and provided disabled children with the special instruction that they need. Instead, these children are allowed to fall behind. When they act out, they are often suspended or expelled, which makes them more likely to commit crimes and land in jails where they can count on even less help.

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...The report says more than 40 percent of the students in custody have been identified as having disabilities that make them eligible for services and protections under the federal Individuals With Disabilities Education Act. Children's advocates believe the percentage is even higher and that many of the disabled have not been diagnosed.

The Texas system has nearly four times as many students requiring special education services as a typical school and three times as many students with learning disabilities. In addition, it has nearly 18 times the number of emotionally disturbed students as a typical high school...

...Texas has both a moral and legal obligation to remake a system that is crippling, then writing off, the state's most vulnerable children.

The Texas Youth Commission bares a great burden that can be traced back to failures of local school districts. But that is a challenge that the TYC must meet for the sake of public safety.

In broad terms, the OIO has the following major concerns about education in TYC:

- Inadequate intake, assessment and accountability.
- Inconsistent general education programs across TYC facilities.
- Disruption of education by punitive culture and policy which is compounded by race and special educational need.
- Inadequate special education services.

These issues, which are fully discussed in the attached report, are critical for two important but distinct reasons. First, as we point out in the attached report, educational attainment is one of the most effective means for reducing recidivism among delinquent youth. However, the population of students at the TYC does not represent the population of the typical Texas public school. The TYC is charged with providing education and special education services to a population of students comprised of approximately 40% special education students, and a majority of youth who are substantially behind their peers in all academic areas. The population of students at the TYC is not typical of an ordinary Texas public school, and the TYC requires a substantially different level of support than a typical public school district. Despite the fact that many of the youth committed to the TYC arrive with poor academic histories, the TYC education program can improve the basic academic skills of these youth and significantly improve their chances of successful reentry into their schools and / or communities. Providing these youth with essential skills in reading and mathematics, opportunities to obtain a diploma or GED, and vocational skills is critical for helping these youth to become responsible, civic-minded taxpaying citizens. Not only do these outcomes result in improved outcomes for delinquent youth, they also improve public safety.

Second, the youth at the TYC are coming from Texas public school systems, and most should be returning to these schools after release¹. However, many of the TYC youth have not been adequately supported by their public schools. Most do not have sufficient reading skills to access the high school curriculum, and many do not even have the requisite skills to read or complete a basic job application. Additionally, many of these youth have been repeatedly suspended or expelled, or have officially or unofficially dropped out of school. Furthermore, most delinquent youth both nationally and in Texas come from impoverished communities with schools that lack the financial and professional support necessary to adequately educate these youth. If the State is going to successfully rehabilitate these youth, the Texas leadership must identify and implement innovative and responsive public education programs to support these vulnerable schools and ultimately reduce the numbers of youth ultimately involved in the juvenile justice system.

As Dr. Krezmien and I stated in the attached *Dallas Morning News* op-ed, we believe that with the support of the Legislature, the current agency leadership is poised to transform education in the Texas Youth Commission. But simplistic approaches like merely blaming teachers won't get us there. A profound priority realignment and culture shift is requisite for such a transformation.

We appreciate the focus of the committee's hearing today which has serious public safety implications and we look forward to an in-depth discussion of the OIO report on education in TYC when the appropriate opportunity presents itself.

¹ It has come to the attention of the OIO that certain Independent School Districts routinely place major obstacles before TYC youth paroled from secure facilities who seek to re-enter the ISD from whence they came. We have recently begun a review of this problem and will report our findings at a later date.

The New York Times

Writing Off Disabled Children

Many of America's juvenile jails would be empty if the public schools obeyed federal law and provided disabled children with the special instruction that they need. Instead, these children are allowed to fall behind. When they act out, they are often suspended or expelled, which makes them more likely to commit crimes and land in jails where they can count on even less help.

This pattern seems to be repeating itself in Texas, judging from an eye-opening report prepared for the Texas Youth Commission's ombudsman. The report says more than 40 percent of the students in custody have been identified as having disabilities that make them eligible for services and protections under the federal Individuals With Disabilities Education Act. Children's advocates believe the percentage is even higher and that many of the disabled have not been diagnosed.

The Texas system has nearly four times as many students requiring special education services as a typical school and three times as many students with learning disabilities. In addition, it has nearly 18 times the number of emotionally disturbed students as a typical high school. These numbers are all the more alarming

since the system's educational services are generally poor and especially bad when it comes to the disabled.

According to the report, the Texas system is "basically devoid of what current educational research has consistently identified as 'best practices' for instruction." There is little or no direct instruction by teachers. Children are routinely asked to essentially teach themselves through "self-directed reading" — even though a substantial percentage have limited reading skills. The special education staff, such as it is, is poorly trained and woefully under strength.

The State Legislature will need to do at least two things if it hopes to correct these problems. First, it needs to require localities to provide disabled children with the school services they are entitled to under federal law, instead of just dumping them onto streets. Then lawmakers must strengthen the educational programs within the juvenile system itself by hiring better-trained employees and providing stronger central oversight.

Texas has both a moral and legal obligation to re-make a system that is crippling, then writing off, the state's most vulnerable children.

TYC education reform worth the cost

Personnel need resources to succeed, say **Michael Krezmien** and **Will Harrell**

The findings outlined in the recent report on Texas Youth Commission education conducted by the Office of the Independent Ombudsman resulted in a number of responses from the public and the media after *The Dallas Morning News* broke the story on July 30, 2008. However, there were some surprising and unexpected reactions that do not appear to be entirely aligned with the intent or the overall content of the report.

The document is extensive and difficult to summarize. Therefore, we believe that some of the specific phrases from the report quoted in various media outlets did not adequately represent the findings.

One unexpected consequence was an intended or unintended ascription of responsibility for the educational shortcomings of the TYC to the school staff — the teachers, diagnosticians, school counselors, administrators and other education personnel. Placing blame on teachers or other education person-

nel, whether directly or indirectly, was not the intent of the report.

The report repeatedly acknowledged the experience and dedication of the education personnel and highlighted the staff's resolve to educate the TYC students despite inadequate support and difficult circumstances. In fact, the ombudsman reported that the major problems with the educational programming were systemic and that systemic problems negatively impacted the ability of educators to provide students with the best possible education.

The teachers and educational personnel at TYC should not be targeted for systemic failures, but should rather be recognized (as they have been by the conservator) for continued efforts.

We were also surprised that some interpretations suggested that Texas and the TYC are unique with regard to quality of education services provided to incarcerated youth. This is not the case. Juvenile justice education continues to be an under-supported and under-examined aspect of such programming nationally.

The Justice Department has found similar problems in juvenile

justice education programs in a number of states; practitioners, researchers and advocates have consistently identified education in juvenile justice agencies as needing more support and reform.

What makes Texas and the TYC unique is the open acknowledgment of the problems and inadequacies with the educational programming. What makes Texas unique is the TYC leadership and the commitment by Richard Nedelkoff and Deputy Commissioner Dianne Gadow to transform the TYC education system. What makes Texas unique is the legislatures' commitment to juvenile justice reform and supporting leadership as it guides TYC's transformation.

This is the time for all parties — including the Texas administrators, the TYC leadership, and the TYC education personnel — to meet the complex challenges of developing and implementing a progressive and effective juvenile justice education system in a unified effort. We have complete faith that Ms. Gadow will transform the education program if she receives the necessary financial and administrative supports to meet this

challenge.

To accomplish this goal, placing blame must be an object of the past. Instead, the state can fulfill its role as a national leader by providing Ms. Gadow and TYC education personnel with the necessary resources and authority over all aspects of educational programming so personnel on the ground can provide an array of education, special education and vocational programs to meet the diverse needs of TYC students.

Education should be central to the rehabilitation of students in TYC. It is a proven means for preparing youth to leave the juvenile justice system and to become civically responsible, tax-paying citizens. The cost of failure will be far greater than the investment to implement a model for juvenile justice education.

Dr. Michael Krezmien, assistant professor of education at the University of Texas at Austin and Will Harrell, state chief ombudsman for the Texas Youth Commission. Dr. Krezmien can be contacted at krezmien@mail.utexas.edu. Mr. Harrell may be contacted at willharrell@tyc.state.tx.us.

A Review of Education
Programs for Students in
the Texas Youth
Commission State
Schools:

A Special Report of the
Office of the Independent
Ombudsman





A Review of Education Programs for Students in the Texas Youth Commission State Schools¹

Michael P. Krezmien, PhD²³

July, 2008

¹ This report was prepared under an agreement between the author and the Office of the Independent Ombudsman for the Texas Youth Commission. The statements in this report should not be construed as legal advice. The opinions expressed do not represent The University of Texas at Austin, or the Texas Youth Commission. No payment for services was received by the author for his work on the evaluation for the preparation of this report.

² Assistant Professor, The University of Texas at Austin and Resource Fellow, EDJJ

³ The information contained in this report was obtained with the support of Kim Bennink, Will Harrell, John Kelly, Radhika Misquitta, Shalonda Richardson-Grant, Jen Steenbergen, and Tish Elliott-Wilkins

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EXECUTIVE SUMMARY

This report presents the findings from a four-month evaluation of the Texas Youth Commission education program. The purpose of this evaluation was to provide the TYC with a comprehensive picture of the education program. This report was conducted by the Office of the Independent Ombudsman with the support of the TYC leadership. We discuss the strengths of the TYC educational program, the weaknesses of the program, and provide recommendations for education programming that will result in improved service and outcomes for all students at the TYC.

While the education programs at the Texas Youth Commission Schools share common elements, they are unique programs that differ in a number of significant ways. Each of the facilities is responsible for the education of large percentages of youth with disabilities, including large percentages of youth with emotional and behavioral disorders and learning disabilities. However, the programs differ in scheduling, organizational structures, size, available programs and services, staffing, disciplinary procedures, and outcomes. The diversity of the education programs presents the agency with major challenges in understanding the educational strengths and limitations within and across the facilities and in developing and implementing policies and practices to transform TYC education.

The report is organized by four major topics:

I. Intake, Assessment, and Educational Accountability

We found problems with the evaluation and administration of the educational assessment for intake as well as the standards used to measure educational accountability. Additionally, we found problems with the outcome measures and the reporting of outcome measures.

II. General Education Programs

We found the data management systems to be extensive, and comprehensive. We also found the data management personnel to possess expertise in data management generally. We found that data from the various components of the TYC program were not well integrated. Additionally, data were not used to make systemic educational decisions at the facility level.

We found the overall structure of the programs at TYC facilities to vary greatly across facilities, which negatively impact the quality of educational programming. We also found that correctional programming, treatment programming, and security programming interfered with the education programs across the facilities.

The TYC Education does not maintain complete authority over the seven-hour school day. Treatment programs and ACA required large-muscle activities are scheduled into the school day. Additionally TYC has two policies dealing with the length of the school day that use different language and are interpreted differently by facility administrators. Education's lack of direct authority over the school day limit's Education's ability to provide quality individualized education programming to improve outcomes for TYC students.

We found classes that were typically organized based on correctional needs, which resulted in classrooms with students of different ages, different academic abilities, and in different courses. The scheduling practices negatively impact the educational program and limit instructional opportunities. We found the instructional practices to be generally poor. We found inconsistent curricula across facilities, and sometimes within a facility.

We found the quality and dedication of the educational staff to be generally positive. We found the school personnel to be a primary strength of the TYC education programs.

The vocational programs were very strong, but availability and access to vocational programs varied across facilities, creating inequities for many youth. We also found few technology-based vocational programs.

III. Impact of Disciplinary Policies on Education Entitlements

Disciplinary policies and security placements negatively impact educational opportunities and the quality of education, special education, and related services. Students were regularly denied educational access and entitlements, and the educational programming in security settings was inadequate.

Disciplinary policies have a disproportionate negative impact on minority students and students with disabilities

IV. Special education

There were numerous problems with special education programming, and substantial evidence that the TYC did not provide a free and appropriate public education (FAPE) in compliance with the Individuals with Disabilities Education Act. Problems included: inadequate Child Find procedures; inadequate services and instructional arrangements; and Individualized Education Programs (IEP) based upon institutional capacity rather than student needs. Related services were lacking, and transitional plans were generic and inadequate. Generally, a majority of special education students did not receive

special education services in accordance with the IDEA. The availability and quality of special education services varied greatly across the facilities. The school diagnosticians and special education teachers were generally experienced, but there were inadequate numbers of special education personnel to meet student needs. There were inadequate functional behavioral assessments, behavioral intervention plans, or evidence-based reading programs for students with disabilities.

INTRODUCTION

One of the most important aspects of programming in juvenile corrections facilities is the planning and delivery of education, special education, and related services to students with and without disabilities. Incarcerated children and adolescents are some of the most academically deficient youth in the United States. With few exceptions, youth arrive in juvenile commitment facilities with a history of school failure, academic skill deficits relative to their peers, high retention rates, a high rate of school mobility, and numerous disabling conditions that entitle them to special education services. These deficiencies contribute to their marginalization from the mainstream society and have a particularly debilitating impact on their potential to participate and succeed in post-secondary education and the workforce. Nationally, 30% to 70% of students committed in juvenile corrections facilities have a documented disability (Quinn et al., 2004). As a result, educational programs in secure care programs are charged with provision of services beyond those typically provided in public schools. Youth in juvenile corrections facilities exhibit high rates of learning and behavioral disabilities that require sustained and intensive special education and related services as mandated by the Individuals with Disabilities Education Act of 2004 and accompanying state regulations.

Additionally, youth committed to juvenile corrections facilities often arrive with incomplete or missing educational records. As a result, many students who were previously receiving special education services may not receive those services once they are committed to a facility because the facility has not obtained adequate records. However, facilities should have comprehensive intake screening tools to insure that these students are quickly identified and provided with appropriate special education and related services. Furthermore, some students may require special education services although they had not previously been identified by prior schools. Many of these youth may have (a) experienced lapses in educational opportunities, (b) stopped attending school, and (c) developed disabling conditions that remain undiagnosed. All Texas Youth Commission juvenile corrections facilities must make adequate efforts to identify these children in accordance with Child Find mandates in the IDEA (2004).

Juvenile corrections facilities also have to consider the eventual outcomes for youth in ways public schools typically do not. Juvenile corrections education programs must provide educational programming for youth with few or no high school credits, many without basic skills in reading and mathematics. Juvenile corrections education programs must carefully evaluate the academic and vocational aptitudes of confined youth, and provide an array of program options. These include vocational and technical programs, GED preparation programs, high school diploma track programs, and combination programs.

Finally, juvenile corrections facilities have numerous safety and disciplinary policies in place that may require a student to be removed from school for periods of time. It is extremely important

that the required special education services for students, especially those with disabilities are not interrupted for multiple days. The IDEA requires that services must be provided even when a student is removed to an alternative placement or to a segregated setting. Additionally, it is imperative that the TYC education programs closely monitor student incidents and numbers of days of school missed due to disciplinary procedures.

Description of Evaluation

Members of the evaluation team visited a total of seven of the education programs from February until June of 2008. Visited sites included: Al Price State Juvenile Correctional Facility, Crockett State School, Gainesville State School, Giddings State School, McLennan County State Juvenile Correctional Facility Unit II (referred to as McLennan II), McLennan County State Juvenile Correctional Facility Unit I Orientation and Assessment (referred to as McLennan I O & A), and Ron Jackson State Juvenile Correctional Complex. The visits were supervised by Michael Krezmien, and conducted with members of the Office of the Independent Ombudsman, and doctoral students from the University of Texas, School of Education. The purpose of the visits was to evaluate the education and special education programming for youth committed to the Texas Youth Commission. In conducting the review the team examined policies and practices, reviewed special education files of youth, interviewed students and staff, observed classrooms, and conducted head counts of students in attendance at the schools. We interviewed 67 teachers, 171 students, 13 school diagnosticians, and 19 other school personnel. We conducted 58 classroom observations as well as many more informal and brief classroom observations. We reviewed the educational records of 165 students. We also visited the security settings at each of the facilities (including the security units, the institutional detention programs (IDP), behavior management programs (BMP) and aggression management program (AMP)), and evaluated the educational programming within these units.

We worked with the TYC central office personnel to develop a database of all youth committed to the TYC state institutions on May 6, 2008. Data included demographic information, disciplinary information, length of stay and revocation information, intake assessment and evaluation information, education and special education information, and transfer information. Additionally, we collected data directly from TYC facilities including special education information, course enrollments, high school credits, and other associated information. Data were analyzed in a number of ways and specific findings are reported.

This report begins with a brief review of the educational entitlements for students in general and for students with disabilities. Then the report presents the findings from the evaluation. Finally, the report provides recommendations based upon the findings.

Entitlements to Education

The following describes the educational entitlements to students in the State of Texas. Specifically, the policies describe the educational entitlements to secondary students in the public education system. According to Texas Education Code § 1.001, the TYC is exempt from specific requirements of State education policies. Nonetheless, the TYC's own policies are consistent with the State standards with regards to secondary education and high school graduation opportunities. The State specified requirements of a secondary curriculum are:

- (1) A school district that offers Grades 9-12 must provide instruction in the required curriculum as specified in §74.1 of this title (relating to Essential Knowledge and Skills).The district must ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. The school district may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards.⁴

High School Graduation Requirements

The Texas Youth Commission offers a diploma under the minimum high school program⁵. According to Texas Administrative Code, a student must complete 22 credits to receive a minimum high school program diploma. A student's credits must consist of four credits in English language arts; three credits in mathematics (to include Algebra I); two credits in Science (to include one from Biology, Chemistry, or Physics); two and one-half credits in Social Studies (to include one credit in World History or World Geography Studies, one credit in United States History Studies Since Reconstruction, and one-half credit in United States Government); one academic elective credit (to include World History Studies or World Geography Studies, or any approved science course); one and one-half credits in physical education (and a student may not earn more than 2 credits in physical education); one-half credit in Health education; one-half credit in Speech; one credit in Technology applications; and five and one-half credits of electives (to be selected from a list of courses approved by the school board of education as specified in TAC §74.1).

A maximum of three credits may be offered for reading for identified students when the school district adopts policies to identify students in need of additional reading instruction, and district procedures shall include assessment of individual student needs, ongoing evaluation of progress, and monitoring of instructional activities to ensure student needs are being met.

⁴ 19 TAC §74.3.

⁵ 19 TAC §74.11

The Texas Youth Commission does not offer the Texas recommended high school program or the Distinguished Achievement Program diploma. Students in TYC are eligible to take the General Education Development (GED) test which is often viewed as equivalent to the minimum high school program diploma. The GED and high school diplomas are utilized at outcome accountability measures for the TYC.

Special Education Entitlements

Federal statutes concerning the provision of education services to youth with disabilities apply to public school programs as well as correctional facilities. All states receiving funds from the federal government under Part B of the Individuals with Disabilities Education Act of 2004 (IDEA) guarantee a free appropriate public education to all children with disabilities in the state. IDEA⁶, corresponding federal regulations, and various chapters of the Texas Administrative Code⁷ are explicit about identification and provision of education and related services to children with disabilities as well as provision of services to students who have not graduated from high school nor received a GED certificate before age 21. Legislation and regulations also specify the development of IEPs (individualized education programs), procedural safeguards for children and their parents or guardians, and the development of transition plans and services for students aged 16 and older⁸.

The purpose of the IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs."⁹ For purposes of the IDEA, the term "child with a disability" is defined to include children

- (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
- (ii) who, by reason thereof, need special education and related services¹⁰. Special education includes instruction in classrooms, in the home, in hospitals and institutions, and in other settings.

The IDEA regulations make it clear that the reference to "all programs" includes correctional facilities and that the requirements of the IDEA apply to such facilities.¹¹

⁶ 20 U.S.C. 1400 et. seq.

⁷ 19 TAC §89.1001(a)

⁸ 20 U.S.C. § 1401(30)(A); 20 U.S.C. § 1414(d)(1)(A)(vii).

⁹ 20 U.S.C. § 1400(d).

¹⁰ 20 U.S.C. § 1401(3)(A).

In order to be eligible for federal assistance under the IDEA, states must ensure that a "free appropriate public education" (FAPE) is available to meet the child's identified needs.¹² The State must have a policy in effect to identify, locate, and evaluate children who have a disability or who are suspected of having a disability.¹³ Texas defines eligible children as those with a disability between the ages of 3 and 21.¹⁴

The Texas Administrative Code explicitly identifies the responsibility of the TYC with regards to special education. It states:

Education programs, under the direction and control of the Texas Youth Commission, Texas School for the Blind and Visually Impaired, Texas School for the Deaf, and schools within the Texas Department of Criminal Justice shall comply with state and federal law and regulations concerning the delivery of special education and related services to eligible students and shall be monitored by the Texas Education Agency in accordance with the requirements identified in subsection (a) of this section.¹⁵

According to the Individuals with Disabilities Education Act of 2004 (IDEA, 2004), special education is designed:

- (a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- (b) To ensure that the rights of children with disabilities and their parents are protected;
- (c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and
- (d) To assess and ensure the effectiveness of efforts to educate children with disabilities.¹⁶

The TYC is charged with the difficult challenge of educating a heterogeneous group of youth with varying skills and needs, including a disproportionate number of students with disabilities. The education providers are charged with conducting diagnostic and informal assessments at intake, identifying students with disabilities and special education needs, and designing and delivering quality education, special education, and related services, including vocational programming.

¹¹ 34 C.F.R. § 300.2(b)(4).

¹² 20 U.S.C. § 1412(a)(1); 34 C.F.R. § 300.121.

¹³ 20 U.S.C. § 1412(9) (3); 34 C.F.R. § 300.125.

¹⁴ Texas Code § 29.001.

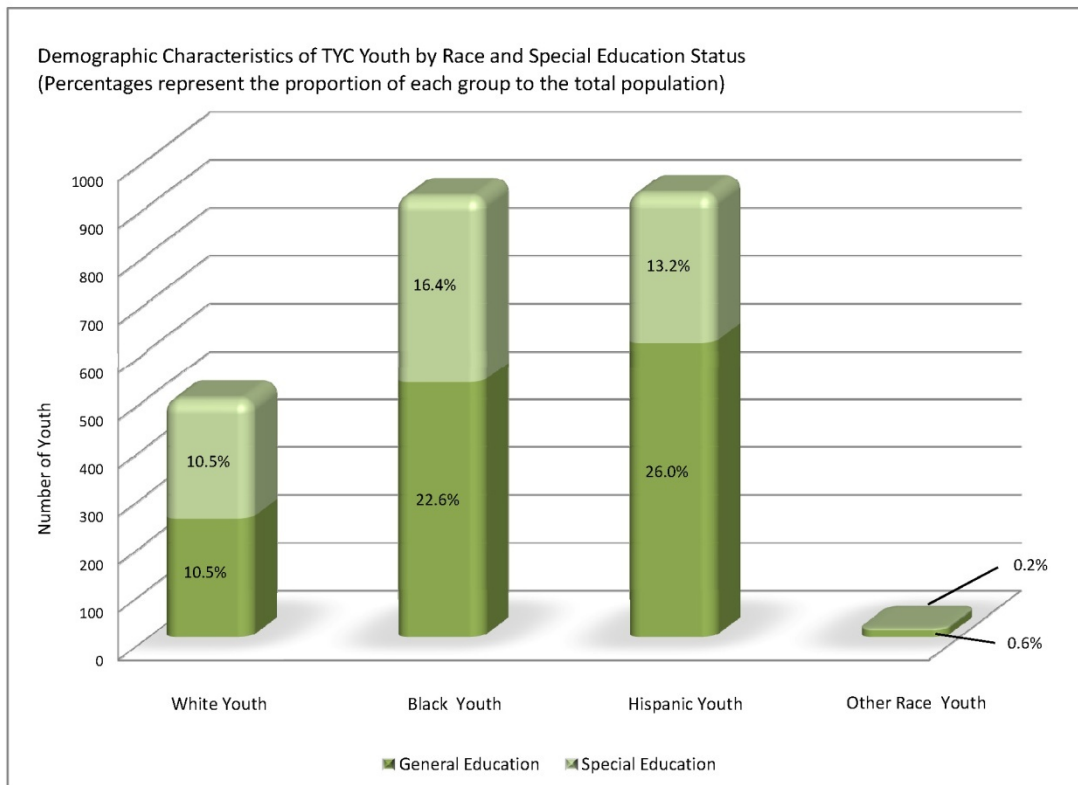
¹⁵ TAC 19 §89.1001

¹⁶ 20 U.S.C. 1400(d)

FINDINGS

Population Description

The population of students educated at TYC facilities is racially diverse and includes high percentages of students with disabilities as defined by the IDEA of 2004. According to the available records for all TYC Institutions on May 6th, 2008, there were 2353 students in TYC institutions. On that date, approximately 21% of the youth were White, 39% were Black, 39% were Hispanic, and less than 1% were from an “other” racial group. A substantial proportion of the youth had an IEP and was identified by TYC as having a disability under the IDEA. Figure 1 displays the racial composition and special education composition of the population, and shows the relative proportion of each group to the entire population.



A substantial percentage of the students (40.4%) had been identified by TYC as having a disability under the IDEA of 2004. Approximately half of the White students were identified with a disability, while slightly less than half of the Black students were identified.

Approximately one third of the Hispanic students were identified with a disability, representing 13.2% of the total TYC population.

Table 1 displays the percentages of TYC youth by race and by disability category under the IDEA. Most of the special education students in the TYC facilities were identified as having an emotional disturbance (17.4% of the total population) or a learning disability (17.1%). A smaller percentage were identified as having an Other Health Impairment (4.8% of the total population), a category including large numbers of students with ADHD. A small percentage (0.7%) of the students were identified as having an intellectual disability, previously termed mental retardation. Additionally, the TYC also receives students with hearing impairments, vision impairments, physical disabilities, as well as other disabilities. These students have been aggregated into the Other Disability category. Although these students typically represent a small percentage of the students in the TYC, they do require services as mandated by federal and state special education regulations.

Table 1. Special Education and Race Demographic Information for TYC Youth as a Percent of Total Population

	White	Black	Hispanic	Other	Total
General Education	10.45%	22.57%	26.01%	0.59%	59.6%
Other Health Impairment	1.57%	2.21%	1.06%		4.8%
Intellectual Disability	0.13%	0.42%	0.13%		0.7%
Emotional Disturbance	5.74%	6.67%	4.89%	0.13%	17.4%
Learning Disability	3.02%	7.05%	6.93%	0.08%	17.1%
Other Disability	0.08%	0.04%	0.21%		0.3%
Any Disability	10.54%	16.40%	13.22%	0.21%	40.4%

The percentages of youth with disabilities in TYC are considerably higher than the percentages in public schools in Texas. In the 2005-2006 school year (the most current year complete data were available), Texas had 3,962,992 students aged 6 to 21 enrolled in public schools¹⁷. Of that population, 0.92% were identified with an emotional disturbance, 6.1% were identified with a learning disability, 1.38% were identified with an OHI, and 0.68% were identified with mental retardation. Overall, approximately 11.8% of the Texas public education students are enrolled in special education.

The TYC has nearly four times as many students who require special education services as a typical Texas public school. The TYC has approximately three times as many students with a

¹⁷ Taken from the Texas Education Agency website (<http://www.tea.state.tx.us/>)

learning disability and with an OHI than a typical public school. Additionally, the TYC has nearly 18 times as many students with an emotional disturbance as a typical public school. The high percentages of students with special education needs represents a substantial challenge for the TYC educational system as well as for the TYC treatment and corrections staff who should be responsive to the individual needs, strengths, and limitations of these youth. Providing adequate special education and education services to these students requires a substantial staff of highly trained, specialized educators, special educators, behavioral specialists, and related service providers. The TYC does not have sufficient numbers of certified and licensed educational personnel to provide the necessary educational program to the diverse population of youth committed to its care.

TYC EDUCATION: MAJOR TOPICS

I. Intake, Assessment, and Accountability

The Texas Youth Commission reports that it uses a skills assessment as the foundation of the education program. Upon entering the Texas Youth Commission, male students are placed into the McLennan County State Juvenile Correctional Facility Unit I in the orientation and assessment program (McLennan I O & A). Female students are placed into the Ron Jackson Orientation and Assessment program¹⁸. The orientation and assessment unit at McLennan utilizes a three week schedule to complete academic, medical, and psychological evaluations. An intake biography interview is conducted with each student. Despite the three week schedule for intake assessment and orientation, staff reported that many of the youth at the McLennan I O & A facility stay for six to eight weeks. There is a team of medical staff, psychological staff, and caseworkers to complete the evaluations.

Academic Assessments

The academic assessment consists solely of the Test of Adult Basic Education (TABE). The TABE assessment is not administered by a licensed diagnostician or a trained psychologist. Education policy states that the TABE is administered by a designated teacher aid¹⁹. The failure to utilize a trained diagnostician to conduct academic assessments is a concern considering that all major educational placement decisions are based on performance on the TABE. At the McLennan I O & A unit, this test is usually administered within the first or second day of arrival to the TYC. Additionally, students are assessed for ESL²⁰ eligibility.

The TABE 9&10 are the newest versions of the TABE tests. It is a test that a student completes individually, and it requires approximately three and one half hours to administer. The TABE is published by the CTB McGraw-Hill LLC. According to the publisher:

TABE 9&10 assesses basic reading, mathematics, and language skills, as well as including optional spelling, vocabulary and language mechanics tests. The assessment yields objective mastery information for basic skills, and provides percentile, scale scores, and grade equivalent scores. These new tests were piloted on thousands of adult students to make sure the items are true indicators of a student's abilities. The scores reveal

¹⁸ The orientation and assessment unit at Ron Jackson was not evaluated. At the time of the site visit, the O & A at Ron Jackson was relatively new. The information about orientation and assessment is from the McLennan I facility only. There may be differences across the male and female intake programs. Future evaluations should include the Ron Jackson O & A.

¹⁹ EDU.13.05

²⁰ ESL is English as a Second Language

whether students have mastered topics similar to those covered by the new GED, or whether they will need more instruction and practice.²¹

While the TABE test does meet some diagnostic criteria necessary for an intake assessment, there are a number of problems with using the TABE as an intake assessment based upon the instrument itself as well as the administration procedures.

TABE as Intake Diagnostic Assessment

There are a number of problems with the TABE administration procedures at orientation and assessment units at the TYC. First, the staff at McLennan I O & A report that the TABE is administered in the first two days of a youth's arrival at TYC by a designated teacher aide. While it is important to obtain academic information as early as possible, it is inappropriate to give the test at a time when a student may have numerous issues associated with the pressures of being committed to TYC, the stress of acclimating to a new environment, and an associated low motivation towards the test outcome. Numerous teachers and diagnosticians from each of the facilities visited reported that the intake TABE scores seldom provided an accurate reflection of a student's actual academic aptitude. They reported that the scores were often an underrepresentation of student ability²². The instability of the intake scores when the test is administered immediately after arrival limits the reliability and utility of the TABE intake scores for TYC youth. The problematic reliability is further supported from reports by teachers and school diagnosticians. They consistently reported that the TABE intake scores were often not reflective of student abilities.

Secondly, the TABE test was normed using a national sample of 34,000 examinees selected from more than 400 institutions from 46 states. The sample was selected from a variety of programs including adult basic education, adult secondary education, ESL programs, alternative high schools, juvenile and adult corrections facilities, and vocational/technical programs. While the norming procedures, as well as the psychometric properties are strong, the sample is not reflective of the skills and abilities of children and youth in general education settings. Additionally, there was limited information about the use of students with disabilities in the normative sample. This may be problematic with regards to the psychometric properties. Furthermore, the administration procedures, an independently completed pen and paper test, may not adequately measure the achievement levels of youth with disabilities like an individually administered assessment such as the Woodcock Johnson Test of Achievement III would.

Additionally, the TABE is inappropriate for use as an evaluation assessment for students in special education, although the TABE scores are reported as an academic assessment on

²¹ Taken from the CTB McGraw-Hill website

²² This effect was studied by Piccone in 2006. He examined whether scores on the TABE taken at intake for a sample of 1825 inmates were different from the scores of those same inmates taken at a later time (when the students did not receive any education). He found significant differences between the scores at intake and the scores taken at the later time.

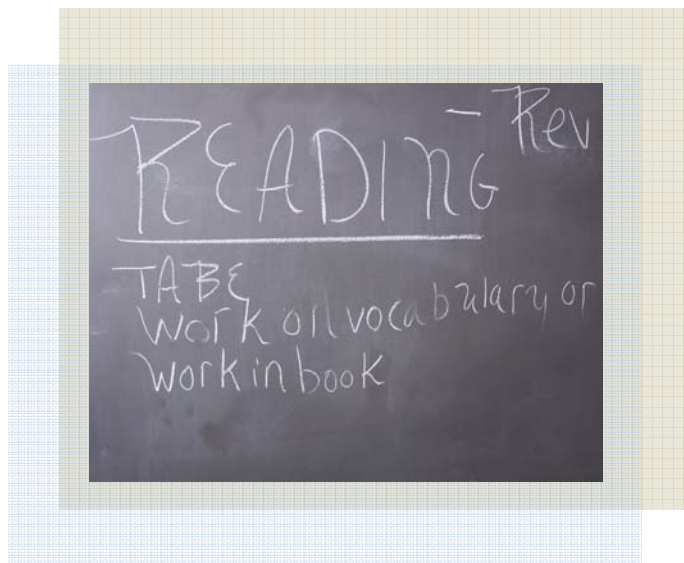
student Individualized Education Programs (IEP). This is problematic because no other public school in Texas uses the TABE, so the findings will not be useful or meaningful when the student re-enters the public school system.

Accountability Measures

The TYC education program has been released from the standard accountability measures that are required by all other public schools in the State of Texas. As a consequence, youth in the TYC are not required to take the TAKS test, so the TYC does not report TAKS results to the State. It appears that the TYC has two outcome measures that are utilized as accountability measures. The first is the TABE assessment. The pretest (intake) to posttest (release) difference on the TABE is the reported outcome measure. The second outcome is the successful completion of a high school diploma or passing the GED. The percentage of youth who have received a diploma or a GED within 90 days of release from the TYC is reported as an accountability standard.

TABE as Outcome Measure

Student progress in reading and mathematics is measured using the TABE. The TYC reports mean changes in the grade equivalency scores from pretest to posttest (given close to the time of release). The procedures for administering the TABE pretest and posttest are outlined in the TYC Education Procedure Manual²³. The manual provides guidelines for facilities, which include the administration of practice assessments and posttest assessments. It was difficult to determine the standard procedures for



administering the TABE as an outcome measure. It appeared that each facility interpreted the TYC policies differently, and utilized unique procedures for TABE testing timelines. Additionally, numerous personnel reported that educational staff was not always notified of student releases in a timely manner. As a consequence, TABE posttests are sometimes not completed.

At some facilities, staff reported that students were given a TABE assessment approximately every six months. We were unable to find standardized procedures for administration of the repeated assessments. Additionally, we found evidence of TABE preparation programs across the TYC, although procedures varied by facility. For instance, at one facility we found that students were pulled out of regular courses to participate in a TABE preparation course prior to testing. At another facility, we found that all students participate in TABE preparation activities

²³ EDU.13.05

during the first period class of every school day. These activities occurred throughout a student's entire stay. We also received reports that students took "practice" assessments in preparation for the posttest.

We identified numerous problems with the administration of the TABE as an outcome measure. These are:

1. There is evidence that the pretests are not accurate representations of student ability. As a result, pretest to posttest differences on TABE may not accurately reflect student changes in reading and / or math.
2. TYC documents indicate that TABE outcomes may impact their phase assessment, which may affect their length of stay.²⁴ Students also reported that they were told that they had to achieve certain scores if they wanted to leave TYC. This is problematic as it is a procedure that is not part of the standardized TABE test administration standards and it may impact a student's achievement. This is also particularly problematic considering a likely deflation of scores at intake.
3. There was substantial evidence that poor performing students are placed into TABE preparation classes if they do not do well on practice TABE assessments. In these situations, the outcome measure does not adequately reflect the impact of the TYC education program on TABE outcomes, but also the impact of the short-term TABE preparation classes designed specifically to improve outcomes on the TABE. In essence, the use of the TABE instructional materials is akin to "teaching the test." This creates problems with interpretation of the outcome results.
4. Teachers at certain facilities use the TABE preparation curriculum as a classroom curriculum for low-achieving students. While the use of the program is appropriate in and of itself, it creates problems with the reliability of the TABE as an outcome measure.
5. The TABE utilizes raw scores which are transformed into grade equivalent scores. Because the scores are not standardized, student age is not factored into the score. As a consequence, scores on the TABE cannot be compared to same-age peers or to the broader population in general. As a result, it is possible that a student shows gains in the raw scores, but that they have actually fallen further behind their same-age peers. The standardized scores are important in tracking performance gains relative to the broader population.

GED and High School Diplomas as Accountability Measure

The General Educational Development (GED) is a test that measures outcomes in a number of high school content areas. The GED test is administered in the TYC facilities by school diagnosticians. High school diplomas are conferred by the TYC after a student has met the minimum high school standards and passed the state mandated assessments (TAKS).

²⁴ Taken from a presentation given at the TABE Administrator's Conference. Retrieved from: http://austin.tyc.state.tx.us/Edu/TABE/index_tabe.html

Percentage of students that successfully graduated or that passed the GED are reported as accountability measures.

Very few students receive a diploma from the TYC, and diplomas are not reported separately from GED certificates. At the time the data were collected, there were a total of 26 out of 2353 students in the TYC state schools with a high school diploma. Additionally, one out of the 950 special education students had a diploma. We observed that the TYC educational program is generally geared toward GED attainment. The practice tests and GED performance tests are given regularly. While the attainment of a GED is a laudable outcome, it appears that this outcome is at the expense of other graduation opportunities, particularly for low-performing students and students with disabilities.

There are several problems with GED completion as an accountability measure. First, the outcome itself does not take into account the abilities and limitations of the individual students. There are many students at the TYC who will not likely be able to pass the GED during his or her stay. There are also students who may never have the capacity to pass the test for a variety of reasons. The section on GED under the General Education Programs describes the use of the GED in greater detail. From the available data, it is clear that students who come to TYC with substantial requisite skills are able to earn a GED, but that low-performing students are not. The use of the percentage of youth who leave with a GED as an accountability standard may negatively impact opportunities for low-performing youth. Second, the percentages reported are not adequately disaggregated, and it does not appear that the TYC is held accountable for achieving commensurate standards for all students. For instance, White general education students arrive at the TYC with the highest reading and math skills as measured by the TYC's intake measures. These students have the highest rate of GED completion (See Figure 2). At the same time, Black special education students arrive with the lowest mean reading and math skills, and only 21 of 293 of these students (16 years or older) currently at the TYC have a GED (See Figure 4).

The use of the GED (and to a much lesser degree the high school diploma) as accountability measures is problematic because the measures do not adequately reflect the outcomes of all students at the TYC equally. Aggregate measures can be useful if they adequately reflect shortcomings for the composite groups that make up a population. Additionally, the use of the GED as the primary accountability measure is problematic because it emphasizes the GED for all students regardless of whether the student has the requisite skills to obtain a GED. A different standard should be developed so that the State has (1) an accurate understanding of the outcomes for TYC youth, and (2) sufficient accountability measures that accurately depict student progress in multiple areas.

II. General Education Programs

Hours of Daily Education Service

Three policies guide the daily provision of education services for youth incarcerated in the TYC. First, the Texas Administrative code states that the school day must consist of at least 7 hours of school including recesses, lunch, and physical education.²⁵ The TYC developed a separate policy that established 330 minutes of approved educational instruction each day, excluding passing time and lunch, and including physical education.²⁶ The policy also ensures that facilities must:

Ensure specialized treatment programs, except for individual counseling in accordance with EDU.05.21, are not counted for instructional time unless the treatment content has been aligned with the Texas Essential Knowledge and Skills (TEKS) courses, and is delivered under supervision of a properly certified teacher to award high school credit.

Finally, the TYC General Administrative Policy (GAP) provides a third guide for education services. The GAP states that the school schedule must include a minimum of seven hours of instruction, including intermissions and recesses, but only four of the seven hours must be in core curriculum areas.²⁷

The various policies guiding the length of school day create confusion for school administrators. The length of a school day and the meaning of the terms “educational instruction” and “core curriculum” are interpreted differently across campuses. As a consequence, the facilities offer education programs that differ with regard to length of school day, structure, program offerings, and time dedicated to academic instruction. Additionally, the TYC education policies allows for a waiver from a full school day to conduct the phase assessment team meetings. The shortened day is not consistent with the educational needs of the youth, nor is it consistent with the State policies that apply to all other students in Texas public schools.

Additionally, it appears that every student at the TYC institution schools attend physical education (PE) every day for at least one hour per day. Student participation in PE occurs whether or not a student needs PE credits and whether or not the student has other educational concerns that are a higher priority. Typically a student’s daily schedule consists of

²⁵ 19 TAC: Note – the precise location of this has not been found in the code. Taken from TEA website FAQ.

²⁶ TYC Education Procedural Manual EDU.05.41. This policy also states: The educational classroom instructional day may be reduced to a minimum of 240 minutes, excluding passing time and physical education, one (1) day per week for phase assessment team meetings and other educational meetings as needed.

²⁷ GAP.91.41. Additionally, the policy states: The superintendent of education may grant waivers for less than seven (7) hours, but not less than four (4) hours, of school.

about 20% of time in PE despite the fact that PE represents less than 7% of the total credits needed for a diploma.

Educational Structure: Youth Movement

The movement of youth to and from education facilities as well as between classes is an integral component of the TYC education program. As movement of youth takes time, the movement must be scheduled as part of the school day, and this time cannot be counted as instructional time. Youth movement practices vary greatly by facility. In some cases, the physical layout of a facility affects the movement of youth. In other cases, the procedures and protocols affect the efficiency and effectiveness of youth movement.

We observed facilities that showed few problems moving youth, and these facilities generally had contingency plans for problems that occurred during movement. At these facilities, we generally found that the youth were moved between classes within the allotted scheduled



time. For instance, the movement of youth at one facility was efficient, and youth moved between classes without observed incidents for the entire day that youth movement was observed. Generally, the movement occurred within the scheduled timeframe, despite the fact that youth did not attend classes by dorm unit. At other times, the movement of youth was slow and inefficient. For instance, students at one facility were never moved within the allotted time period. We observed instances where the movement of youth

took as long as 30 minutes, despite an allocation of only 5 minutes for movement. The process was poorly organized, and negatively impacted the youths' access to educational services. The poor movement was observed at every movement on multiple days, and was broadly considered a chronic problem by the education personnel and the correctional staff.

Because educational services are impacted by youth movement, the activities require close monitoring of movement during the school day to insure that students are receiving the required number of minutes of education according to State standards. We observed numerous instances of decreased access to education as a consequence of youth movement practices.

Educational Structure: Behavioral Programming

School-based behavioral programming appeared to be non-existent at any of the TYC schools. The TYC does not utilize positive behavioral interventions which have empirical support for effectiveness. Nonetheless, the level and quality of behavioral programming varied across facilities. One problem facing educational staff has been the changes in the system-wide discipline and behavior programs, changes that the personnel reported being unprepared to implement. Two of the schools reported that they were supposed to be following the new “ConNextions” program, which they felt eliminated their capacity to maintain control in the classrooms. Many of the teachers reported that they had limited training in the new program, but that they didn’t understand how the program was to be implemented. Additionally, the teachers reported that the new system did not include education as a component, which created decreased motivation for students. This opinion was shared by students at one of these facilities who reported that they no longer had to do school work or to behave appropriately in school because of the new system.

Although the changes in the behavioral programming are a laudable effort, the program was implemented without adequate support from the central administration. Educational personnel reported being unprepared to implement changes. The new program also highlighted the limited role of TYC education in determining overall program decisions. As one teacher stated, “Education doesn’t have a voice.”

Most teachers reported that maintaining control in the classroom is a primary responsibility of the teachers. At some facilities, several teachers reported that controlling students is their main task during the school day. It was widely reported that many of the educators spent most of their time trying to maintain control in the classroom. The behavioral programming at most of the facilities lacked cohesion and therefore failed to meet the needs of both students and teachers. Additionally, the behavior program at the school was not consistent or integrated with the program implemented throughout the rest of the day. In most instances it appeared that the teachers were responsible for maintaining behavior within the classroom with limited or no systemic support except for serious infractions. As a consequence, we found that many teachers reported that they felt unsafe. The teachers also reported that the new changes in policies decreased their capacity to provide consequences, and that the result was a more chaotic classroom environment.

We found that the schools typically utilized punitive approaches to misbehavior. We found little to no positive reinforcement for appropriate behaviors. We found that many student misbehaviors were inappropriately ignored, which likely resulted in the increased frequency of the behaviors. Additionally, responses to problem behaviors were inconsistently administered within and across facilities. The inconsistent responses and punitive approaches are

inconsistent with a treatment oriented program, and are known to be ineffective for students with emotional and behavioral disorders.

The type and level of behavior problems and staff responses to behavior problems varied by facility. At some facilities, teachers reported that the students often exhibited disruptive behaviors that were too difficult to manage in the class. Some of these teachers reported that they had been told not to write 225s for students. Generally, teachers reported that they had the same responsibilities as the JCOs without the capacity to respond equally to student misbehavior. The level and quality of JCO support also varied by facility. At some facilities we observed that the JCOs were positioned strategically throughout the school. We observed that they walked the entire school, and responded immediately to disciplinary problems. At other facilities, we observed that the JCOs congregated together. We observed limited patrolling of the building, and slow responses to student misbehaviors. Additionally, we observed differences in the JCO to student ratios across schools.

The adequacy of JCO staffing during the school day directly impacts the educational program. Many teachers at different facilities reported feeling unsafe. Teacher and student safety must be a major concern of the TYC. If teachers do not feel safe, they will not have good morale, they will be more likely to resign, and they will be unable to provide appropriate educational services.

Educational Structure: Orientation and Assessment

The students at the McLennan I O & A unit are placed into dorms with students who have been at the facility for varying lengths of time. The students attend classes by dorm unit, not based upon ability or skill level. The courses available at the orientation and assessment unit are Reading, English, Math, CATE, and Physical Education. The classes are each 55 minutes long, and students attend 5 classes, for a total of 275 minutes per day. Additionally, the education program does not run during the PAT meetings on Friday afternoon.

The principal, diagnosticians, and teachers reported that the orientation and assessment unit educational program was not considered a typical “school”, but rather an assessment program. The students are often pulled out of classes for various evaluations or assessments. The orientation and assessment I school does not provide any credits for work completed at the facility. Instead, the teachers and diagnosticians reported that they worked with students on academic weaknesses. One of the major concerns about the “orientation and assessment” aspect of the program is the absence of a structured orientation program designed to acclimate students to the academic and behavioral structures of TYC educational programs. Instead, students rotate through content area classes in a generic education program that does not allow for credit accrual. Teachers reported large class sizes, high turnover, and student

misbehavior consistently interfere with instruction, and limit their effectiveness. Furthermore, they reported that the inability to provide credits limited student acceptance of the program.

On the day of the site visit, the orientation and assessment school began a GED program for the first time. This was a program that had been running at the previous orientation and assessment unit. It was reported that it was necessary to have a GED program at the orientation and assessment unit because GED completion is one of the only TYC education accountability measures, and some students are placed into contract care facilities. In those situations, the TYC would not have a GED completion to count in the overall outcomes (if the student was capable of completing the GED). According to staff reports, any student who achieves a 9.0 grade level on the TABE D (difficult) will be referred to the GED program.

The orientation and assessment unit is designed to hold students for three to four weeks. Reports from teachers indicate that many students were currently staying two months. Upon completion of the orientation program, students are placed in one of the state schools operated by the Texas Youth Commission. The lack of credit accruing classes at the McLennan I O & A is problematic even when the student lengths of stays are 3 weeks. The education program operating at the orientation unit when lengths of stay are longer is inappropriate.

Educational Structure: TYC State Schools

Each TYC facility operates a school independent (in many ways) from each of the other facilities. Each school has its own leadership that runs the school. Administrative oversight is provided by the TYC educational leadership at the central office. However, control of school budgets, including teacher salary, is not maintained by either the principal or the superintendent of special education. Instead, budgetary control resides with the facility superintendent. As a consequence, TYC Education is unable to hire necessary personnel or to fill positions of resigning staff independently. This situation highlights the incapacity of TYC Education to act independently in response to educational concerns. The problem is exacerbated when a TYC teacher resigns or retires. Under the current TYC policies, a superintendent can allow the salary of a departed teacher or other school personnel to “lapse” in order to save money. As a consequence, education positions may remain unfilled in order to save money.

Each school runs a unique education program with unique organizational structures, schedules, courses, vocational programs, and special education services. For instance, at the time of the site visit, one facility education program was organized according to dorm placement and schedules. Each student attended each class with his dorm. If a student changed dorms, he also changed his school schedule according to the new dorm’s school schedule. Classes were not organized by course, but rather by content area: English, Social Studies, Mathematics, and Science. Teachers in a typical mathematics class would have students in Algebra I, Algebra II,

and Geometry, as well as students with only basic math skills who required substantial accommodations, adaptations, and modifications to the curriculum. Additionally, students were at different points in the subject area. For instance, one student might have started the first lesson of Algebra I, while another would be on the 20th lesson.

Students at another facility attend school partially dependent upon the dorm they reside in. At this facility, specific dorms are assigned to a wing of the school. So, if a student is in one dorm, they may go to school with students from other specific dorms. If a student switches dorms, he may continue the same class schedule or he may have his class schedule changed. Nonetheless, classes at this facility, like classes from the first example, are also organized by general content area (English, Social Studies, Mathematics, and Science). Additionally, teachers reported that students changed dorms somewhat frequently, so students regularly moved in and out of classes dependent upon the dorm schedules. Several teachers reported that a student may be in their class for a month, leave for a month, and then return again to the original class. This process creates numerous complications for teachers and students, and creates additional interferences with the consistency of instruction.

In contrast, students at another facility are placed in classes based upon course, reading and math levels, and individual needs of the youth.

School schedules vary by facility. Some schools utilize block schedules, some utilize standard daily schedules. Some offer 6 classes per day; others offer 5 classes per day. The inconsistency is problematic when students move across facilities.

Education: Curriculum

At the time of the site visits, each school developed and / or implemented a unique curriculum. At some facilities the curriculum was school-wide, at others individual teachers tailored curricula based upon his or her own evaluation of student needs. At several of the facilities, teachers ordered a number of different text books for a specific topic that was aligned with the TEKS. In such situations, teachers used a standard commercially available textbook for many students, and AGS textbooks for students with lower reading skills. The absence of a unified curriculum aligned with the State standards, and flexible to meet the needs of high and low performing students as well as students with disabilities is inappropriate. Two of the principals interviewed reported that a standardized consistent TYC curriculum should be one of the primary educational priorities of the TYC. Students frequently move across facilities that have different curricula that are not integrated. This negatively impacts student learning, student credit accrual, and teacher responsibilities as they attempt to match a student's transcript to programs with different curricula.

We found evidence of an attempt by the TYC education administration to design a standardized curriculum based upon curriculum standards designed at one of the facility schools. Teachers at multiple facilities reported knowing about the curriculum, but it was not implemented broadly. The standards were not well defined or described. Educational personnel reported that the curricular guidelines were difficult to follow, and many teachers reported that the curriculum was not adequately aligned with the TEKS.

Education: Instructional Practices

The primary instructional practice observed at TYC education programs was broadly considered “self-paced” and individualized instruction. This usually consisted of students working in worksheet packets independently or students working with paper assignment sheets and in text books independently. There was no direct instruction in most classes, and limited opportunities for student-teacher engagement.

Many of the observations revealed a lack of instructional activities whatsoever. There were numerous instances of teachers working at the computer while students slept, talked with each other, or worked independently. There were numerous instances where teachers were observed talking with students about non-school related issues. On several occasions teachers reported that “this was a special day.” On one occasion, this “special day” was observed on multiple days from the same teacher. Finally, there were numerous observations of students watching movies. Sometimes the movies were clearly related to educational outcomes. Often times, the movies were clearly not related to educational outcomes, and were not even related to the subject area (e.g., students watching Hollywood movies in math class). These activities were observed with greater frequency in some facilities than in other facilities.

Teachers generally reported that the structure of school and the school schedule impacted their ability to provide direct instruction. Additionally, most of the teachers reported that the only way possible to teach was to use the “self-paced” model. The current structure and scheduling procedures are not conducive to the provision of high quality instruction. Most teachers reported that the TYC was increasing expectations to provide direct instruction to students. However, the structural and scheduling practices inhibit the capacity to provide direct instruction or other instructional activities. In most cases, the classrooms include students in different subjects, at various points in the subject, and with widely varying abilities in basic academic skills.

The limited assessment data obtained related to student academic skills do not generally appear to be considered when scheduling classes. In most instances, security and correctional concerns determine student schedules. Additionally, the school day and educational practices are compromised by treatment and penological interests.

The “self-paced” model of TYC facilities is an ineffective approach to education. There is no empirical evidence demonstrating the effectiveness of the practices implemented. The approach is not appropriate to the TYC population of learners.

The current model relies upon students reading independently, although most of the students are substantially behind their same-age peers in reading skills, and many have substantial reading difficulties. The current model relies upon students being self-motivated, despite substantial evidence that these youth have repeatedly shown to have poor motivation and limited interest in school and academics. The program relies upon students understanding material through reading despite poor reading comprehension skills and limited vocabulary. The only teacher-student interaction (in the self-paced model) occurs as one-on-one help. This provides limited opportunities for instruction. For example, a typical class at one facility has 15 students and lasts for 55 minutes. If all students received equal attention for the teacher, they would get 3.66 minutes of direct help per class. This assumes that the teacher spends 100% of his or her time working directly with the students. If a teacher has paperwork to complete, if a teacher encounters any classroom disruptions, or if one student needs substantial help for any specific reason, the number of minutes of direct help per class would be significantly reduced.

In rare instances, teachers were observed providing direct instruction. Examples included: (1) a teacher using an Active-Board to teach a history lesson to the class, and using the board for student-based activities; (2) A teacher instructing a class to do a basic algebraic problem using the board, discussions, and students answering questions and solving problems on the board.

We conducted several interviews with teachers who provided direct instruction. They reported that it was extremely difficult to identify content appropriate to all students, to differentiate the level of content for students of differing abilities, and to adapt, modify, and accommodate the needs of special education students. They also reported that it was not always possible to provide direct instruction daily. One reported that the information taught in the lessons was important to all students, but was not necessarily aligned with the content requirements of all of the students’ courses. However, the teachers all reported that direct and engaging instruction was critical to the learning process. Despite difficult circumstances and a heterogeneous group of students, these teachers believed that engaging instruction was essential to student learning, and these teachers found a way to provide that instruction. It is clear that if the structural obstacles currently in place at the TYC schools were eliminated or corrected, direct and engaging instruction would be possible, and would contribute to a relevant and meaningful learning environment for TYC youth. Two of the principals interviewed identified the lack of direct instruction as a major problem within their schools. Both stated that increased direct instruction is one of the primary priorities, but both identified the current educational structures as impediments to the provision of direct instruction.

Education: Technology

The availability and use of technology varies across and within the TYC schools visited. Some of the principals reported that they had sufficient technological support. Other reported that the technology was inadequate. Additionally, some teachers reported sufficient availability of technology, while others reported that they had little or no technological equipment or support. For instance, some classrooms at one of the facilities had working computers and smart boards. Some of the teachers in these classrooms reported that they used the devices, but that the erratic internet support often made use of supported software impossible. Other teachers with technology reported that they did not have sufficient training on the use of technology, so the equipment was never used. Other classrooms did not have sufficient technology. For instance, some teachers reported that the computers were so old that they took nearly ten minutes just to start up and were inadequate for instructional purposes. Additionally, many educational personnel reported that the staff had insufficient training and resources to use the technology in meaningful ways.

Technology can be an important tool for educators, especially in fields such as science, history, and mathematics. If technology were available, it would be possible to utilize virtual labs in science, or to utilize interactive geographic software to engage students in history lessons. According to one principal, “if we are going to have our kids participate and compete in the 21st century, we need the technology to prepare them.” Educational personnel at most facilities reported inadequate technological support. General concerns were a lack of adequate computers, limited and sporadic access to the internet, inadequate training, and the lack of appropriate software including virtual labs.

Education: Physical Education

It appears that physical education (PE) serves two purposes for the TYC. First, it fulfills academic requirements for students access to PE. Second, it fulfills ACA requirements for large-muscle exercise²⁸. There are a number of problems with the TYC PE program. First, all students are assigned to PE for at least one hour every day. This occurs even if a student has all of the physical education credits he or she needs for a diploma. The placement into physical education without consideration of student needs is inappropriate, and negatively impacts academic and vocational opportunities for youth who need substantial credit recovery, remediation, and /or job skill training.

Additionally, there was some evidence at specific facilities that the facility recreational staff were in charge of physical education classes. This is problematic because the State requires certified physical education teachers to teach and approve credits for PE.

²⁸ ACA Part 5F: 3-JTS-5F-06

Education: Reading Instruction

Each facility reported having a reading teacher. At some facilities, the reading instruction consisted primarily of the “Read Naturally” program, a program that only has empirical evidence for improving reading fluency. We witnessed limited examples of teachers providing explicit reading instruction at some facilities. At other facilities, the reading instruction was inadequate or non-existent. The programs were not aligned with scientifically-based reading practices for adolescent readers. For instance, in one class a teacher worked at the computer while children read “Read Naturally” passages independently. In another, the teacher used turn-taking “read-alouds” to read several short passages. The teacher herself read 50% of the passages. Many students were observed listening, but not looking at their passages. It appeared that the readability of the text exceeded the reading abilities of many of the students. Direct and explicit reading instruction was limited across facilities.

We spoke to many special education students at each of the visited sites about their reading needs and their access to reading instruction. Some students reported that they had teachers who helped them to read better. Typically, these comments were specific to an individual teacher, not to a school. Some students reported that they received reading instruction but that it was not as helpful as the instruction they received outside of the TYC. Many students reported that they did not receive extra help in reading despite a need to improve reading skills. Most of these students reported that they would benefit from a reading teacher.

Education: High School Credits

TYC schools can provide high school credits to students. The provision of credits, however, varies from facility to facility despite documented procedures. The GAP states, “Youth are enrolled in TEA approved or post-secondary courses and have an opportunity to receive credit or partial credit for the courses.²⁹” At some facilities, students have difficulty accruing credits. There appear to be a number of reasons that students do not accrue credits. First, decisions about credits are made locally. Teachers determine when a student should get a credit for a particular course, and they forward that recommendation to an administrator. The administrator then decides whether to award the credit. As a consequence, credit accrual is related to differences in teacher standards.

Second, students often change classes and schools for reasons related to correctional decisions. As a consequence, teachers and other school personnel are charged with forwarding available course information to the new teacher (and school if there was a facility change). Since TYC does not have a standardized and consistent curriculum, the new teacher must attempt to

²⁹ GAP_91_43

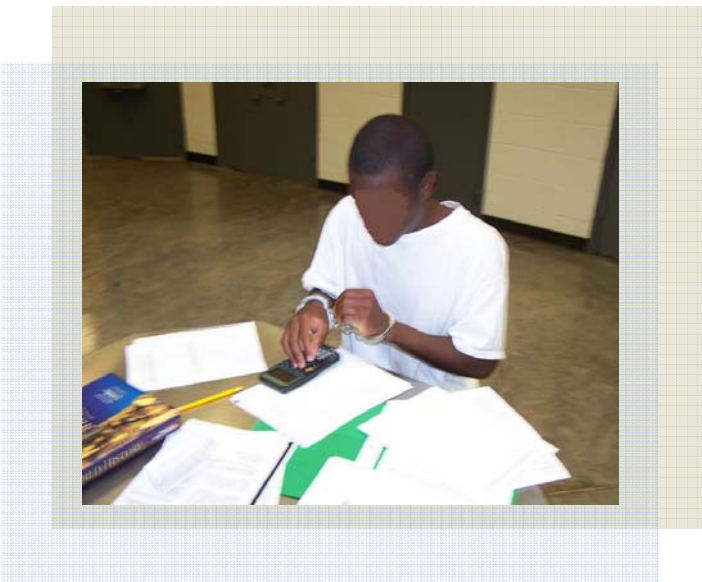
assess the student's academic status in the content area, as well as determine the percentage of the course completed. Teachers generally reported that this process was difficult.

Students generally reported that they did not know how many credits they had. Many reported that they had inquired repeatedly about credits, but were never provided any documentation. Some student reported that credits had been lost while at the TYC. Other students reported that they could not complete the independent work, and were informed that they would not receive a credit until they did. A large percentage of special education students reported that they were not getting credits because they could not complete their work independently, and that they did not receive help in difficult subjects, including reading and mathematics. Many students reported that they wanted their GED because they were told that they couldn't get enough credits to graduate.

Credit accrual and credit recovery do not appear to be priorities of the TYC education program. This appears to be due to a focus on GED attainment, inconsistencies in curricula within and across campuses, and school structures and schedules. Credit accrual and high school diploma tracks should be a viable and preferred option for many of TYC youth.

Education in Security

Many students spend considerable time in security settings. These programs do not operate in a manner consistent with the general population program. The level and quality of educational



services vary by facility, although none of the education programs in the security settings met the TYC education standards. Typically, a teacher is designated to a security unit. The teacher may provide students with work to do in their cells. The teacher may pull individual students, pairs of students, or (in rare cases) more than two students to work in a small room used for instruction. Generally, the security teachers we spoke to appeared to be knowledgeable teachers and were

adept at teaching multiple subjects to a diverse group of students. However, the security units lacked sufficient educational staff to provide an adequate education. For instance, at one facility, the security teacher reported that he was typically able to meet with each student in the security unit but that he was unable to provide the students with an appropriate education.

This was not due to the teacher's skills (which were strong), but to an excessive student to teacher ratio. At the Al Price security unit, the teacher met with students individually or in pairs. He reported that he was only able to work with students in the BMP, but not with students in IDP or short-term security. Additionally, he was not able to provide 330 minutes of instruction to each student daily. Again, this was not due to teacher ability, but rather to barriers associated with the security program, inadequate staffing numbers, limited educational space, and the inability to see more than two students at a time. At some facilities, the security teacher was used as a substitute teacher in the general population school. At those times the students in security did not receive any educational services.

The limited education program provided in the security units is inadequate and inappropriate. Furthermore, the failure to provide a full school day with all required special education services for special education students does not meet the entitlements required by the IDEA of 2004, nor does it align with a special education student's Individualized Education Program (IEP).

Education Personnel

We found the staff at the TYC institutions to be one of the strongest assets of the TYC education programs. However, we found that school cultures varied greatly across the facilities. In most facilities, teacher morale was low. Generally, the teachers reported that there was a disconnect between the schools and the education central office. Most teachers reported that changes were implemented without adequate notice (to the school staff) and without consideration to the impact on the schools. Many of the educators reported that they were not adequately prepared for changes, and that they felt that many of the changes that the TYC implemented created confusion with regards to the provision of educational services. We found that most of the educational staff felt that they were concerned about the future of the educational programs, were concerned about safety, and did not understand any of the changes in the TYC administrative structure. Many reported that they did not know who the administrators were, and most reported that they did not know or had never seen the educational leadership.

School Diagnosticians

With limited exceptions, the TYC diagnosticians were dedicated and knowledgeable professionals. Most of the diagnosticians interviewed spoke knowledgeably about the law, about TYC and TEA policies, and presented a thorough understanding of the special education process. Many of the diagnosticians had job expectations well beyond the capacity of an individual, but these individuals continued to complete the workload, usually meeting extremely difficult deadlines. These diagnosticians represent the backbone of the special education program.

The duties of the diagnosticians at the State Facilities (excluding McLennan I O & A) include the collection of student information, preparing and conducting ARDs, completing all associated ARD³⁰ paperwork, and conducting diagnostic assessments. In addition, some diagnosticians are responsible for

administration and scoring of GED tests. Finally, some diagnosticians also have additional responsibilities. The workloads of the diagnosticians vary by facility. Some diagnosticians report that they have adequate support to complete all of their responsibilities. Other diagnosticians report that they cannot meet all of the demands of their job without continually getting support from diagnosticians from other facilities. The inability to complete all required work is not indicative of diagnostician abilities, but rather the variability in educational programming across

Miss Y is a TYC diagnostician. She was typically overworked, coming in early and staying late in order to convene ARDs and complete documentation within required timeframes. Miss Y had no administrative support, and had to fulfill secretarial duties in addition to her own professional duties. Unlike the diagnosticians at many of the facilities, Miss Y received most of the students on her caseload from other facilities or as recommitted youth. As a result, she was required to convene ARDs regularly, and often had to track down information from non-TYC placements. Miss Y regularly received support from the special education teachers before and after school; a demonstration of teamwork and commitment to the students. Despite the large and unstable caseload, Miss Y spoke knowledgeably about each of the special education students on her caseload. Despite considerable obstacles, she maintained a positive spirit and a strong dedication towards improving the lives of “her” students. When asked what would improve her job she replied, “I just need the time to be able to serve these students by doing my job – to do the work of a school diagnostician.”

facilities. Additionally, some diagnosticians have administrative support while others are required to complete secretarial duties in addition to their own professional duties. There was limited evidence of some inappropriate activities by diagnostic staff, particularly with regards to appropriate admissions of special education students and specific violations of student entitlements. These activities are not generalizable to most diagnosticians, but they do highlight the need of close supervision and regular monitoring of school diagnosticians.

³⁰ Admission, Review and Dismissal. The ARD outlines the individualized special education program for youth with disabilities. See Section IV for additional information about the TYC ARD.

Teachers

We interviewed 67 teachers. Additionally, the certifications and qualifications of the teaching staff were reviewed. It was extremely difficult to get an accurate understanding of the qualifications of the TYC teachers. The TYC provided us with documentation about all of the educational staff, but there was substantial information missing about teacher education and certifications. As a result, it was impossible for us to determine the percentage of certified or highly qualified teachers at the TYC institutions. A previous audit³¹ conducted by the TYC in 2007 found that numerous classes were being taught by teachers who were not highly qualified in the subject they were certified to teach. The audit also confirmed our finding that teacher credentials were not readily available from the TYC.

It was impossible to evaluate the quality of teachers at the TYC schools because the structural barriers impeded the ability of most teachers to provide direct instruction. However, we found the teachers generally to be knowledgeable, and dedicated professionals. One principal



reported that “we have teachers that can make a difference. Morale is finally building. Teachers are starting to interact with the students.” However, the principal also cautioned that the teachers needed support to accomplish their mission.

Career and Technology Education (CATE)

Vocational programs were observed at Al Price, Crockett, Gainesville, McLennan II, and Ron Jackson. At least one vocational teacher was interviewed at each facility, multiple vocational teachers were

interviewed at four of the facilities, and all of the vocational teachers were interviewed at two of the facilities. Numerous students at each facility were interviewed about their experience with the vocational programming.

Vocational programming at TYC is contained within the Career and Technology Education program. Vocational programs vary across facilities. Some facilities offer a broad range of vocational courses. Other facilities offer numerous sections of a limited array of vocational classes. Finally, some facilities offer only a limited number and variety of vocational programs. Access to CATE programs varied across facilities.

³¹ Texas Youth Commission, Internal Audit Department, Audit Report on Education, December 2007.

The GAP states that the purpose of the CATE is “to provide for youth career and technology education opportunities.”³² According to the policy, each youth completes a vocational assessment, and are provided opportunities to enroll in introductory and CATE courses in conjunction with their basic academic courses. The GAP provides limited criteria for enrollment into CATE classes. The non-specific language leaves the primary responsibility of enrollment up to facility school administrators. According to the GAP, “Age, interest, safety, and basic literacy factors are considered when placing youth in advanced pre-employment career and technology education.” The terms “age”, “interest”, “safety”, and “basic literacy factors” are not defined. Students interviewed about vocational programs (who were not enrolled) reported that they had limited opportunities to enroll in courses, and reported that only non-desirable classes were offered to them. Many of the interviewed students reported that they were told that they needed a GED to enroll in vocational programs, and others reported that they were told that they needed to improve their reading skills to be enrolled.

Some facilities provided a broad array of vocational opportunities. For instance; one of the facilities offers a network / telecommunications cabling program, a woodshop, and a culinary arts program. Another facility offered metal fabrication, building trades, horticulture, food preparation, and auto technology as well as the Project RIO. In contrast, another program offered only welding and horticulture despite a large population. Additionally, the vocational space and supplies varied by facility. For instance, the vocational space at certain schools was insufficient to run the same type of programs available at others. Additionally, the vocational programs at one facility were located next to academic classrooms, which created a chaotic learning environment for vocational and academic classes alike. The teachers at facilities with inadequate space and resources reported that the small and crowded spaces were not conducive to the type of programming the teacher reported wanting to provide. Furthermore, they reported the space problems created safety concerns. Finally, the availability of security staff to vocational programs varied by facility. Some vocational classrooms had JCOs assigned to the classroom, and these staff was generally observed working with the instructor and the students on vocational activities. In others, no JCOs were dedicated to vocational classes, and support was inconsistent.

³² GAP.91.45

The vocational classes generally involved high levels of student activity and student/teacher engagement (although there were isolated instances of poor vocational training). For instance, one facility offered a telecommunications cabling program. The students were actively involved in computer-based activities, cable splicing, and testing procedures. The instructor worked with individual students and also discussed important issues with the entire class. Each of the students I spoke with reported that this was one of the best courses they had ever taken. Many of the students reported that the teacher was the best teacher they had ever had. In addition to teaching the content, the teacher had also helped the students to investigate jobs available in their home

communities, helped them to prepare for interviews, and helped them to prepare a work portfolio.

The investment in post-release outcomes was not specific to this teacher. Several of the teachers at other facilities reported job preparation, interviewing skills, and interpersonal work skills as critical to successful post-release employment.

These teachers ran the programs like a

post-secondary trade school, and stressed job skill training. Additionally, some of the teachers reported that they transported some students to a certification center to take the certification test. Although this duty was beyond the scope of the job description, these teachers reported that it was a necessary part of the process of successful rehabilitation.

Primary shortcomings of the CATE programs were the inequities in types and availabilities of programs across facilities, and lack of equal access to vocational programming for all students. For instance, I spoke with the welding instructor at one facility who acknowledged that he

Mr. M exemplified the qualities of an exceptional teacher, and represented the characteristics typical of many of the CATE teachers we interviewed. He taught a network cabling class that prepared students to work in the field of telecommunications. His classroom was filled with students diligently working on computers, splicing cables, testing work, and completing written coursework. Mr. M provided consistent guidance, and continuously praised the efforts and dedication of the students while maintaining high standards of achievement. His dedication towards his students went beyond typical duties. When his students stated that they wanted to know how to find jobs in the area, Mr. M developed individual job folders for each student. These folders contained positions available in the areas the students would be returning to. His dedication was recognized by all of his students. One student stated, "when I got locked up I thought...I'll just do my time. I never thought I could change my life here. Mr. M has helped me to do that." Another said, "Mr. M is really into helping the kids out...he is working with us. You can really change your life in this class."

typically had fewer than 20 students in his program. He stated that the horticulture teacher usually had 2 or 3 students at a time. Only about 10% of the population was eligible for vocational programming. Additionally, most of the vocational programs were traditional trade programs, and there were limited high tech programs that would prepare youth for broad employment opportunities in today's labor market. The need for additional CATE courses was identified by principals, diagnosticians, CATE teachers, and school teachers alike.

We attempted to identify equity in access to CATE classes. We heard reports that certain groups of students did not have equal access to CATE classes. Specifically, we were concerned that students without GEDs or diplomas and special education students did not have equal access. We were unable to obtain sufficient data to adequately examine this issue.

General Education Development Programs (GED)

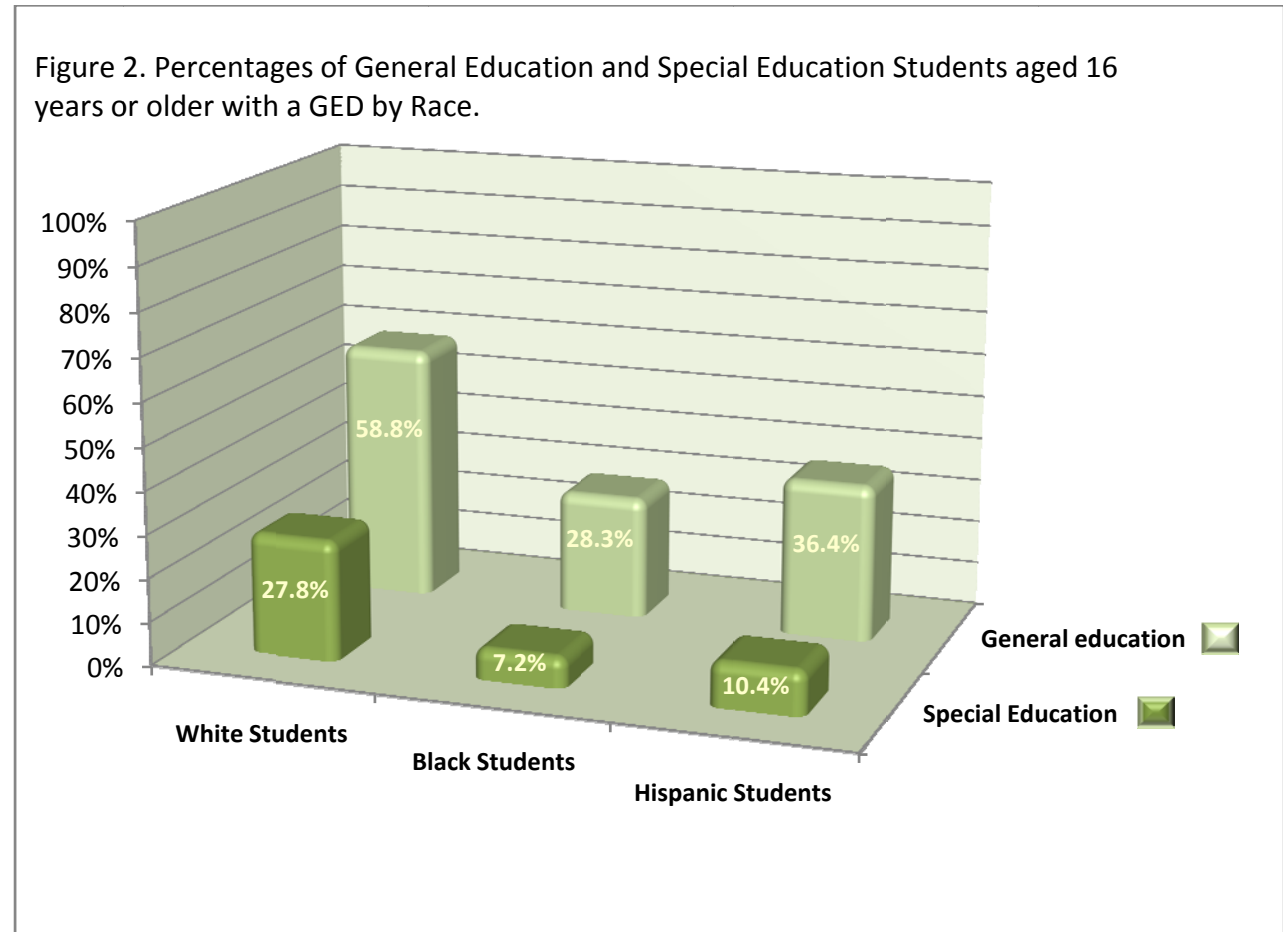
The General Educational Development is a test that measures outcomes in a number of high school content areas. The GED test is administered in the TYC facilities. At sites that the GED programs were visited, the school diagnosticians were responsible for administering the GED test. In order to pass the GED, a student must make a minimum overall score as well as make a minimum score on each of the subtests. If a student passes the GED, the tests are certified by the TEA.

The GED outcomes are used by the TYC as an outcome measure of education accountability. The TYC regularly reports the number of GEDs that TYC students achieve within the first 90 days after release from TYC facilities. The GED outcomes were publicly reported by the TYC. They report outcomes by race, by gender, and by special education status. They reported the numbers and percent of students 16 years or older that received a GED or diploma within 90 days after release from 9/01/2007 to 2/29/2008.³³ They reported that 58 of 177 girls (49.6%) and 541 of 1212 boys (44.6%) obtained a GED or diploma. They reported that 225 of 335 White students (67.2%), 151 of 478 Black students (31.6%), and 215 of 501 Hispanic students (42.9%) obtained a GED or diploma. They reported that 472 of 790 general education students (59.7%) and 127 of 538 special education students (23.6%) obtained a GED or diploma.

With the current data available from the database designed for this evaluation, it was not possible to verify information about students who had left TYC facilities. However, it was possible to examine the number of students 16 years or older currently at TYC who have a GED or a diploma. Although this information did not allow me to examine of the number of students who got a GED or diploma after they left (or the students who may still get a GED or diploma during their stay), it did allow me to examine the likelihood of having a GED or diploma or GED disaggregated by race and disability status, something not reported by the TYC. Very few

³³ Retrieved from TYC website

students at the TYC had their diploma. On the date the data were collected, 25 of the 1378 general education students (1.8%) had a diploma, and 1 of the 949 special education students (0.1%) had a diploma. As a result, I primarily looked at the GED as the outcome measure. Figure 2 displays the percentage of students age 16 years or older with a GED by race and special education status.



On the date the data were collected, 28.7% of the youth confined at TYC had a GED. Figure 2 shows disparities in GED attainment by race and by special education status. White general education students were most likely to have a GED, while Black special education students were least likely to have a GED. I also looked at the special education and general education students and percentages and numbers of each group who received their GED. Figure 3 displays the portion and number of general education students (16 years and older) that have a GED by race. Figure 4 displays the portion and number of the special education students (16 years and older) that have a GED by race.

Chart 3. Percentage and Numbers of Students with and without a GED: General Education Students Disaggregated by Race

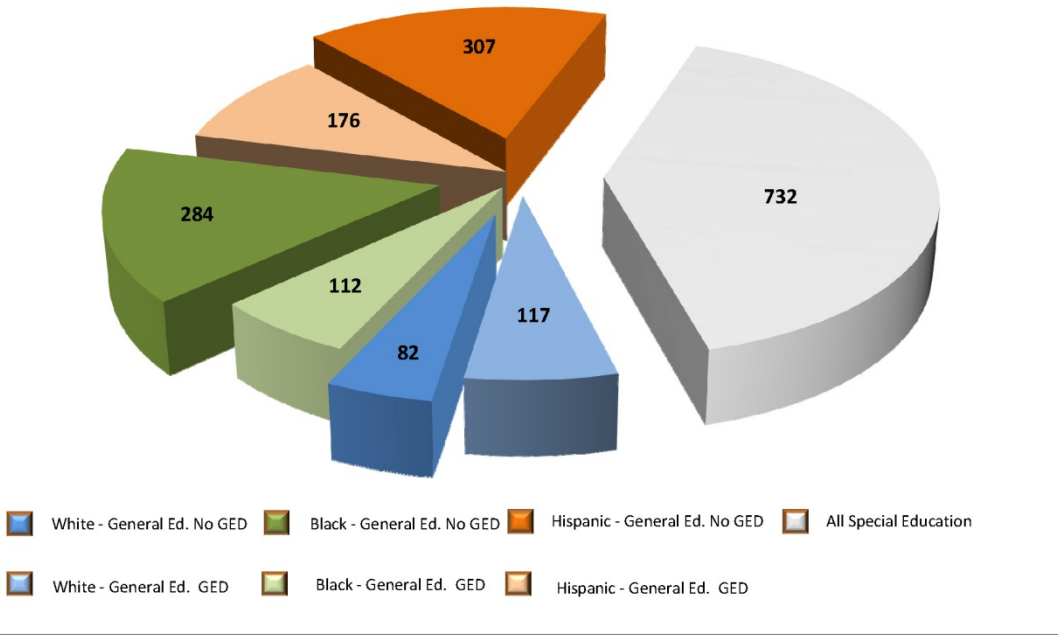
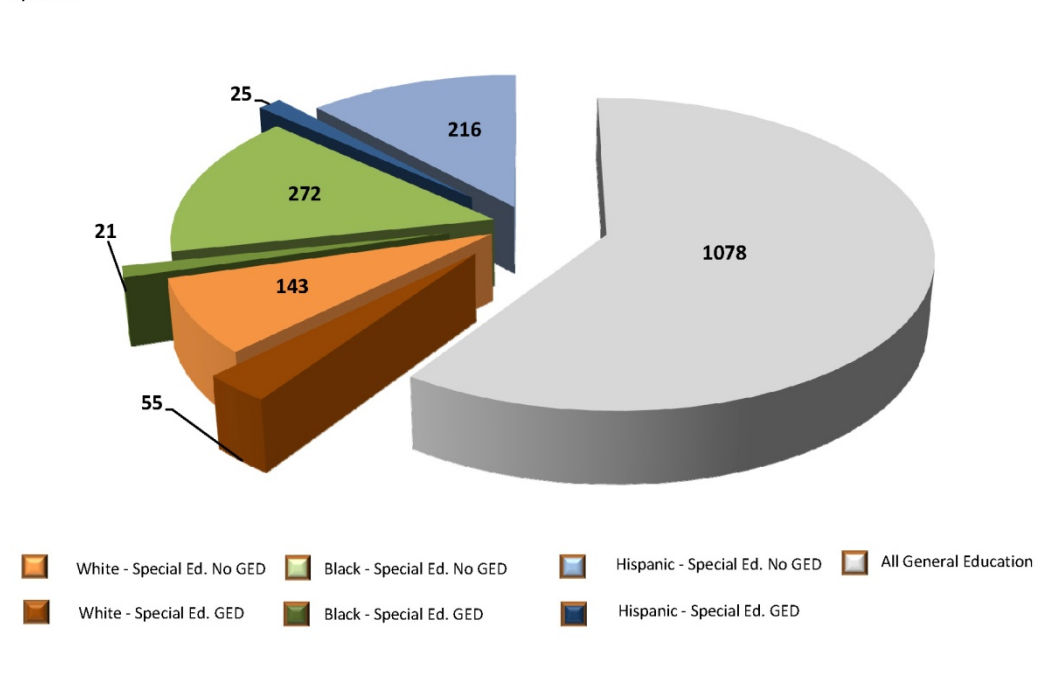


Chart 4. Percentage and Numbers of Students with and without a GED: Special Education Students Disaggregated by Race



The tables, along with the findings reported by the TYC, reveal some important information. First, a substantial percentage of the youth confined at TYC institutions have received a GED, an important and laudable outcome. Second, minority youth, especially Black students, are less likely to receive a GED at TYC. Third, youth with disabilities are much less likely to receive a GED than their peers in general education. This is especially true for Black students and Hispanic students in special education. Disaggregating these outcomes by all meaningful groups provides a very different picture of GED attainment than the numbers publicly reported by the TYC.

In order to better understand the students who receive GEDs at the TYC, we looked at the timeframes required to obtain the GED while at TYC facilities. This is useful in helping one to understand who passes the GED, and how long it took to get the GED. Table 2 and Table 3 display the number of GEDs by race and special education status, and also the percentage of the total GEDs obtained at intake, 3-months stay, 6-months stay, and 9-months stay.

Table 2. Percent of Students at TYC with A GED at Intake and at 3 Months after intake

	Race	Total Students	GED Ever		GED at Intake		GED in 3 Months	
			Number	Percent	Number	Percent	Number	Percent
			General Education	White	199	119	59.8%	4
	Black	396	116	29.3%	1	0.9%	16	13.8%
	Hispanic	484	178	36.8%	3	1.7%	31	17.4%
	Other	12	7	58.3%	0	0.0%	5	71.4%
	Total	1091	420	38.5%	8	1.9%	92	21.9%
Special Education	White	198	55	27.8%	0	0.0%	10	18.2%
	Black	293	22	7.5%	2	9.1%	2	9.1%
	Hispanic	242	25	10.3%	0	0.0%	4	16.0%
	Other	1	1	100.0%	0	0.0%	0	0.0%
	Total	734	103	14.0%	2	1.9%	16	15.5%
All	All	1825	523	28.7%	10	1.9%	108	20.7%

Table 3. Percent of Students at TYC with A GED at 6 Months and 9 Months after intake

	Race	Total Students	GED Ever		GED in 6 Months		GED in 9 Months	
			Number	Percent	Number	Percent	Number	Percent
			General Education	White	199	119	59.8%	68
	Black	396	116	29.3%	42	36.2%	60	51.7%
	Hispanic	484	178	36.8%	80	44.9%	118	66.3%
	Other	12	7	58.3%	5	71.4%	5	71.4%
	Total	1091	420	38.5%	195	46.4%	269	64.0%
Special Education	White	198	55	27.8%	17	30.9%	28	50.9%
	Black	293	22	7.5%	4	18.2%	8	36.4%
	Hispanic	242	25	10.3%	10	40.0%	16	64.0%
	Other	1	1	100.0%	1	100.0%	1	100.0%
	Total	734	103	14.0%	32	31.1%	53	51.5%
All	All	1825	523	28.7%	227	43.4%	322	61.6%

Few of the TYC students arrived with a GED, but more than 20% of the students with GEDs received the GED within 3 months of his or her arrival at TYC. More than 60% of the students with a GED obtained the GED within 9 months of his or her arrival, with some variation by race and special education status. This indicates that a substantial percentage of the youth who get a GED at the TYC arrive with sufficient skills to pass the test. For these students, the TYC education provides opportunities to take the GED as well as provides supports to help students improve in specific content areas so that they can pass the GED test. For another percentage,

the TYC provides sustained educational support that leads to improved academic skills which are necessary to pass the GED

Although we cannot support the reliability or the validity of the TABE scores for reasons described above, they were the only available measure of academic achievement available from the TYC. I also looked at the difference on the TABE scores between students with and without a GED. Table 4 displays the mean TABE scores for students with and without a GED by race and special education status.

		No GED			GED		
		N	RDG Intake	Math Intake	N	RDG Intake	Math Intake
General Education	White	79	7.00	7.00	114	9.48	9.39
	Black	280	5.89	5.65	112	8.55	8.44
	Hispanic	300	5.45	5.53	175	8.59	8.42
	Other	5	6.16	6.54	7	10.63	10.09
	Total	664	5.82	5.73	407	8.86	8.72
Special Education	White	141	4.75	4.44	55	7.22	7.38
	Black	267	3.87	4.12	21	7.31	6.09
	Hispanic	212	4.00	4.23	25	7.62	7.12
	Other				1	7.70	10.8
	Total	620	4.12	4.23	102	7.34	7.08

Table 4 shows that the students who have obtained a GED have substantially higher reading and math intake scores than the students who have not obtained a GED, with mean scores of about grade level 7.0 and higher. The findings regarding the GED are extremely important because they have implications for all youth confined in TYC institutions. Because the GED is a primary accountability measure, and because the TYC confers very few high school diplomas, the GED appears to be the driving force of the TYC educational system. Almost every student interviewed reported that he or she wanted to take the GED, or had already taken the practice GED regardless of academic competence. It appears that the GED is viewed as the primary outcome by the youth, despite the very low likelihood that many of the youth have of getting the GED. There is limited attention paid to credit recovery, credit accrual, or diploma attainment. There is also limited emphasis on vocational training as a primary option for low-performing students with little likelihood of attaining a high school diploma or a GED. The classes are not designed to provide students with instruction in content areas. Instead, the instructional program relies on an assumption that the youth have an intrinsic motivation to

learn and the academic, behavioral, and emotional capacity to complete difficult work independently.

Another problem we identified with the GED program is that students who complete the GED are still required to continue participating in the general school program, even if the student does not wish to get a diploma. Although some schools offer limited numbers of college courses, they are not commensurate with the needs of the youth, many of whom have a GED and want to take college courses. Many youth and teachers reported that youth would be better served by participating in a full day of vocational programming or in a college preparation program that included on-site and online college courses.

Education: Overall Impact

The TYC education program appears to lack a unified and consistent vision with regard to all of its students, particularly low performing students and students with disabilities. The strengths of the education program are the CATE programs, the dedicated staff, and the GED certificates received for a percentage of the population. The GED is important for youth as it provides them with post-release opportunities including employment, post-secondary education, and post-secondary vocational training. However, the GED is not a viable option for a majority of the TYC youth who require a comprehensive educational program that results in a terminal degree or will help them to successfully reintegrate into the public school system.

Despite the fact that a substantial percentage of the youth have reading and learning deficiencies, these students are expected to learn through a process of independent reading. Despite the fact that a substantial percentage of the youth have limited reading comprehension skills, they are expected to acquire new information primarily through self-directed reading. The current model of educational practices at the TYC is basically devoid of what current educational research has consistently identified as “best practices” for instruction. There is little to no direct instruction and little to no classroom discussions. Students are not exposed to new knowledge in multiple ways, nor are they provided with instructional approaches that are interesting or engaging. Students have limited engagement with teachers, and the classes typically lack direct instruction, questioning, and discussion. Students are seldom given opportunities to respond to new information or to questions about newly learned information. Students are seldom provided opportunities to relate newly learned information to the world or to their own prior knowledge. Student engagement was poor across settings and classrooms. Although there were instances of excellent teaching and innovative instructional approaches, the primary instruction practice (“self-paced” independent desk work) is the least effective instructional approach available.

III. Impact of Disciplinary Policies on Education Entitlements

Disciplinary policies have an important place in any juvenile corrections facility. The TYC has the responsibility for housing, treating, and educating youth; and safety of the youth and the staff is critical to a successful program. Nonetheless, care must be taken to ensure that issues of security do not determine education scheduling and capacity. Additionally, disciplinary practices must be carefully monitored to ensure that students are not chronically denied access to instruction. While this is true for all students, it is critically important for special education students because there are federal laws and regulations that clearly outline the responsibility of education agencies with regards to access to education.

The TYC uses CCF225 (commonly referred to as a 225) to document disciplinary incidents. The decision to write a 225 is dependent upon an individual staff member's judgment. This judgment varies by individual characteristics as well as by campus-specific procedures. For instance, teachers at some campuses reported that they have been directed not to write any 225s.

The impact of the 225 is also variable. If a student receives a 225, the 225 may be added to the student disciplinary file but no immediate action will be taken. A student may be referred to security for a period of time after they receive a 225, typically dependent on the severity of the infraction. If this occurs during the school day, the students do not receive educational services for the period of time they are held in security.

If a student is referred to security, they are evaluated by security personnel. At that time, the student may be admitted to security and confined in a cell for a defined period of time, or they may be sent back to the location of the infraction that resulted in the 225 or to the location of their regular programming.

After a student is admitted to security, a superintendant or designee makes a determination of the length of stay in security (within 24 hours). A superintendant or designee may release the student to the regular program. The superintendant may decide that the student needs to stay in security at which time the student is evaluated again to determine if the student needs to be admitted to an Institutional Detention Program (IDP) or to a Behavior Management Program (BMP) based following TYC policies³⁴.

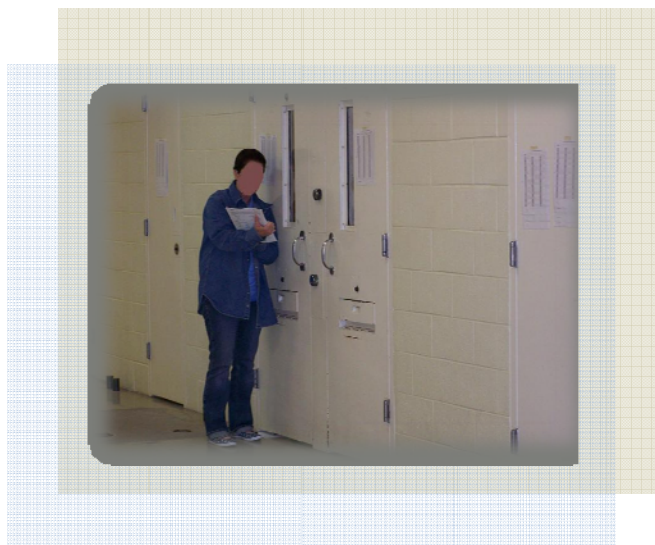
If a student is admitted to the IDP, a student may be retained for a maximum of 10 days. During this time a student may await a Level Hearing to determine a placement in BMP, or the student may be released to the general program. If a student is admitted to the BMP, the student may be retained in the security BMP unit for up to 90 days. During the time in the IDP and in the

³⁴ GAP 95.17 and Case Management Standards Manual 07.17

BMP, students have limited and varying access to educational services. Students placed on the IDP typically receive limited or no educational services. Students placed on the BMP unit have an education that is based upon their levels within the BMP system. If a student did receive educational services in the IDP or in the BMP, he or she typically received the services from an educator dedicated to the BMP unit. There were no locations that provided a full day of school for all students in a BMP program.

The final secure placement is the aggression management program (AMP). The students placed on the AMP unit are provided with an educational program that is based upon their levels within the AMP system. According to the AMP procedures, Students on Stage 1 do not participate in school. Students on Stage 2 and Stage 3 receive education from one of the three AMP teachers. Students on Stage 4 and Stage 5 went to school at the Mart II general population school. Student on Stage 1 were out of their cells for only 1 hour per day. They do not participate in the education program. Students on Stage 2 reported to participate in one hour of school per day. However, they reported that the units do not usually have the required two JCOs, and therefore, they may not attend school at all.

It is important to note that, at the time this report was written, the AMP had been eliminated. Additionally, the BMP was under revision. However, the new policies for the BMP were not completed at the time this report was written. Nonetheless, at the time of this evaluation, students were in both the AMP program as described and the BMP program as described.



To understand the impact of TYC security procedures on student access to education, we examined TYC data about number of incidents, number of security referrals and admissions, number of times in BMP or in AMP, as well as amounts of time in security, BMP, and AMP. We were interested in using the data to determine how often students were involved in incidents, and how often students were in security settings (including BMP and AMP). Additionally, we were interested in examining whether there were differences in the risk of being involved in an incident or in going to security based upon a youth's race and / or disability status.

Table 5 shows the number of reported disciplinary incidents per week for groups of students by race and by special education status. The table shows that White general education students have a mean of 1.25 incidents per week. These incidents include all incidents. The mean

incidents per week for this group represent the comparison group. The Ratio column shows the ratio of mean incidents for each racial group in general education and in special education to the mean incidents per week for the comparison group. The Hispanic general education students have a slightly higher mean than the comparison group, while mean incidents per week for the Black general education students is about two times the mean for the comparison group.

Table 5. Summary of Incidents, Incidents per Week, and the Ratio of Incidents by Week by Race and Special Education Disability Category

		Number	Mean Incidents per Week	Ratio*
General Education	White	228	1.25	
	Black	500	2.48	1.98
	Hispanic	556	1.38	1.10
	Other	12	0.93	0.74
	Total	1296	1.80	
Special Education	White	238	2.50	2.00
	Black	376	2.92	2.34
	Hispanic	298	2.06	1.65
	Other	5	2.95	2.36
	Total	917	2.53	1.41**

*Ratio represents the ratio of the incidents per week for each group to the incidents per week for the White General Education group. The ratio represents the degree to which the mean incidents per week for each group is greater or lesser than the mean incidents per week for the White General Education Group. For instance, the Ratio of 2.34 for the Black Special Education group means that Black student in special education has (on average) 2.34 times more incidents per week than a White General Education student (on average)

**The Ratio for Total Special Education is the ratio of the mean incidents per week for all special education students to the mean incidents

The mean incidents per week for each racial group in special education was substantially higher than the mean incidents per week for their general education peers in the same racial category, as well as the mean incidents per week for the White general education group (the comparison group). The Black special education group has the highest mean incidents per week (2.92), with

an average of 2.34 times more incidents per week than the comparison group. Table 6 shows the same information as Table 5, but it displays the information by disability category. This allowed us to look at whether students with specific disabilities were more or less likely to have incidents. Table 6 shows differences in the mean incidents per week by disability category.

Table 6. Summary of Incidents per Week by Race and Special Education Disability Category

		Number	Mean Incidents per Week	Ratio
General Education	White	228	1.25	
	Black	500	2.48	1.98
	Hispanic	556	1.38	1.10
	Other	12	0.93	0.74
Other Health Impairment	White	36	2.51	2.01
	Black	50	2.71	2.17
	Hispanic	23	1.89	1.51
	Other			
Mental Retardation	White	3	2.26	1.81
	Black	10	2.25	1.80
	Hispanic	3	2.40	1.92
	Other			
Emotional Disturbance	White	129	3.00	2.40
	Black	155	3.26	2.61
	Hispanic	113	2.80	2.24
	Other	3	2.06	1.65
Learning Disability	White	68	1.39	1.11
	Black	160	2.80	2.24
	Hispanic	154	1.59	1.27
	Other	2	4.29	3.43
Other Disability	White	2	8.07	6.46
	Black	1	3.86	3.09
	Hispanic	5	0.39	0.31
	Other			

Students identified with an emotional disturbance have the highest mean incidents per week. This finding is important when the level and type of direct special education services for these youth are examined (See Section IV). The number of incidents is important for understanding

Lisa is a 16 year old girl with identified chemical dependency and mental health needs. She has been at the TYC for approximately 16 months. She is a special education student who receives about half of her instruction from special education teachers. Although she has never been to an Aggression Management Program, she has spent about 5 months in the Behavior Management Program, and another 6 months in security settings. In her time at the TYC she has been admitted to security nearly 90 times.

the magnitude of disciplinary problems that may occur in schools, but we must also consider two additional factors in order to understand the impact of disciplinary policies on educational programming. First, we must examine what percent of the incidents occur in schools to better understand how many incidents occur directly in school. Second, we must consider the consequences for the incidents. Specifically, we must examine the

extent to which students are placed in security, and the amount of time students spend in security settings, including BMP and AMP. Time in security will provide a means for understanding the time students are withheld from school for disciplinary reasons.

Table 7 displays the percentage of incidents in school and the percentage that were not in school by race and special education status. The percentage of incidents in school was calculated proportional to the amount of time spent in school compared to the time spent out of school. This calculation assumes an equal time in school and out of school. In other words, the 18.31% of incidents in school for White students in general education means if a White student in general education spent 100 hours in school and 100 hours out of school, 18.31% of the incidents would occur during the school time and 81.69% would occur out of school time.

Table 7. Percent of Incidents in School and out of School by Race and Special Education Status

		Percent in School	Percent out of School
General Education	White	18.31%	81.69%
	Black	25.31%	74.69%
	Hispanic	21.72%	78.28%
	Other	17.48%	82.52%
	Total	22.44%	77.56%
Special Education	White	22.45%	77.55%
	Black	29.53%	70.47%
	Hispanic	26.14%	73.86%
	Other	24.03%	75.97%
	Total	26.53%	73.47%

Overall, a fewer percentage of incidents take place in school proportional to the time spent in school. There are some differences by race and by special education status. Black special education students and Hispanic special education students had the greatest percentages of incidents in school. We found that students with emotional disturbance experienced the highest percentages of incidents taking place in school (more than 24%), with Black students with emotional disturbance having the greatest percentage (30.36%) overall. The findings suggest that students are less likely to have incidents in school than out of school. However, the high percentage of incidents in school for students with ED suggests that there are insufficient appropriate behavioral supports for these students in the school settings.

Table 8 shows the mean number of days that students referred to security, BMP, or AMP spend in seclusion settings per four weeks of stay. The total days in security was calculated by adding the total number of days spent in BMP and AMP to the totals number of hours spent in security divided by 24 hours. The mean number of days per four weeks was calculated by dividing the total days in seclusion by the number of four-week lengths of stay.

Table 8. Average Number of Days spent in Seclusion (Security hours/24 + BMP days + AMP days) per 4 Weeks of Stay by Race for General Education and Special Education (Only Students Admitted to Security Included)

		N	Days in Seclusion per 4 Weeks	Ratio*
General Education	White	199	2.53	
	Black	456	3.71	1.47
	Hispanic	481	2.30	0.91
	Other	8	3.67	1.45
	Total	1144	2.91	
Special Education	White	223	3.75	1.48
	Black	351	4.37	1.73
	Hispanic	282	3.82	1.51
	Other	4	7.72	3.05
	Total	860	4.04	1.39**

Table 8 shows that general education students spend, on average, 2.91 days in seclusion setting per four weeks of stay at TYC. However, there are differences between the average days per four weeks by race. Black students in general education spent, on average, nearly 4 days in seclusion per four weeks of stay; about one and a half times as many days that White students in general education. Students in special education had a higher average number of days in seclusion per four weeks (4.04) than their general education peers. The Black students in special education had the highest mean days in seclusion per four weeks, nearly two days more per four weeks than White general education students.

We also looked at differences in the average days in seclusion by race and disability category. Table 9 shows the same information as Table 9, but by disability category. The table shows that students with OHI and LD have slightly higher mean days per four weeks in seclusion than general education students. However, students with an emotional disturbance spend, on average, about two and a half more days per four weeks in seclusion than general education students. The 5.26 days per four week period is equivalent to 18.8% of a student's total length of stay. This finding suggests that students with emotional disturbance do not receive the type of treatment necessary to promote positive behaviors and limit problematic behaviors. Furthermore, it suggests that once these students get to security, they typically spend a longer time in seclusion than any other students.

Table 9. Average Number of Days spent in Seclusion (Security hours/24 + BMP days + AMP days) per 4 Weeks of Stay by Disability Category (Only Students Admitted to Security Included)

	N	Days in Seclusion per 4 Weeks	SD
General Education	1144	2.90	5.73
Other Health Impairment	106	3.45	4.57
Mental Retardation	13	3.76	7.63
Emotional Disturbance	383	5.26	9.42
Learning Disability	352	3.01	4.44
Other Disability	6	0.47	0.50

Security Education

The security education program is outlined in the TYC Education Procedural Manual.³⁵ Broadly, the policy states that the TYC will “provide a full day of educational instruction on all school days for students who have been assigned to the security unit and are not permitted to attend school.” The quality, quantity, and type of educational services provided in security settings varied by facility. However, the security education programs at the visited facilities did

William is a 15 ½ year-old special education student who has spent more than half of his stay in security settings. He is a student with an emotional disturbance who was receiving substantial special education services while at one of the facilities, which were eliminated when he arrived at the Aggression Management Program. At the time of our review, Michael was approximately 14 months over his minimum length of stay of 12 months. He had been in the BMP five times, and had been admitted to security 45 times.

not comply with the TYC standards. We found evidence that students in security for short periods of stay usually received no educational services. This is problematic, especially if a student is admitted to security multiple times. Additionally, it does not appear that the education personnel adequately track security admissions.

³⁵ EDU.17.13

The number of special education students receiving services in segregated settings was troubling. We interviewed each of the special education students in the AMP unit, and many of the students in the BMP units across the facilities. Additionally, we interviewed several security teachers. In the AMP unit, we found that many of the students reported that they received little or no instruction in the course of a day. Many of the students were kept in their cells for approximately 22 hours per day and according to student interviews, many stayed in their cells for 23 hours per day. The students reported that they were usually short-staffed, which meant that no more than one student could be out of his cell at a time. As a consequence, these students were not receiving education or special education services as required by the IDEA of 2004. Additionally, this practice is in violation of the TYC policies for segregated settings which state that a student's IEP must be implemented in security settings in compliance with TYC GAP and EDU polices.

We found that the teachers in the security units were usually unable to meet each of the students for even an hour a day. Two of the teachers we interviewed reported that they did not have the space or materials to provide an adequate education. Many of the youth on the BMP units reported that they only attended an hour of school a day, and that they did not meet with the teachers daily. At some facilities the students reported that if a unit was short-staffed, they may not come out for school at all. In some instances, these students reported that the teacher did give them worksheets to work on independently in their cells. Finally, students on the BMP and AMP units reported that they were not allowed to have books or writing instruments in their cells. As a result, they were unable to complete any school work while kept in isolation.

Dorm Shutdown

The Education Procedure Manual provides minimal attention to the educational impact of dorm shutdowns.³⁶ During dorm shutdowns, an entire dorm is withheld from school for disciplinary reasons. During a dorm shutdown, we found that no education services were provided to youth held back from school. We found frequent instances of dorms being shut down, sometimes for incidents of individual students. We visited dorms that were on dorm shutdown during school time, and found that students were not engaged in any activities. At one facility, we found inadequate staff at an open bay dorm with 21 youth in the dorm. The dorm shutdowns negatively impact education access and entitlements to service. Additionally, the dorm shutdowns may result in a student in special education being withheld from school for more than the 10-day limit outlined in the IDEA.

³⁶ EDU.05.43

IV. Special Education

Special Education at TYC

Generally, special education services include direct instruction from a special education teacher trained to provide appropriate accommodations and modifications to materials, instruction, and the environment based upon the individual needs of the student with a disability. Additionally, special education includes the provision of related services and transition services. Students in juvenile corrections facilities are protected by the same state and federal regulations as students in public schools, although many eligible youth do not receive the services to which they are entitled under the IDEA of 2004. The TYC, like juvenile corrections agencies in all states, must implement educational and special educational policies and programs that are aligned with the IDEA of 2004. Furthermore, the TYC must specifically describe the substantive and procedural rights to which special education eligible youth and their parents are entitled. Finally, the TYC must provide special education practices that are consistent with the IDEA and that entitle the youth with disabilities in the TYC with the outcomes outlined in 20 U.S.C. 1400(d)). A description of the special education policies is included in the Introduction.

Although the law and regulations clearly establish the provisions of IDEA for incarcerated youth, the implementation of IDEA in TYC facilities does not meet the standards set forth by federal and state laws and accompanying regulations. The TYC special education program limits both access and equity to mandated special education and related service. The current TYC special education program is out of compliance with the entitlements guaranteed under the IDEA. As a consequence, many of the students with disabilities incarcerated at TYC facilities do not receive services designed to meet his or her unique needs, nor are they adequately prepared for further education, employment, or independent living in accordance with the purpose of the IDEA.

There was substantial evidence that the TYC did not provide a free and appropriate public education (FAPE) in accordance with the IDEA. A number of factors impact the capacity of the TYC educational programs to comply with the IDEA of 2004. First, as described previously, the TYC facilities are populated with a substantial proportion of youth with disabilities. Many of these students (See Table 1) have an emotional disturbance (ED), and exhibit substantial academic, behavioral, and psychological problems that interfere with classroom instruction and the ability to learn³⁷. Educational programming for students with ED includes social-emotional, behavioral, psychological, and academic interventions. These approaches are designed to promote emotional well being, appropriate social skills and behaviors, self-control, and

³⁷ See 34 C.F.R. § 300.7(c)(4)(i) for complete IDEA definition

academic success. The National Dissemination Center for Children with Disabilities (NICHCY) established some important considerations for students with ED including positive behavioral interventions, positive behavior supports, psychological and counseling services (provided by a trained psychologist or social worker), and career and transition services.³⁸ Additionally, students with ED have a documented educational need. In other words, in order to be identified with an ED, the student must have an academic need. In other words, students identified with ED have emotional and / or behavioral problems as well as problems academically that are quantified as academic deficits in one or more areas.

Another large percentage of the TYC students (See Table 1) have significant learning disabilities.³⁹ These students typically have difficulty with processing information, reading, memory, and / or retention of newly learned information. A substantial percentage of these students have significant reading deficits that make instruction in all of the content areas extremely difficult. A learning disability is not a disability that can be cured, but with the appropriate supports and intervention, students and youth with learning disabilities can succeed in school and post-school activities. The NICHCY outlines numerous effective instructional practices as well as accommodations and modifications to content, material, and instruction. Another large percentage of the TYC youth have been identified with an Other Health Impairment (OHI), most of who have attention deficit / hyperactivity disorder (ADHD).

Finally, a much smaller group of students (See Table 1) have other specific disabling conditions that require specialized instruction or services such as functional training, counseling, sign language translation, physical therapy, speech and language training, etc.

Additionally, youth with disabilities at the TYC often come with limited educational experiences, inconsistent school involvement, and high rates of disciplinary suspensions and expulsions from school. Many have been retained one or more times, have dropped out from school, or have moved repeatedly and never received the basic academic skills necessary for full participation in secondary educational programs. Additionally, many students with disabilities arrive at the TYC without adequate educational records. Without documentation of prior special education eligibility, the facility may lack adequate eligibility documentation and the student may not be appropriately identified. Still other students may have significant learning, behavioral, or developmental disabilities but may not have been identified by their prior schools. In order to appropriately identify these individuals in accordance with Child Find, the TYC requires a comprehensive special education screening, pre-referral, and referral system.

³⁸ From the NICHCY website: <http://www.nichcy.org/pubs/factshe/fs5txt.htm>

³⁹ See 34 C.F.R. §300.7(c)(10) for complete definition

Finally, the TYC facilities generally lack the required staff necessary to identify, evaluate, place, and serve special education students. This is not due to the quality of the special education staff, but rather to the insufficient numbers of diagnosticians, special education teachers, special education support staff, and / or related service providers.

Special Education: Programs

The availability of special education services varies by facility. Some facilities have a greater number of special education teachers. Some facilities provide a greater array of special education instructional arrangements and services. The variability across facilities is not appropriate, and may negatively impact a special education student's entitlements to special education services.

Special Education: Admission

Special education is a unique and complex process for the assessment and orientation schools. Approximately 40% of the students were identified by the TYC as special education eligible. The school diagnosticians collect all available educational information about special education students and prepare a student special education eligibility folder. According to state and federal regulations, the TYC must have an IEP in effect for each student with a disability. When a student arrives at McLennan I O & A, the school diagnosticians review the educational records to determine special education eligibility. If the student has an ARD, the diagnostician will enroll the student as a special education student. If a student does not have an ARD, the student will not be enrolled as a special education student. There are instances where a student reports that he or she was in special education during the biographical interview. If a student reports that he or she was in special education, but the diagnosticians do not have an ARD, they will begin calling a student's prior placements to determine the special education status.

Upon initial commitment of special education student to the TYC, TYC must comply with the transfer requirements under the IDEA⁴⁰. When a student arrives, the TYC (in consultation with the parents) must provide a free and appropriate public education (FAPE) including services comparable to those described in the student Individualized Education Program (IEP) from the previous school district until TYC either:

1. Adopts the IEP from the previous school district or,
2. Develops, adopts, and implements a new IEP that meets the requirements of an IEP as defined by the IDEA.

⁴⁰ 34 C.F.R. § 300.323

If the TYC (in consultation with the parents) decide to adopt the previous IEP, they implement the IEP as written. We found no evidence of this taking place at the TYC. If the TYC (in consultation with the parents) determine that the student requires a new IEP, the TYC must convene an ARD meeting to develop a new IEP. There are several reasons why the TYC must convene an ARD and develop a new IEP: when they have not received an ARD from a prior placement; when the only available IEP is out of date (3 years or older); or when they identify a student as being special education eligible for the first time in accordance with Child Find. The other reason the TYC might convene an ARD meeting to develop a new IEP is that they determined (in consultation with the parents) that the IEP is inappropriate.

In order to determine that the IEP is inappropriate, the TYC would need to have sufficient assessment and evaluation data to support a contention that the available data from a student's educational records are not consistent with present level of performance. Present level of performance can be obtained from classroom observation, school work, and informal and formal assessments obtained through the standard TYC procedures.

It is unclear that the McLennan I O & A facility has sufficient procedures in place, nor sufficient time to adequately determine a student's present level of performance. The only educational assessment is the TABE, which is not commensurate with other typical special education assessments such as the Woodcock Johnson Test of Achievement III. Nonetheless, it appears that every special education student admitted into the McLennan I O & A was given a new IEP that resulted in his or her placement into mainstream educational settings with no provision of special education services. This was verified from our analysis of the special education data in our database. We found that 46 of the 46 students at the McLennan I O & A had instructional arrangements of "Mainstream" and no direct hours of service. These procedures are not consistent with the requirements of the IDEA.

Special Education: Admission, Review, and Dismissal (ARD)

According to TYC, the school diagnosticians should always convene another ARD and develop another IEP when the student is transferred from McLennan I O & A to a TYC institutional facility. An ARD is the term in Texas used to describe the Individualized Education Program meeting. This ARD report is a written plan that must include statements of (a) the student's present levels of performance; (b) the student's annual goals, including short-term objectives; (c) the required special education and related services; (d) program modifications or supports; and, for youth ages 16 and older, a transition plan outlining the how the student will move from secondary school to postsecondary roles. The ARD is developed by an IEP team which includes teachers, parents, an administrator, and the youth.

Although special education students who arrive at TYC are initially assigned to the McLennan I O & A program, they may not have all required information necessary for their permanent TYC

placement. The diagnosticians at the McLennan I facility reported that they do not receive complete educational records for approximately 10% to 15% of the students. This is not due to diagnostician abilities, but to inadequate staff as well as problems receiving school records from a student's prior placement. Although the previous schools are required to provide all educational records to the TYC, many diagnosticians report that some schools do not provide records in a timely way, and some never provide the records at all⁴¹.

It is unclear what the standards are for convening an ARD when a student moves from one facility to another. We believe that ARD meetings are often convened because a receiving TYC school does not offer the same level of special education services or instructional arrangements as the sending TYC school. We believe that the TYC convenes ARDs when a student transfers to a new facility and develops a new Individualized Education Program that is not based upon the student's unique educational needs, but is based on the services available at the new facility. This is an inappropriate practice that is not consistent with the mandates of the IDEA.

Special Education: Instruction

Special education instruction involves responding to the individual needs of students with disabilities, and providing sufficient accommodations and modifications to instruction, materials, and practice to support the acquisition and retention of new knowledge. According to Kauffman, J. M., & Landrum, T. J. (2007), special education involves providing students with disabilities:

more trials, more opportunities, more attention, and more instructional time. A teacher may eventually decide that trying to teach a given student a particular skill is useless and decide to teach something else. However, the tenacity, persistence, and relentlessness of the special education teacher go beyond what can be offered in general education. The teacher may try a variety of instructional approaches that the general education teacher does not know or cannot implement in the context of teaching a larger, general class of students. Moreover, the special education teacher does not abandon teaching a concept or skill to the student for the sake of the larger group that must move on.⁴²

Special education is more than providing more time to complete work, or providing students with materials that are aligned with the student's reading level. Direct instruction involves the teaching of new concepts, knowledge, skills, and strategies for acquiring and retaining new information. Furthermore, it involves teaching students how to apply learned knowledge to new and unique circumstances.

⁴¹ As part of the common application from the county committing a student to the TYC, the most current educational records must be provided. This includes the most recent ARD report. Youth committed to the TYC often arrive without these records as part of the common application.

⁴² In J. W. Jacobson, J. A. Mulick, & J. Rojahn (Eds.), *Handbook of intellectual and developmental disabilities* (pp. 173-188). New York: Springer. Page 176.

Special Education Reading Instruction

Effective reading instruction for adolescent special education students who struggle with reading includes: word study; fluency building; vocabulary instruction; comprehension instruction; and motivation.⁴³ Reading instruction for these students requires systematic and direct instruction using empirically-validated approaches to reading instruction as well as applying the critical components of effective instruction for students with disabilities.

Special Education Instruction for Students with ED

One of the primary misconceptions about instruction for students with emotional disturbance is that all of the problems for these youth are behavioral in nature. Although behavioral, emotional, and social problems are a priority for these youth, the academic needs should not be ignored nor relegated to a lower priority. With regards to student with ED, Kauffman and Landrum state:

We must refocus our efforts on instruction for two reasons. First, academic achievement is so fundamental to emotional and social adjustment that it is foolish not to make it a capstone of educational intervention. Enhancing their academic achievement is the single most reliable way of improving students' self-appraisal and social competence. Second, managing or modifying students' behavior is best approached, at least by teachers, as an instructional problem.⁴⁴

Instruction for students with ED should generally include behavioral interventions (including cognitive behavioral therapy), emotional and psychological interventions, and academic instruction consistent with the instruction provided to other students with disabilities.

Universal Behavioral Supports

One of the new and innovative practices for students with behavioral problems, including those with ED and ADHD, are universal behavioral interventions. These interventions are typically viewed as tiered interventions that include school-wide behavioral programming, class-based behavioral interventions, and individualized behavioral interventions. Broadly speaking, these approaches involve the implementation of a consistent prosocial program for all youth in a school (implemented by all staff – including security staff), and providing more intensive services at the classroom level. The implementation of these interventions at the classroom level require substantial staff training and supervision, and require a commitment to differentiating the level and type of behavioral interventions based upon individual differences of students. Finally, individualized behavioral intervention plans are developed for those

⁴³EFFECTIVE INSTRUCTION FOR ADOLESCENT STRUGGLING READERS: A Practice Brief. Retrieved from <http://www.centeroninstruction.org/resources.cfm?category=reading&subcat>

⁴⁴ Kauffman, J. M., & Landrum, T. J. (2009). *Characteristics of emotional and behavioral disorders of children and youth* (9th ed.). Upper Saddle River, NJ: Merrill Prentice-Hall. Page 425.

students who continue to have difficulties managing behavior. Two of the most promising practices include positive behavioral supports (PBS) and positive behavioral interventions and supports.

Students with emotional and behavioral problems may require additional supports at the classroom and the individual level. Services may include, but are not limited to, the development of functional behavioral assessments (FBAs), the development and implementation of behavioral intervention plans (BIPs), and the implementation of cognitive behavioral therapy (CBT) or other empirically-validated practices. Development of these interventions requires a behavioral specialist and / or a trained psychologist with experience working with adolescent populations.

Time of Direct Service: Special Education

Time of direct special education service refers to the number of minutes per day that a special education student receives direct instruction from a special education teacher. The minutes of direct service are determined by the ARD team at the ARD meeting. During the meeting, the team should review the assessments and evaluations for the student. They should review the previous history of educational performance and academic strengths and limitations of the student. They should consider the magnitude and individual aspects of the student's disabling condition. As a team, they should consider the educational, behavioral, and emotional support needed by the individual to successfully participate and be successful in the educational program. Typically, special education students with greater limitations and needs are provided a greater level and / or intensity of service. Direct service can be provided for any content area in which the student requires specialized and individualized instruction. Direct service can also be provided if a student has specific behavioral and / or emotional needs that require specialized support from a special education trained to provide behavioral interventions within a classroom context and without interrupting instruction.

Figure 5 displays the a histogram of the minutes of direct special education service per day for all of the special education students at TYC state schools. I obtained the number of direct minutes per day of special education service received by students in TYC schools from each student's ARD. Minutes of direct service are listed under the in the ARD report. The x-axis is the number of direct service minutes per day (out of a 330 minute day), and the y-axis is the number of students.

Figure 5. Minutes of Special Education Direct Service per Day

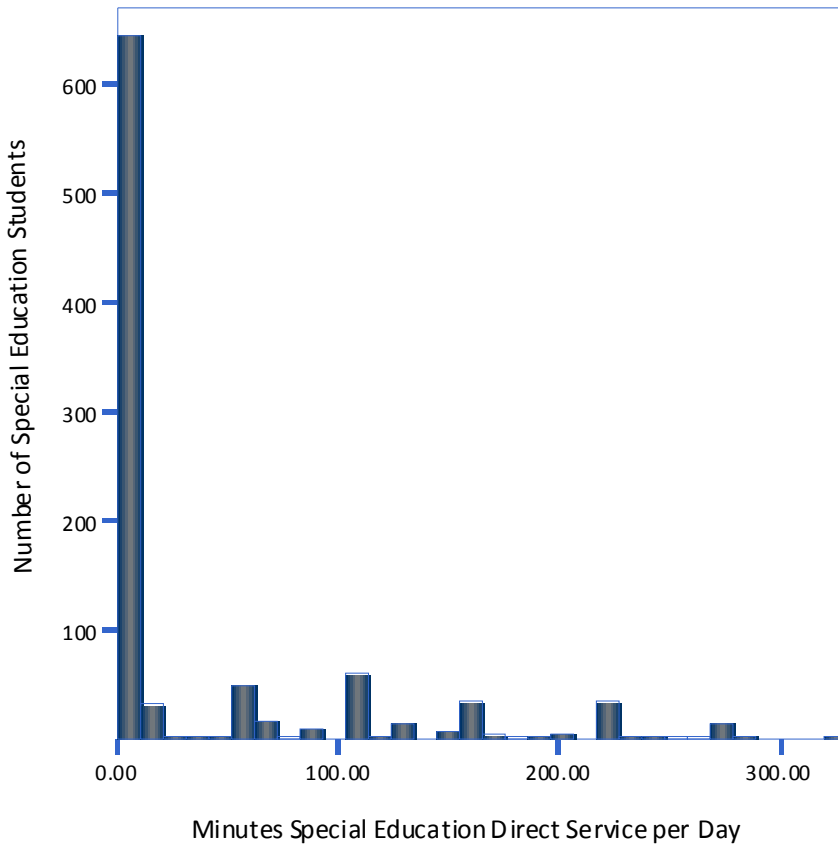


Figure 5 shows that more than two thirds of the special education students have no direct service from a special education teacher. Forty-six of the students have about 55 minutes per day, or a period per day of direct service. Another 60 students have about 2 periods per day of direct service. Very few of the special education students receive more minutes of direct service per day.

We also calculated the number of students with and without direct special education service hours written in their ARD reports and calculated the mean number of minutes of service per day and the median minutes per day. The mean (average) number of minutes represents the total number of minutes for all special education students (in each category) in the database divided by the total number of special education students (in each category) in the database. The median is found by ordering all of the hours of service for every special education students in a row in order from lowest to highest; the median being the middle value. The median is a better representation of the central tendency when the distribution is skewed. Since most of the students have “0” direct special education service minutes, the median is a better measure of central tendency that the mean. Table 10 displays the findings from this analysis.

Table 10. Number of special education students receiving and not receiving direct special education service and mean, and median minutes of direct special education service per day by Race and Disability category

Disability		No Direct Service	Any Direct Service	% with No Direct Service	Mean Minutes per Day	Median Minutes per Day
OHI	White	23	14	62.2%	42.00	0.00
	Black	43	9	82.7%	22.09	0.00
	Hispanic	24	1	96.0%	2.64	0.00
	Other					
MR	White	0	3	0.0%	240.33	220.00
	Black	1	9	10.0%	149.60	157.50
	Hispanic	1	2	33.3%	77.00	66.00
	Other					
ED	White	82	52	61.2%	45.62	0.00
	Black	99	57	63.5%	45.20	0.00
	Hispanic	85	30	73.9%	34.74	0.00
	Other	2	1	66.7%	73.33	0.00
LD	White	54	17	76.1%	34.81	0.00
	Black	103	63	62.0%	37.91	0.00
	Hispanic	111	52	68.1%	32.24	0.00
	Other	1	1	50.0%	110.00	110.00
Other	White	0	2	0.0%	3.90	3.90
	Black	0	1	0.0%	220.00	220.00
	Hispanic	1	4	20.0%	20.38	14.60
	Other					
All Disabilities	White	159	88	64.4%	44.57	0.00
	Black	246	139	63.9%	42.10	0.00
	Hispanic	222	89	71.4%	31.03	0.00
	Other	4	2	66.7%	88.00	0.00
	Total	631	318	66.5%	39.37	0.00

Table 10 shows that a majority of the special education students have no direct special education services as documented in the IEP. The mean minutes of direct service for students with a disability can be viewed under the All Disabilities category. The mean was 39.37 minutes per day for all races, less than one class per day. The median minutes of service for nearly every category and every race was “0” minutes per day.

We also examined the IEPs of 130 special education students at TYC to determine if there were any systematic changes to the hours of direct special education service hours from non-TYC IEPs to IEPs developed by the TYC. We requested the most recent non-TYC IEPs for approximately 20 special education students from each facility. We received a total of 130 IEPs in response to this request. We compared the hours of direct special education service hours as documented by the prior IEP to the direct special

Lawrence is a Black special education student who arrived at the TYC identified with an emotional disturbance and receiving 100% of his instruction by a special education teacher. Lawrence’s academic evaluation from his prior placement indicated that his reading and math skills were at about the second grade-equivalent level. The TYC assessments were consistent with those findings. Nonetheless, the TYC determined that Lawrence did not need any special education services, and his IEP was changed. He was placed into the mainstream setting and instruction from a special education teacher was eliminated. Lawrence has been at the TYC approximately 3 years, 2 years beyond his minimum length of stay. He has spent nearly two full years in seclusion settings, including approximately nine months in the Aggression Management Program and five months in the Behavior Management Program. He reported getting only limited educational instruction while in security and no mental health services. According to TYC assessments conducted approximately nine months apart, Lawrence’s reading performance decreased during this time, and his math performance increased only minimally.

education service hours. Table 11 displays the number of IEPs we examined, and the extent to which hours of direct special education in the IEPs changed by the TYC.

Table 11. Changes in Hours of Direct Special Education Service from IEPs developed at school's prior to TYC placement and IEPs developed at TYC schools

	N	Percent of IEPs with a Change in Hours of Direct Service	Percent of TYC IEPs with a Change in Hours of Direct Service that Resulted in a Reduction of Direct Service Hours	Percent of TYC IEPs without a Change in Hours of Direct Service that documented "O" Direct Service Hours in the Prior IEP
OHI	19	70.0%	71.4%	100.0%
MR	1	100.0%	100.0%	
ED	23	83.6%	91.1%	72.7%
LD	19	84.8%	82.1%	100.0%
Total	130	84.8%	86.8%	83.3%

Table 11 shows that the hours of direct special education service hours were changed in 84.8% of the IEPs. Of those IEPs in which the number of hours was changed from the prior IEP to the TYC IEP, 86.8% resulted in a reduction in direct special education service hours. Of the IEPs that did not result in a change of direct service hours, 83.3% were for prior IEPs that documented no service hours for the students when they arrived. In other words, based upon the sample of the IEPs we reviewed, there appears to be a systematic reduction in the number of special education direct service hours for most special education students who are committed to the TYC.

Special Education: Instructional Arrangement

The instructional arrangement refers to the setting where a student receives special education services. A school district must provide an array of instructional arrangements to meet the individual needs of youth with disabilities. The requirements of school districts are outlined in the Texas Administrative Code.⁴⁵ According to the TAC:

- (a) Each local school district shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.550-300.554.

⁴⁵ TAC §89.63

- (b) Subject to §89.1075(e) of this title (relating to General Program Requirements and Local District Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.
- (c) Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services...

The instructional arrangements vary, and in the TYC would typically include (1) mainstream, (2) resource room, and (3) self-contained. Mainstream involves instruction in the general education classroom. Resource room involves instruction in a separate classroom for specific components of the curriculum. Self-contained involves instruction in a separate classroom for substantial portions (50% or more) of the school day. Each of the settings require qualified special education personnel to be involved in the implementation of the individualized education program “through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success.”⁴⁶

Direct and support services include direct instruction from a special education teacher, team teaching between a general education teacher and a special education teacher, co-teaching between a general education teacher and a special education teacher, consultation between a special education teacher and a general education teacher, as well as additional services, accommodations, adaptation, and modifications to instruction, materials, and / or environments. Additionally it includes a reduction in the student to teacher ratio.

The instructional arrangement is determined by the ARD committee, and should be based upon the individual needs of the student. Instructional arrangements at TYC often appear to be based upon available instructional arrangements and available services, not on the individual needs of the student. For instance, at the time of the site visits, at least one of the TYC schools only provided one instructional arrangement. As a consequence, all of the special education students at that facility were assigned the same instructional arrangement regardless of the needs of the student or of the prior information about the level of need as documented in previous ARDs. Table 12 displays the percentage of special education students by instructional arrangement.

⁴⁶ TAC §89.63

Table 12. Number and percent of special education students in each instructional arrangement by disability category

	Mainstream		Resource Room / Services, less than 21 of time		Resource Room / Services, 21 to 50% of time		Self-contained class 50% to 60% of time		Self-contained class more than 60% of time	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
OHI	96	84.2%	5	4.4%	5	4.4%	5	4.4%	3	4.4%
MR	4	26.7%	1	6.7%	2	13.3%	1	6.7%	8	53.3%
ED	278	68.3%	39	9.6%	42	10.3%	18	4.4%	30	7.4%
LD	293	72.9%	27	6.7%	50	12.4%	17	4.2%	15	3.7%
Other	5	71.4%	2	28.6%	0	0.0%	0	0.0%	0	0.0%
All Disabilities	679	71.5%	74	7.8%	99	10.4%	41	4.3%	56	5.9%

Most (71.5%) of the students at the TYC are provided special education services in Mainstream settings. The only students who are typically assigned to a more intensive setting are students with MR, although this represents only 17 of the more than 900 special education students. The mainstream IA would be appropriate if the student arrived with a mainstream IA, or if the TYC had sufficient data (formal and informal assessments, teacher reports, curricular based assessments, school records) to support that a Mainstream IA is the most appropriate IA based upon the individual needs of the student. The use of the mainstream IA would not be appropriate if there was insufficient evidence to support the placement, or if the placement were based upon the availability of services of the institution.

One way to understand the appropriateness of the instructional arrangements for the special education students at the TYC is to compare the percentages of the students in each setting to the national averages as reported in the Department of Education’s 27th Annual Report to Congress. Table 13 is taken from the Annual Report, and displays the percentages of special education students by disability category in each of the instructional arrangements. The table does not include a “Mainstream” setting, so we should only compare the percentages of students in more intensive settings.

Table 13. National Percentages Instructional Arrangements for Special Education Students

Table 1-11. Percentage of students ages 6 through 21 with disabilities receiving special education and related services in different environments, by disability category: Fall 2003

Disabilities	Time outside the regular class			Separate environments ^a
	<21 percent of the day	21-60 percent of the day	>60 percent of the day	
Percent				
Specific learning disabilities	48.8	37.3	13.0	0.9
Speech/language impairments	88.2	6.8	4.6	0.4
Mental retardation	11.7	30.2	51.8	6.3
Emotional disturbance	30.3	22.6	30.2	16.9
Multiple disabilities	12.1	17.2	45.8	24.9
Hearing impairments	44.9	19.2	22.2	13.7
Orthopedic impairments	46.7	20.9	26.2	6.2
Other health impairments	51.1	30.5	15.0	3.5
Visual impairments	54.6	16.9	15.6	12.8
Autism	26.8	17.7	43.9	11.6
Deaf-blindness	22.2	13.9	33.6	30.3
Traumatic brain injury	34.6	29.9	27.1	8.4
Developmental delay	51.2	28.2	18.6	2.0
All disabilities	49.9	27.7	18.5	3.9

Source: U.S. Department of Education, Office of Special Education Programs, Data Analysis System (DANS), OMB #1820-0517: "Part B, *Individuals with Disabilities Education Act*, Implementation of FAPE Requirements," 2003. Data updated as of July 31, 2004. Also table 2-2 in vol. 2 of this report. These data are for the 50 states, District of Columbia, BIA schools and four outlying areas. Puerto Rico did not submit 2003 data on educational environments.

^aSeparate environments include public and private *residential facilities*, public and private *separate schools* and *homebound/hospital* environments.

Nationally, 48.8% of the students with an OHI receive 21% or more of their instruction in different settings, along with 69.7% of students with ED, and 51.2% of students with an LD. These percentages are substantially different from those at the TYC. At the TYC 11.4% of student with an OHI, 22.15 of students with an ED, and 20.4% of students with an LD receive more than 21% of their instruction in different environments.

Another way to understand the appropriateness of the instructional arrangements at the TYC is to examine differences between IEPs developed in prior placements and those developed at the TYC with respect to instructional arrangements to examine if there were systematic reasons for the IA of individual students at the TYC. Table 14 shows the differences in the instructional arrangements from a student's prior IEP to the current TYC IEP.

Table 14. Changes in Instructional Arrangement (IA) from IEPs developed at school's prior to TYC placement and IAs developed at TYC schools

	N	Percent of IEPs with an IA Change	Percent of Changes in IA that result in reduction in the intensity of the IA	Percent of IEPs with no Change in IA that were initially an IA of Mainstream
OHI	10	55.6%	100.0%	75.0%
MR	4	50.0%	100.0%	50.0%
ED	70	83.6%	91.2%	77.8%
LD	46	76.7%	84.8%	55.6%
Total	130	78.0%	89.7%	66.7%

Table 14 shows that, for the IEPs reviewed, the TYC changes most of the instructional arrangements of the special education students at TYC facilities. Nearly 80% of the IAs were changed, and nearly 70% of the IAs that were not changed were initially coded as a Mainstream IA. Additionally, nearly all of the IAs that were changed resulted in a decrease in the intensity of the placement. In general, we found that the TYC changes the IA of special education students, resulting in a reduction in the intensity of the IA. It appears that the only time IAs are not systematically changed is when a student arrives with an IEP that documents an IA of Mainstream, the least intensive IA.

Special Education: Related Service

Generally, related services are specialized (non-instructional) services provided to youth with disabilities because they are deemed necessary for the student to achieve his or her individualized special education goals. In high school settings, psychological counseling, social work services, and counseling services are typically the related services most often provided.

Related services are special education entitlements outlined in the IDEA of 2004. The Texas Education Code defines related services as:

related services, which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the student to benefit from special education instruction and for implementation of a student's individualized education program.⁴⁷

The Texas Education Agency further elaborates on the definition, stating that related services are:

a support to the commitment that all students with disabilities have available to them a free appropriate public education with special education services designed to meet their specific educational needs. Related services are developmental, corrective, or other supportive services that are required to assist a student with a disability to benefit from special education. Some students may need related services to meet their individually designed special education goals.⁴⁸

Related services consist of a number of services including, but not limited to "speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training."⁴⁹

Only 2.6% (25 out of 948 students) of the special education students have related services documented in their ARD. One way to understand the adequacy of related services would be to examine TYC's evaluation of student needs. We were able to examine the TYC evaluations of mental health needs which were provided by the TYC research division. We looked at mental health needs because the data were available and because psychological counseling is one of the most common related services provided to secondary students in special education, particularly for students with an emotional disturbance (a group that represents nearly one fifth of the total population). Table 15 displays the mental health needs of TYC youth, disaggregated by special education disability categories.

⁴⁷ TEC §29.002

⁴⁸ Obtained from a TEA report Provision of Related Services for Students with Disabilities. Retrieved from <http://www.tea.state.tx.us/special.ed/resources/relserv.pdf>

⁴⁹ TEC §300.24

Table 15. Mental Health Need Level of TYC Youth by Disability Category

	No Need	Level 1 Need	Level 2 Need	Level 3 Need
No Disability	64.9%	0.1%	1.6%	26.5%
OHI	23.7%		5.3%	65.8%
MR	68.8%		6.3%	25.0%
ED	29.0%		10.2%	55.9%
LD	58.7%		3.2%	
Other	62.5%			37.5%
All Disabilities	41.9%		6.5%	47.8%

Table 15 shows a high percentage of youth with mental health needs. The need levels are particularly high for students with ED and students with OHI. Both groups have more than 70% that have been evaluated and documented by the TYC as needing mental health services. The TYC evaluates mental health needs using 4 levels of need or priorities. Level 1 is the highest priority. The numbers reflect at least a likely mismatch between documented need and level of service as described in the student IEPs.

Another way to examine the adequacy of the related service levels would be to examine the related services from a student’s most recent ARD from a non-TYC facility before the student arrived. We collected approximately 20 of these ARDS from each of the facilities, and compared the related services from the ARD from the most recent non-TYC placement to the related services from the most current ARD created at the TYC. Table 16 shows changes in the provision of related services from prior IEPs to the IEPs developed at the TYC.

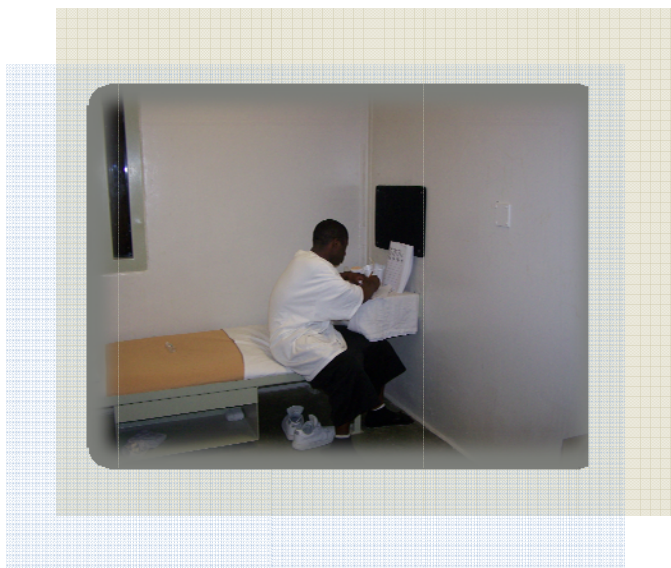


Table 16. Changes in Related Services from IEPs developed at school's prior to TYC placement and IEPs developed at TYC schools

	N	Percent of Prior IEPs with a documented Related Service	Percent of IEPs with a Change in Related Service	Percent of Students whose TYC IEPs documented a change in related service that resulted in an elimination of related services	Percent of Students whose Prior IEPs documented a Related Service and whose TYC IEP documented no Related Service
OHI	10	40.0%	50.0%	50.0%	80.0%
MR	4	50.0%	50.0%	100.0%	50.0%
ED	70	61.2%	58.2%	100.0%	92.6%
LD	46	25.6%	25.6%	100.0%	96.6%
Total	130	46.8%	46.0%	96.4%	92.1%

Table 16 shows that a substantial percentage (46.0%) of the IEPs we reviewed were changed with respect to related services, most of these changes resulting in a loss of services completely. This number is somewhat misleading, however, as it includes a substantial percentage of students who arrived with no related services. The related services were not changed for 92.1% of these students. In other words, the IEPs of most students who arrived at the TYC with an IEP that indicated a need for related services were changed to eliminate that related service. The IEPs of students who arrived at the TYC with an IEP that indicated no need for related services were not changed.

Prior to arriving at the TYC, approximately half (46.8%) of the students whose IEPs we reviewed were receiving related services at their prior non-TYC placement. After arriving at the TYC, only five (3.1%) of the students whose IEPs we reviewed were receiving related services. Table 16 shows that a substantial numbers of the IEPs were changed, resulting in an elimination of related services that were previously being provided prior to commitment to the TYC. Nearly 60% of the IEPs of students with an emotional disturbance were changed with respect to related services. Every change resulted in an elimination of related services. Of the students with ED whose files we reviewed, 41 arrived with documentation in their prior IEPs that they needed and were receiving related services (typically psychological counseling). After the TYC developed a new IEP, only two of those students had IEPs that documented that they required

related services. Generally, students with an emotional disturbance have emotional and psychological problems that impair their ability to successfully socialize and succeed in school. Counseling and other related services are typically provided in order to help the student to manage their emotional and psychological problems. Systematic reductions in related service for these students should be closely examined and monitored.

Additionally, only three of the IEPs that were changed (2.4%) resulted in an increase the related services. In these three situations, each student was provided with related services that were not documented in the prior IEP. In general, we found that students at the TYC did not receive related services even if there was evidence that they were receiving related services prior to TYC commitment.

Special Education: Child Find

According to the IDEA of 2004, all states must implement policies to ensure that:

(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.⁵⁰

This process should begin at the orientation and assessment facilities. The educational personnel should consistently review student assessments and student performance to identify student who may require special education services. Currently, the McLennan I O & A school does not identify any students for possible referral to special education.

Educational personnel at each of the other facilities should continue the Child Find process in order to identify students who may require special education services. We were unable to obtain any information about students identified by the TYC. Reports from educational staff indicate that very few students are identified in accordance with Child Find despite high numbers of general education students with low reading and math skills, and students with disruptive behaviors that interfere with a student's ability to participate in instruction.

It appears that few students are ever identified as needing special education services at the TYC. We were not able to identify procedures or policies at the facilities for the special

⁵⁰ 34 CFR 300.111

education referral process, nor were we able to identify the level of training that education staff had with regards to identifying possible special education needs. The TYC has established its own standards for Child Find⁵¹, but the standards are vague and do not provide specific procedures for identifying, locating, and evaluating youth who may require special education services. The current standards do not appear to be aligned with the Child Find requirements under the IDEA.

Special Education: Transition Services

The transition plans of each of the students with IEPs developed at the TYC were generic and non-substantive. I interviewed 15 students who were 16 years old and entitled to transition services. Each of the students reported that they did not know what their transition plan was. They also reported that no one had discussed post-school plans, job seeking skills, post-secondary education and / or employment. Most of the students reported that nobody at the facility had discussed their interests or goals.

Segregated Settings: AMP and BMP

The special education services in security are inadequate and are not aligned with the requirements of the IDEA.

⁵¹ EDU.35.01

SUMMARY

Education and the associated attainment of diplomas, equivalency degrees, and certifications provide the most powerful and evidence-based approach to improve outcomes for incarcerated youth and to reduce recidivism. Research consistently identifies school failure and low levels of literacy as primary correlates of crime and delinquency (Leone, Krezmien, Mason, & Meisel, 2005⁵²; Maguin & Loeber, 1996⁵³). Conversely, success in education and work are two of the strongest protective factors for delinquent youth. A recent review and analysis of evidence-based practices for crime prevention conducted by the Washington State Institute for Public Policy confirms the importance of education (Aos, Miller, & Drake, 2006⁵⁴). They found significant positive effects for juvenile education programs and high school graduation in crime reduction and benefits to crime victims and taxpayers. Additionally, in 1996, Maguin and Loeber found that children with low levels of academic proficiency were more likely to offend frequently and commit more serious offenses. Other studies demonstrated that increased academic performance decreased future risk of delinquency. .

As a state, Texas should embrace and require a transformation of the education program at the TYC. The State should be primarily interested in what is in the best interest of Texas. If we want the youth at TYC to become civically-responsible taxpayers and citizens, we need to rethink how we educate youth at the TYC. Education continues to be the best option for reducing recidivism by providing youth with post-release opportunities to find meaningful employment, to pursue a post-secondary education, or to pursue post-secondary training in a trade or skill. The opportunity is now available to transform the TYC education, and to lead the nation in juvenile justice education reform.

⁵² Leone, P.E., Krezmien, M.P., Mason, L., & Meisel, S.M. (2005). Organizing and delivering empirically based literacy instruction to incarcerated youth. *Exceptionality*, 13(2), 89–102.

⁵³ Maguin, E., and R. Loeber. 1996. "Academic Performance and Delinquency." In Michael Tonry (ed.). *Crime and Justice: A Review of Research*, Vol. 20. Chicago, Ill.: University of Chicago Press.

⁵⁴ Steve Aos, Marna Miller, and Elizabeth Drake. (2006). *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*. Olympia: Washington State Institute for Public Policy.

RECOMMENDATIONS

We propose broad recommendations in each of the major categories, as well as recommendations about funding and monitoring procedures. Additionally, we are providing a list of detailed recommendations that specifically outline steps to comply with educational obligations. We believe the recommendations should help to guide the transformation of the TYC education program.

Intake, Assessment, and Accountability

The agency should take steps to overhaul the intake assessment procedures including changes to staffing levels, assessment instruments, assessment administration procedures, and monitoring of student performance in school. Additionally, the agency should develop new accountability standards aligned with State guidelines but responsive to the TYC's unique population of students.

General Education Programs

The agency should design and implement a new approach to the structure, organization, and delivery of education programs. In order to achieve this goal, the TYC needs to establish education as a central participant in the development and implementation of all program decisions including medical, treatment, and corrections. The new educational program should be consistently implemented across each of the facilities, should be aligned with state and federal laws and regulations, and should provide differentiated program options for students with varying strengths, goals, and limitations. The TYC should provide a full-day of education to all students in State schools consistent with state regulations. The TYC should eliminate ineffective approaches, and develop an educational program based upon evidence-based educational practices. The future education program should include reinforced and expanded vocational programs. The TYC should dedicate substantial resources to training and professional development, technology improvement, and the development and implementation of a centralized system for monitoring and remediating all aspects of educational programming. The TYC should implement a centrally located system of educational monitoring and oversight in order to adequately monitor and evaluate all education programs. This will require sufficient resources to staff and train an evaluation team.

Impact of Disciplinary Policies on Education Entitlements

The TYC should review and revise all disciplinary policies and practices that negatively impact educational access and entitlements. The TYC should review and revise all policies and practices that have a disproportionate and negative impact on minority students and students with disabilities. The TYC should design and implement a data management system that allows TYC to monitor the impact of disciplinary practices (including dorm shutdowns, security referrals, security admissions, IDP admissions, and BMP or the proposed redirect program) on school attendance, and develop procedures to respond to excessive and inappropriate denial of education and entitlements to free and appropriate public education (FAPE). The TYC should develop and implement a full array of educational services for students in any security setting.

Special Education

The TYC needs to provide a free and appropriate public education (FAPE) in accordance with state and federal laws and regulations.

Independent Monitoring and Evaluation

The Office of the Independent Ombudsman should continue to conduct ongoing independent monitoring of TYC educational programs in collaboration with the TYC. We propose a schedule of quarterly site visits, document review, and data review during the first year of follow-up. We also propose a year-end evaluation to be conducted one year after the release of this report. We propose continued independent monitoring and yearly evaluations conducted by the OIO as necessary.

Funding

Provide adequate resources to develop and implement all appropriate education, CATE, and special education services and to comply with all state and federal regulations. This should include Tier I state funding for special education, English as second language and career technical education programs to replace the loss of federal funds in 2010 due to reduced student populations. The TYC reports that nearly half of federal funds, which in part provided more than 90% of Central Office administrative support, may be lost due to reductions in student population.

Specific Recommendations

Intake and Accountability

- (1) Identify and implement an appropriate intake educational diagnostic assessment
- (2) Identify and implement a consistent program for monitoring student progress
- (3) Develop and implement a more appropriate assessment schedule
- (4) Identify and implement appropriate accountability measures
- (5) Eliminate assessment preparation programs
- (6) Disaggregate all accountability measures by all meaningful groups
- (7) Hire additional evaluation personnel
- (8) Develop a system of oversight for accountability measures
- (9) Work with TEA to develop appropriate Monitoring of TYC accountability

General Education Program

Instructional Hours and Length of School Day

- (10) Develop and implement a standardized length of school day with specified hours of academic and vocational programming per day
- (11) Develop ways to hold a full day of school on PAT days
- (12) Schedule physical education based upon individual educational student needs, not based on ACA requirements for recreation
- (13) Implement a full day of school for all students in security settings
 - a. Include instruction in all content areas
 - b. Include provision of special education and related services commensurate IEPs
- (14) Monitor compliance across facilities

Educational Structure

- (15) Improve youth movement at schools where youth movement decreases access to education
- (16) Monitor youth movement during school at all facilities
- (17) Implement a standardized education program at O & A units

- (18) Eliminate Long Stays at O & A schools
- (19) Monitor education programs at O & A schools
- (20) Develop and implement a standardized school structure and school schedule across TYC facilities
- (21) Develop policies and procedures for student scheduling that are based upon assessment information, credits, course needs, student interest, and student abilities
- (22) Reduce or eliminate changes to individual student school schedules based upon correctional and / or treatment considerations
- (23) Monitor implementation of school structure and school schedule policies and procedures
- (24) Develop and implement educational program options specific to youth strengths, limitations, and interests
 - a. GED program
 - b. Diploma Program
 - c. Vocational Program
 - d. Combination Programs (e.g., a vocational program specifically for low-performing students that includes academic education and special education support for associated vocational reading and writing coursework)
- (25) Develop and implement a TYC curriculum
- (26) Eliminate “self-paced” model and implement effective instructional practices in all settings
- (27) Provide professional development to teachers which includes use of direct instruction for heterogeneous groups, differentiated instruction, and special education
- (28) Monitor educational program, curriculum, and instructional practices
- (29) Provide all educational personnel with sufficient technology and training to use instructional technology
- (30) Monitor implementation of technology within and across facilities

- (31) Develop and implement effective evidence-based reading programs across TYC schools
- (32) Develop and implement ongoing progress monitoring tools for struggling readers
- (33) Provide adequate space and teacher FTEs to eliminate the one-room school houses in which one teacher simultaneously teaches multiple subjects to students at multiple grade levels.
- (34) Monitor TYC reading programs and ongoing assessments

High School Credits

- (35) Develop a consistent system for credit accrual
- (36) Develop credit recovery programs for those youth who require credit recovery
- (37) Eliminate frequent movement of youth that interferes with credit accrual
- (38) Monitor credit accrual practices

Security Education

- (39) Provide regular educational services to youth in security, consistent with education in general population school (with exceptions for students in rare short-term temporary placements)
- (40) Increase availability of special education services in Security by expanding “secure school” space and special education teacher FTEs.
- (41) Provide special educational services in security settings consistent with IEPs
- (42) Eliminate the practice of withholding students from school unless the student is in danger of inflicting imminent harm to him or herself or another.
- (43) Monitor security education programs

CATE Programs

- (44) Continue and expand high quality CATE programs
- (45) Ensure that CATE is an option for all students who could benefit from vocational programming

- (46) Expand vocational career programming with sufficient space, equipment and teacher FTEs for equitable services at all TYC schools
- (47) Increase number of technological CATE programs like the telecommunications cabling program
- (48) Link vocational program graduates with employers in the communities
- (49) Monitor vocational programs

GED Programs

- (50) Develop and implement standardized system for identifying students who may benefit from GED preparation programs
- (51) Develop and implement GED preparation programs for eligible students
- (52) Implement standardized GED testing procedures across facilities
- (53) Decrease focus on GED as the primary option for all students
- (54) Report GED outcomes disaggregated by all meaningful groups
- (55) Monitor GED programs

Disciplinary Policies

- (56) Decrease use of punitive measures as primary behavioral management tool
- (57) Closely monitor incidents, security referrals, security admissions, and lengths of stay in security settings
 - a. Develop an ongoing monitoring system'
 - b. Monitor days withheld from school
 - c. Develop a series of "gates" to determine inappropriate consistent removal from school
 - i. Include a means to track all hours not in school for any disciplinary reason including dorm shutdowns, referrals and admissions to security, and BMP
 - d. Develop policies, procedures, and practices to respond to students with disproportionate incidents, referrals, or security admissions
- (58) Decrease numbers of security admissions

- (59) Decrease disproportionate impact of disciplinary programs on Black students and students with disabilities
 - a. Monitor regularly
- (60) Ensure that time in security does not violate educational and special educational entitlements
- (61) Reduce or eliminate use of dorm shutdowns to withhold students from school except in cases of severe group infractions
- (62) Monitor disciplinary practices as they impact education

Special Education

- (63) Eliminate inappropriate special education intake procedures
- (64) Develop polices for Child Find, and Implement Child Find procedures
 - a. Provide training about Child Find to all educational staff
- (65) Increase diagnostic personnel commensurate with population and needs
- (66) Eliminate systematic changes to student IEPs
 - a. Changes to hours of direct service
 - b. Changes to instructional arrangement
 - c. Changes to related service
 - d. Changes to goals and objectives
- (67) Eliminate the development of IEPs based upon the services provided at the facilities
- (68) Train staff to implement all ARD procedures consistent with state and federal regulations
- (69) Increase number of special education teachers, behavioral specialists, and reading specialists commensurate with population needs
- (70) Implement an array of services at each of the facilities in compliance with state and federal regulations
- (71) Increase numbers of related service providers and provide related services in compliance with state and federal regulations

- (72) Hire a special education transition coordinator at each facility
 - a. Design and implement appropriate special education transition plans
 - b. Integrate transition plans with individual TYC programs and community agencies, employers, and post-secondary educational programs
 - c. Coordinate with educational liaisons
- (73) Design and Develop FBAs and BIPs as required by state and federal regulations
- (74) Increase development of behavioral goals and objectives consistent with needs and implement effective behavioral interventions as necessary
- (75) Monitor special education practices thorough ongoing evaluation activities