

# CHAPTER 14: EDUCATION SERVICES DURING CONFINEMENT

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# EDUCATION SERVICES DURING CONFINEMENT

## The effect of juvenile justice system involvement on education

Involvement with the juvenile justice system frequently causes an interruption in a youth's education in the community. This interruption may be caused by a police arrest or a Juvenile Court order that a youth be held in detention or committed to DYS. Even for detained youth, the vast majority of whom are bailed and return to their community school setting within a matter of days, juvenile justice involvement can be disruptive.

## Who receives educational services in DYS facilities

DYS's enabling statute requires the agency to provide educational services to detained or committed youth.<sup>1</sup> To meet its statutory obligation, DYS provides educational services to all youth residing in DYS run or contracted facilities.<sup>2</sup>

DYS requires all its confined youth under age 16 to participate in education. In addition, DYS encourages confined youth ages 16 to 20 (who would have a right, if not involved in DYS, to discontinue their public school education at age 16) to continue some type of educational programming.<sup>3</sup> DYS-confined youth who have received a high school diploma or a GED are offered college level classes.<sup>4</sup>

## Initial assessment

With respect to detained youth, DYS should perform an immediate education assessment, called the Test of Adult Basic Education (TABE) pre-test to determine the youth's level of academic functioning.<sup>5</sup> DYS then places the youth immediately into a classroom.<sup>6</sup>


In addition, DYS works with the Department of Elementary and Secondary Education (DESE) to access the detained youth's educational records from the youth's school district as soon after he arrives as possible.<sup>7</sup>

With respect to committed youth, DYS performs a 30 to 45 day assessment including a review of educational records and use of several assessment tools.<sup>8</sup> This assessment seeks to determine, among other things, whether a youth has been functioning below grade level at his prior


school.<sup>9</sup> DYS explains that the assessment is used to identify any special issues which may affect learning and to design an individual learning plan.<sup>10</sup> If the youth has not already been administered the TABE pre-test, that test should be administered as part of this assessment process.

## Movement through DYS

Youth committed to DYS may well transition through a number of programs while receiving treatment at DYS. As your child moves from program to program, his educational records should follow.

 **Tip for families:** When your child enters a new program, ask if his education records have followed him.


A transition to a new DYS program may result in a youth being assigned new teachers.

 **Tip for families:** When your child enters a new program, ask who his teachers will be and whether they are new to your child.

A transition to a new program may also result in new policies regarding education, such as homework.

While some DYS facilities encourage homework, others do not.<sup>11</sup> And, as in the community, some teachers assign homework and others may not.<sup>12</sup> Additionally, some detention units prevent youth from bringing in homework from their community schools and doing it on the unit. If safety and security is threatened, DYS program managers have the right to prevent outside materials from entering the unit, or at least until they can be inspected.<sup>13</sup>

Practice also varies regarding whether youth can remove textbooks from a classroom. Often, due to safety and security concerns, youth cannot remove textbooks.<sup>14</sup>

 **Tip for families:** So that you may be aware of the academic expectations for your child, discuss the program's policies, such as those regarding homework and textbooks, with your child's DYS caseworker or with program staff.

## The right to quality education

While confined within a DYS facility, a youth has the right to receive a quality education.<sup>15</sup> Like all Massachusetts school age children, youth detained in or committed to DYS facilities are entitled to a public

education that meets the standards under the Massachusetts Constitution and Massachusetts and federal laws. A number of these standards are discussed below.

### Curriculum

All Massachusetts public school students have rights regarding curriculum. Children must receive a comprehensive, high quality education in certain “core subjects” including English, math, science and technology, history and social science, foreign languages and the arts.<sup>16</sup> Massachusetts public school students also must receive physical education.<sup>17</sup>

The subjects offered to youth confined in DYS facilities are usually more limited. English, math, science, social studies, and physical education are standard offerings.<sup>18</sup> While some programs offer other subjects, such as art, it is unlikely that the facility will offer the full range of coursework available in a community-based public school. However, DYS is developing the COMPASS learning system as a vehicle to deliver foreign language education, arts, and other specialized subjects to DYS-confined youth.<sup>19</sup>

Instruction in the core subjects must be provided through curriculum frameworks, meaning teachers should be following an outline of course content meant to ensure that students throughout the state all cover the same basic material.<sup>20</sup>

To this end, DYS requires that each DYS contracted residential program submit its educational curriculum to the local education agency covering the geographic location of the program for approval.<sup>21</sup> In gaining such approval, the education authority is certifying that the residential program’s curriculum is on par with that of the school district’s public schools.<sup>22</sup> Additionally, DYS has created five-day teaching modules that are intended to be consistent with the Massachusetts curriculum frameworks.<sup>23</sup>

Limited resources historically meant that DYS had limited classroom supplies.<sup>24</sup> DYS obtained funding to begin to address this situation.<sup>25</sup> In addition, since 2003, DYS has had E-Rate which provides internet access in classrooms and provides distance learning.<sup>26</sup>

### Ongoing assessment

In addition to being taught the content and achievement standards, Massachusetts public school students must be periodically assessed

against those standards through formal testing.<sup>27</sup>

As mentioned above, DYS assesses youth upon arrival to DYS using the TABE pre-test. In addition, prior to release to the community, DYS involved youth are given the TABE post-test to determine level of academic functioning.<sup>28</sup>

This obligation for periodic assessment includes a right to take the Massachusetts Comprehensive Assessment System (MCAS) tests. Like all other students, youth in DYS custody are required to take the MCAS tests administered in their grades.<sup>29</sup> DYS reports that it administers the MCAS test to youth.<sup>30</sup>

### Teacher certification

Massachusetts public school teachers must meet certain certification requirements.<sup>31</sup> DYS run or contracted programs must meet state requirements for certification of teachers (i.e., educators must hold a valid Massachusetts educator's certificate).<sup>32</sup>

Limited resources means that teachers in DYS programs have not been paid well historically (making it difficult for DYS and its education providers to retain qualified, certified teachers). DYS requested and obtained funds to improve teachers' salaries and intends to continue these efforts.<sup>33</sup>

DYS now also requires that all teachers meet the teacher licensure requirements of DESE and the No Child Left Behind Act of 2001.<sup>34</sup> DYS and its education providers assist teachers in upgrading qualifications.<sup>35</sup>

### Learning time

Massachusetts secondary students must attend school for a minimum of 990 hours per 180 days.<sup>36</sup> Youth in DYS custody have this right.


DYS run or contracted programs exceed this standard by providing education for 10 months (180 days) during the year and at least 30 days of July and August.<sup>37</sup> In addition, DYS requires its programs to provide a minimum of 27.5 hours of instruction per week.<sup>38</sup>

### English language learners

Youth who do not speak English or whose native language is not English, and who cannot perform ordinary classroom work in English

are considered English Learners under Massachusetts statute.<sup>39</sup> This statute provides, among other things, that, unless a waiver is granted or the student is placed in a two-way bilingual program, students in grades 1 through 12 who are English learners must learn English through a sheltered English immersion program for a period of time not normally intended to exceed one school year.<sup>40</sup> After that year, students age 10 and older may seek waivers on an annual basis, in order to continue the sheltered immersion program.<sup>41</sup>

While DYS does not offer formal support services for youth whose English language skills are limited,<sup>42</sup> teachers are now being trained in English Language Learning (ELL) to address the needs of these youth.<sup>43</sup>

 **Tip for families:** Tell DYS if your child's English language skills are limited.

### Special education services

Both the federal Individuals with Disabilities Education Act (IDEA) and state law require that all eligible children with disabilities who need special education receive such services.<sup>44</sup> A youth in a DYS facility also has the right to receive special education services, if he is eligible for such services.

The responsibility to provide special education services to youth confined in DYS facilities falls upon DESE and the local education agency, and not upon DYS.<sup>45</sup> (The provision of special education is discussed in the next chapter, “Special Education Services During Confinement.”)

## **DYS’s education provider**

DYS delivers educational services (with the exception of special education services) by purchasing educator services through contracts with non-profit providers or educational collaboratives.

One of these DYS contracts is with an education provider.<sup>46</sup> DYS’s education provider has two roles. First, this provider serves as DYS’s lead educational entity, acting as the chief educational policy advisor to DYS and recommending statewide standards to guide education services across all DYS program sites.

Second, the provider oversees both the hiring of teachers and the provision of educational services to DYS-confined youth.<sup>47</sup> To do so, the provider subcontracts with the Hampshire Education Collaborative to hire

the teachers and provide educational services at certain programs.<sup>48</sup> The remaining DYS programs, run by a variety of provider organizations, hire their own teachers.<sup>49</sup>

## DYS Education Liaisons

In each DYS region, DYS contracts with a provider agency to employ at least two Education Liaisons, whose job it is to ensure that DYS detained and committed youth receive the educational services to which they are entitled.

To this end, liaisons:

- interact with local school districts, DESE's Special Education in Institutional Settings (SEIS) (discussed in the next chapter), the DYS District Manager, the DYS caseworker, DYS/provider staff, education coordinators, teachers, youth and families;
- identify and prioritize each youth's individual educational needs;
- ensure that regular education and special education needs are met;
- ensure that school services or alternative services are in place when youth return to the community;
- request school records and notify school districts regarding newly assigned and committed youth;
- prepare DYS school transcripts for applicable youth and forward transcripts to the appropriate school district for determination of credits and grade placement;
- refer appropriate youth for special education evaluations, educational team meetings, and school district assignments as necessary;
- facilitate the development of Individual Educational Plans (IEP's);
- coordinate records and information, advocate for, and attend hearings regarding suspension or expulsion of youth from school districts.<sup>50</sup>

DYS Education Liaisons take certain additional, specific steps including the following:

- request educational records from the home district for a committed student within 72 hours of receiving DYS Regional Office notification (which must occur within 48 hours of commitment);<sup>51</sup>

- if records are not received within two weeks, follow up until they obtain them;<sup>52</sup>
- access a youth's education records via the SIMS database operated by DESE;<sup>53</sup>
- once records arrive, interpret all records (except special education records which are interpreted by SEIS) to determine what courses and MCAS tests a youth needs to take;<sup>54</sup>
- create a graduation requirement sheet for teacher coordinators to use in placing students.<sup>55</sup>

## Vocational education

DYS includes vocational training, to provide career readiness and employability, as part of its regular programming for committed youth.<sup>56</sup>

In Fiscal Year 2007, DYS received funding to meet the goal of providing vocational education, and included in fourteen of its programs regional vocational and employability pilot programs.<sup>57</sup> Over 250 DYS youth were recruited and engaged in some level of career development and employability activities.<sup>58</sup> Many youth engaged in work-based learning activities, including job shadowing, internships, part-time employment, and full-time employment.<sup>59</sup> DYS received funding in the Fiscal Year 2008 budget to continue providing this type of programming.<sup>60</sup>

## Pursuing a Massachusetts State High School Equivalency Diploma (GED)

In addition to the above-described educational services, some DYS programs offer GED preparation. The determination of whether a youth is eligible to pursue a GED must be made pursuant to DYS policy, which outlines the factors that must be considered and the procedures that must be followed.<sup>61</sup> Programs that offer GED preparation must do so at no cost to the youth.<sup>62</sup>

DYS is in the process of revising its GED policy.<sup>63</sup>

## Pursuing post-secondary education

In 2005, DYS signed an Interdepartmental Service Agreement with Bunker Hill Community College (BHCC) to provide post-secondary educational opportunities for youth in DYS custody who have already earned a high school diploma or GED.<sup>64</sup> The agreement makes it possible for youth to enroll in the distance learning program at BHCC while residing

in DYS residential programs.<sup>65</sup> DYS pays the tuition costs for youth in DYS custody involved in this program.<sup>66</sup>

## Endnotes

- 1 Mass. Gen. L. ch. 18A, § 2.
- 2 DYS, Educational and Vocational Services, <http://www.mass.gov/dys>. While Massachusetts law, allow an individual to opt out of compulsory education at age 16, all youth in DYS custody receive education.
- 3 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007); Correspondence from DYS to MHLAC (Jan. 14, 2008).
- 4 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 5 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 6 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 7 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 8 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 9 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 10 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 11 Katie Martin, *The Role Education Plays in Massachusetts Youth Crime Prevention* (Aug. 2006) at 23 (on file with MHLAC).
- 12 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 13 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 14 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 15 Mass. Gen. L. ch. 69, § 1D; *McDuffy v. Secretary of Executive Office of Education*, 415 Mass. 545 (1993) (all public school children must receive a comprehensive, high quality education in several academic subjects), which was codified by Section 1 of the Massachusetts Education Reform Act of 1993, Chapter 71 of the Acts of 1993.
- 16 Mass. Gen. L. ch. 69, § 1D.
- 17 Mass. Gen. L. ch. 71, § 3.
- 18 Katie Martin, *The Role Education Plays in Massachusetts Youth Crime Prevention* (Aug. 2006) at 14 (on file with MHLAC).
- 19 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 20 Mass. Gen. L. ch. 69, § 1E.
- 21 DYS, Educational and Vocational Services, <http://www.mass.gov/dys>.
- 22 Mass. Gen. L. ch. 76, §1 (school committees shall approve a private school when satisfied that the instruction in all the studies required by law equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town).
- 23 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 24 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 25 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 26 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).

- 27 Mass. Gen. L. ch. 69, § 1D.
- 28 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 29 Massachusetts Department of Education, Massachusetts Comprehensive Assessment System: Frequently Asked Questions, #6, <http://www.doe.mass.edu/mcas/about1.html?faq=6> (citing the Massachusetts Education Reform Law of 1993).
- 30 DYS correspondence to MHLAC (Jan. 14, 2008).
- 31 Mass. Gen. L. ch. 71, § 38G; 603 CMR 7.00 *et seq.*
- 32 Educational and Vocational Services, <http://www.mass.gov/dys>.
- 33 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 34 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 35 DYS correspondence to MHLAC (Jan. 14, 2008).
- 36 603 CMR 27.04(2); 603 CMR 27.03(3).
- 37 Memorandum from Rose Milas, Education Administrator, DYS to DYS/Provider Program Directors et al., School Year 2006-2007 Schedules and Information, July 31, 2006, at 1.
- 38 Memorandum from Rose Milas, Education Administrator, DYS to DYS/Provider Program Directors et al., School Year 2006-2007 Schedules and Information, July 31, 2006, at 1.
- 39 Mass. Gen. L. ch. 71A, § 2(d).
- 40 Mass. Gen. L. ch. 71A, § 4.
- 41 Mass. Gen. L. ch. 71A, § 5.
- 42 Katie Martin, The Role Education Plays in Massachusetts Youth Crime Prevention (Aug. 2006) at 18 (on file with MHLAC).
- 43 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 44 20 U.S.C. § 1412(a)(1)(A); Mass Gen. L. ch. 71B.
- 45 603 CMR 28.06(9); 603 CMR 28.10(3)(c)
- 46 DYS's education provider as of January 2008 was the quasi-public organization Center for Youth Development and Education (CYDE). The contract between DYS and CYDE was renewed in 2008.
- 47 DYS and the Department of Education, Letter from Michael Bolden and David Driscoll to Senator Therese Murray and Representative John Rogers attaching report on the status of educational services within DYS (Feb. 1, 2005), at 2.
- 48 DYS and the Department of Education, Letter from Michael Bolden and David Driscoll to Senator Therese Murray and Representative John Rogers attaching report on the status of educational services within DYS (Feb. 1, 2005), at 2.
- 49 Commonwealth Corporation, DYS Education Overview, <http://www.commcorp.org/dys/dys-about.html>; DYS and the Department of Education, Letter from Michael Bolden and David Driscoll to Senator Therese Murray and Representative John Rogers attaching report on the status of educational services within DYS (Feb. 1, 2005), at 2.
- 50 DYS, Case Management Reference Guide (Aug. 2006) at 16.
- 51 DYS Policy # 2.4.4(b) Educational Records (Jan. 1, 1999), Procedures, A.1, 2.
- 52 DYS Policy # 2.4.4(b) Educational Records (Jan. 1, 1999), Procedures, A.5.
- 53 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 54 Katie Martin, The Role Education Plays in Massachusetts Youth Crime Prevention (Aug. 2006) at 9 (on file with MHLAC); Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 55 DYS Policy # 2.4.4(b) Educational Records (Jan. 1, 1999), Procedures, A.5.
- 56 DYS Correspondence to MHLAC (Jan. 17, 2008).

- 57 DYS Correspondence to MHLAC (Jan. 17, 2008).
- 58 DYS Correspondence to MHLAC (Jan. 17, 2008).
- 59 DYS Correspondence to MHLAC (Jan. 17, 2008).
- 60 DYS Correspondence to MHLAC (Jan. 17, 2008).
- 61 DYS Policy # 2.4.6(b), High School Equivalency Diploma (GED) Procedures, Procedures, A.
- 62 DYS Policy # 2.4.6(b), High School Equivalency Diploma (GED) Procedures, Policy section.
- 63 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 64 DYS, 2005 Annual Report (Mar. 2007).
- 65 DYS, 2005 Annual Report (Mar. 2007).
- 66 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).