



THE UNIVERSITY OF UTAH

**UTAH EDUCATION
POLICY CENTER**

Evaluation of
Utah's
Juvenile Competency Attainment
Curriculum

For

The Department of Human Services
May 2019



THE UNIVERSITY OF UTAH

**UTAH EDUCATION
POLICY CENTER**

Bridging Research, Policy, & Practice

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Citation: Rorrer, A.K., Bradley, J. & Fischer, A. (2019). Evaluation of Utah's Juvenile Competency Attainment Curriculum. Salt Lake City, UT: Utah Education Policy Center.

Acknowledgements

The Utah Education Policy Center (UEPC) would like to express their deepest appreciation for members of the Department of Health team who reviewed and provided feedback on a draft of this report. Your thoughtful feedback guided revisions to strengthen the utility of this report.

We also thank the UEPC team, including Cori Groth, Stacy Eddings, and Carol Swenson, for their support in the review and production of this report.

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Executive Summary

The Utah Department of Human Services contracted the Utah Education Policy Center (UEPC) to:

1. Conduct a review of literature on critical attainment curriculum components, best practices for attainment programming, and best practices for differentiating curriculum and programming for diverse populations,
2. Evaluate Utah's current attainment curriculum, and
3. Provide recommendations to revise Utah's current attainment curriculum.

The UEPC efforts resulted in a report titled *Evaluation of Utah's Juvenile Competency Attainment Curriculum*. Below is a summary of the report findings and recommendations.

Legal Precedent and Relevant State Legislation

To begin, the report provides pertinent terms and definitions to create a shared understanding of the use of these terms throughout the report. From here, we review legal precedent and relevant state legislation, including the *Dusky Standard*. The *Dusky Standard* requires two conditions to establish competency: (1) a sufficient ability to rationally consult with one's lawyer and (2) a rational and factual understanding of the proceedings against him/her/they. To meet the *Dusky Standard*, Viljoen & Grisso (2007) have outlined four necessary abilities:

1. factual understanding of basic, concrete knowledge of the legal process and legal constructs;
2. rational appreciation and understanding of what is occurring;
3. sustained ability to assist and communicate with counsel in a meaningful way; and
4. adequate reasoning and decision-making regarding legal options.

As noted in our review, youth adjudication has an extended history. Despite this, competency among juveniles is a relatively newer consideration. Since the surge in zero-tolerance policies in the 1990s, the field has witnessed growing attention to juvenile competency. Juvenile competency discussions often pivot on issues such as accountability, intervention, and even rehabilitation. Issues of justice and fairness are also debated. While there are many available assessments to determine whether an adult is competent to stand trial, only a few assessments are recommended and used with juveniles (e.g., Juvenile Adjudicative Competence Interview, Georgia Court Competency Test–Juvenile Revision, Evaluation of Competence to Stand Trial–Revised, MacArthur Competence Assessment Tool—Criminal Adjudication, and The Fitness Interview Test - Revised). It is worth noting that there is not any one assessment of competency prescribed or supported.

Review of Research Literature

In light of the debates around juvenile competency to stand trial, we review extant research on topics such as: juvenile justice, competence among juveniles, and factors affecting juvenile competence. We also attend to factors that contribute to juveniles being designated as incompetent to stand trial. These factors include immaturity, intellectual disability, and decision-making competence, mental health and behavioral disorders. We further provide examples of the potential areas that are impacted with youth when there are existing conditions such as psychopathology, attention-deficient and hyperactivity disorder, anxiety, trauma, intellectual disability and cognitive

deficits, and immaturity. Understanding these factors relative to a juvenile's designation as not competent to stand trial ensures that evaluation of the attainment curriculum is grounded in the needs of both the juvenile and the system. This grounding also provides the basis for considering the attainment curriculum as an intervention.

Next, we examine research on existing attainment curriculum programs and program components, including the content, frequency, type, governance, and implementation. The review of current attainment programs also considered similarities and critiques of existing programs. In the review, we discovered that existing curriculum attainment programs did not attend to elements generally central to a curriculum (i.e., goals and objectives, instructional methods, resources and assessments). Thus, to support curriculum delivery and address the void in existing programs, our review includes elements that should be attended to within both design and implementation of the curriculum attainment program. For instance, we review different instructional methods (e.g., interactive and participatory instructional methods, technology integration, systematic and explicit instruction, cultural competence and responsiveness, augmentative and alternative communication aides, use of vignettes and exemplars, differentiated instruction, group instruction, and use of formative and summative progress monitoring) that can be employed during the curriculum attainment process to increase engagement and program efficacy. We highlight program elements that may address deficit skill areas identified among youth who are not competent to stand trial. For instance, we provide an overview of program elements such as those that address cognitive development, social relationships and social skills, communication skills, behavioral interventions, problem-solving and decision-making, cognitive acceleration, and reasoning.

In addition to the importance of attainment program curriculum and instructional components, our review emphasizes the knowledge and skills necessary among program implementors. Specifically, previous research indicates the need to evaluate the skills of personnel who provide the competency attainment program and emphasize the significance of providing on-going professional training and learning, including specific training on use of assessments, instructional methods, and working with adolescents generally.

Evaluation of Utah's Current Attainment Curriculum

Following the review of research literature, recommendations to revise Utah's current attainment curriculum are provided. As indicated in UT 78A-6-1302(7)(a-g), the primary purpose of Utah's attainment curriculum is to assist juveniles in meeting the required standards of competent to stand trial (CST). This includes demonstrating the ability to comprehend the charges, disclose pertinent facts, comprehend the range of possible penalties, engage in reasoned choice of legal strategies, understand the adversarial nature of the proceedings, demonstrate appropriate courtroom behavior, and testify relevantly.

The recommendations provided are based on an analysis of the current Utah Attainment Curriculum for Trial Competence (ACTC) manual for facilitators and clients. Paramount in our process was how to support DHS's goal to implement an attainment curriculum that is feasible and of high quality, and that supports the goal of ensuring that clients of DHS are CST. Recommendations are based on a gap-analysis, which compared and contrasted the current curriculum and the research available on juvenile justice, competency attainment, and curriculum

more generally. Given our analysis, we recommend a new competency attainment process flow, Figure 3. Recommended Utah Competency Attainment Process Flow, to account for the iterative nature of the process.

Recommendations to Revise Utah’s Current Attainment Curriculum

Ultimately, our analysis resulted in a recommended curriculum re-design that we call the Utah Curriculum for Attainment, Remediation, and Education Program, or Utah CARE Program. To achieve the Utah CARE Program, we identified seven high-leverage and intentional program design features. The recommended program features include:

1. Use of Pre- and Formative Assessment Data for Instructional Planning and Delivery
2. Enhance the Dimensionality of the Curriculum Focus
3. Expand Instructional Methods Used
4. Develop Opportunities to Differentiate
5. Integrate Cultural Competence and Culturally Responsive Elements
6. Expand System of Support during Remediation
7. Amplify Knowledge, Expertise, and Skills of Facilitators

These program re-design features also attend to the four necessary elements for a juvenile to be deemed competent to stand trial—demonstration of factual understanding, rational understanding, ability to communicate with counsel, and reasoning and decision-making skills. Given our review of existing research in the area of juvenile competence to stand trial, these curriculum revisions may contribute to the remediation of youth in the juvenile justice system.

Finally, we note that the inclusion of the high-leverage program features identified in this report require substantive changes to the current attainment curriculum, if the intent is to align the curriculum with best practice research. Thus, we conclude with three primary recommendations as next steps to achieve this goal:

1. **Share findings with focus group of current ACTC facilitators.** Utilize a semi-structured protocol to a) understand how the findings resonate with their implementation practice, b) identify what from their experience was not captured by the review of literature and the analysis of the current curriculum, and c) understand what degree of training and support facilitators would need to implement a revised program.
2. **Engage interdisciplinary collaborative teams to revise the curriculum.** Such teams might include current facilitators, experts in juvenile mental health, cognitive abilities, and instructional effectiveness, for instance. These interdisciplinary teams would develop revised curriculum that a) progresses competency development from awareness and facts to understanding and decision-making, and b) incorporates robust multi-modal, multi-method instructional strategies based on assessments and needs, and build capacity of youth through remediation as intervention.
3. **Expand modality of curriculum to incorporate technology and adaptive programming.**

Introduction

Since 2012, the Utah Department of Human Services (DHS) has utilized an Attainment Curriculum for determining juvenile competency developed by the Center for Persons with Disabilities at Utah State University. The initial attainment curriculum for the juvenile justice system was designed pursuant to Utah Code § 78A-6-1303. Recently, the DHS reported that minors in Utah who have completed the curriculum have not attained competency at a rate commensurate with leading national attainment programs. (See Appendix C: Utah Department of Human Services FY 2018 Report on Juvenile Competency for aggregated data on competency rates among youth in Utah.)

The Utah Education Policy Center (UEPC) was contracted by DHS to provide a review of literature on critical attainment curriculum components, best practices for attainment programming, and best practices for differentiating curriculum and programming for diverse populations, including, but not limited to youth with mental illness, co-occurring disorders, autism and traumatic brain injuries, intellectual disabilities, and traumatic brain injuries. To support DHS's efforts to address the lower than expected rates of students achieving competency, the UEPC also evaluated the current attainment curriculum, and made recommendations for revisions of the current attainment curriculum, including the scope and curriculum delivery.

In order to provide considerations and recommendations for DHS's attainment curriculum content and deliver, this review first addresses the issue of competency, including the general grounds for determining competency, who is involved in that process, and how that process occurs. Next, a review of research on competency issues and attainment with juveniles is provided. Following this review of extant research in this area, we provide the analysis of DHS's existing attainment curriculum. Finally, an analysis of the current attainment curriculum is provided. The analysis of the current curriculum is situated with primary recommendations offered to enhance the quality and effectiveness of the Utah competency attainment curriculum for juveniles.

Review Methodology

Research and practice in the area of attainment curriculum for juveniles is an emerging field. To capture the scope of research to date and to understand the relative foundation upon which an attainment curriculum should be built, research on juvenile justice, competence among juveniles, factors affecting juvenile competence were reviewed. Then, research regarding current attainment programs, including examples of those programs, were reviewed for their content, similarities, and critiques. In addition, to bridge from previous scholarship in this area to attainment curriculum "best practice" recommendations, research was conducted to describe the basis for a curriculum, how a curriculum should be implemented, and considerations of implementation, including structure, process, and differentiation.

This literature review is organized thematically, which provides an opportunity to consider the evidence available relevant to an attainment curriculum. This review is inclusive of a breadth of sources, including peer-reviewed articles, books, book chapters, and other policy related documents available in the field. Taken together, these sources provide a foundation of research that can inform

how we understand the current knowledge base about attainment curriculum for juveniles and how this knowledge can inform policy and practice.

Definitions

To orient the reader, we have provided key terms and their operational definitions.

Competency

In *Dusky v. United States* (1960) the U.S. Supreme Court determined that a defendant must be able to reasonably comprehend, understand, and provide reasonable information to their attorney regarding the incidence for which they are charged. Specifically, the U.S. Supreme Court held that:

It is not enough for ... [a] ... judge to find that "the defendant is oriented to time and place and has some recollection of events," but the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding-and whether he has a rational as well as factual understanding of the proceedings against him. (p. 4 02)

In Utah, competence is a witness's ability to observe, recall and recount under oath what happened. Criminal [defendants](#) must also be competent to stand trial; they must understand the nature of the proceedings and have the ability to assist their lawyers. (<https://www.utcourts.gov/resources/glossary.htm#c>)

Competency to Stand Trial (CST)

In order to be competent to stand trial, a person must have the capacity to understand the nature and object of the proceedings, to consult with counsel, and to assist in preparing his/her defense. Due process prohibits the government from prosecuting a defendant who is not competent to stand trial.

Competency Evaluation

An evaluation conducted by a forensic evaluator to determine if an individual is competent to stand trial. (Utah Code 62A-1-104 Section 77-15-2)

Adjudication

Giving or pronouncing a judgment or decree, or the rendering of a decision on a matter before a court. (Utah Courts, <https://www.utcourts.gov/courts/juv/intro/glossary.htm>)

Age of Adjudication in Utah

No statute specifies the youngest age at which a youth can be adjudicated delinquent. In addition, Utah Code Ann. § 78A-6-103(1)(a) stipulations that the juvenile court has jurisdiction over offenses alleged to have been committed by a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age with statutorily enumerated exceptions.

Attainment

Minors who are alleged to have committed an act that would be a crime if committed by an adult and are found *not competent but attainable* by the courts become eligible to participate in the attainment process, as outlined in Utah Code § 78A-6-1303. In Utah, the attainment process entails meeting with an attainment provider and completing the attainment curriculum. In different states, this process may be referred to as attainment, restoration, or remediation.

Chronological Immaturity

A condition based on a juvenile's chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or cognitive or intellectual disabilities.

Co-Occurring Disorders

Co-occurring disorders are the presence of two or more different disorders or diagnoses within the same person.

Curriculum

The set of learning materials currently used during Utah's juvenile competency attainment process. This includes the materials, the methods, and the strategies used to ensure transferability of classroom learning to the courtroom.

Defendant

The accused in a criminal case; the person from whom money or other recovery is sought in a civil case.

Delinquency

The commission of an illegal act by a juvenile.
(<https://www.utcourts.gov/resources/glossary.htm#c>)

Expungement

A court order allowing the destruction or sealing of records after the passage of a specified period of time or when the person reaches a specified age and has not committed another offense. (<http://jec.unm.edu/manuals-resources/glossary-of-legal-terms>)

Forensic Evaluator

A licensed mental health professional who is a) not involved in the defendant's treatment; and b) trained and qualified by the department to conduct a competency evaluation, a restoration screening, and a progress toward competency evaluation" (Utah Code 62A-1-104 Section 77-15-2).

Incompetent to Proceed

A defendant is not competent to stand trial. (Utah Code 62A-1-104 Section 77-15-2)

Petition

A petition to request a court to determine whether a defendant is competent to stand trial.

Progress toward Competency Evaluation

An evaluation to determine whether an individual who is receiving restoration treatment is: a) competent to stand trial, b) incompetent to proceed but has a substantial probability of becoming competent to stand trial in the foreseeable future; or c) incompetent to proceed and does not have a substantial probability of becoming competent to stand trial in the foreseeable future. (Utah Code 62A-1-104 Section 77-15-2)

Population

Minors with mental illnesses and intellectual disabilities who have been found *not competent but attainable* by the courts.

Remediation

Remediation refers to the process of assessing cognitive, behavioral, social-emotional, or other educational needs and the provision of learning opportunities, services and/or support to achieve a standard of performance or assessment.

System of Care

See Title 62A. Utah Human Services Code, Title 62A. National System of Care is based on four core values: community-based, family driven, youth guided, and culturally and linguistically competent. The core values for the System of Care are stipulated as:

- Broad array of effective services and supports
- Individualized, wraparound practice approach
- Least restrictive settings
- Family and youth partnerships
- Service coordination
- Cross-agency collaborations
- Services for young children
- Services for youth and young adults in transition to adulthood
- Linkages with promotion, prevention, and early identification
- Accountability

Competency for Court Proceedings

The United States Supreme Court held in *Dusky vs. United States*, 362 US 402 (1960) that due process includes the right to a competency evaluation before a defendant stands trial. In general, competency determination requires two conditions: a) as sufficient ability to rationally consult with one's lawyer and b) a rational and factual understanding of the proceedings against him/her/they. This has since been referred to as the *Dusky Standard*. To meet the *Dusky Standard*, Viljoen & Grisso (2007) have outlined four necessary abilities:

1. factual understanding of basic, concrete knowledge of the legal process and legal constructs;
2. rational appreciation and understanding of what is occurring;

3. sustained ability to assist and communicate with counsel in a meaningful way; and
4. adequate reasoning and decision-making regarding legal options.

The burden on the courts and the CST evaluators is to determine the psycholegal impairment and understand how these impairments are related to the determination that the defendant is not CST (Skeem & Golding, 1998, p. 364). Importantly, competency is determined by an individual's present ability not at the time of the event. Moreover, it is significant to note that determining competency to stand trial (CST) is not about determining innocence or guilt or adjudicating the punishment for crimes. The determination of CST is a legal matter, not a medical, family or social service, or educational matter.

Pate v. Robinson (1966) provided procedural safeguards to the competency standards established in *Dusky*. Specifically, *Pate v. Robinson* ensured that the defendant is given a hearing to determine competency and failure to do so would be a violation of the individual's Sixth Amendment Rights—the right to the assistance of legal counsel, the right to confront their accusers and the evidence against them, and the right to a trial by jury.

Competency and Juvenile Justice

The history of youth adjudication in the US criminal system is riddled with disagreements regarding the treatment of juveniles dating back to its early existence in the system for juvenile court in 1899. Questions regarding the treatment of juveniles in the system range from whether they should be prosecuted similar to adults to how current statutes apply to their treatment to whether or not they are viewed as rehabilitative to even what is the role of the system as a whole (Larson & Grisso, 2011). To date, there is not consensus around the purpose of the juvenile justice system. One view of the juvenile justice system, which is relevant to a discussion of juvenile CST and an attainment curriculum, is for the system to serve as an intervention (Baerger, Griffin, Lyons, & Simmons, 2003). In part the argument over CST, particularly, is grounded in issues of accountability, intervention and rehabilitation (Bryant, Matthews & Wilhelmsen, 2015). In the absence of some process, concerns over whether a child is treated fairly, manipulates the system, or has the opportunity to rehabilitate exists.

Attention to competence for juveniles is in its own adolescents, as it began garnering attention in 1990s during the era of zero tolerance policies (Larson & Grisso, 2011; Redding and Frost, 2001). As the 1990s saw an increase in the types of offenses and punishments applied to youth at increasingly younger ages, the early 2000s witnessed a shift in attention to issues of competency to stand trial (Kruh et al., 2006; Larson & Grisso, 2011, 2016; Larson et al., 2013). Moreover, the Supreme Court's determined *in re Gault*, 387 U.S. 1, 20 (1967) that procedural safeguards for due process that are consistent with the Due Process Clause of the Fourteenth Amendment used with adults must be applied to juveniles who are facing adjudication. Today, juvenile justice policy in the United States reflects a shift. Now, the focus is a more comprehensive versus punitive view:

...fiscal responsibility, community safety and better outcomes for youth. Significant trends have emerged to restore jurisdiction to the juvenile court; divert youth from the system; shift resources from incarceration to community-based alternatives; provide strong public defense for youth; and respond more effectively to the mental health needs of young offenders (Brown, 2015, p. 3)

Nationally, the “fitness statute,” or competence threshold for youth, provisions vary. Youth are not required to meet the adult level of competence to stand trial. In a presentation to the National Association of State Mental Health Program Directors, Kruh (2018) indicated that 19 states have criminal competency statutes that extend to juveniles, 27 states and Washington, DC have specialized juvenile statutes or court rules in place, including Utah, and four states have no statute or law regarding juvenile competence to proceed.¹ Figure 1 illustrates the National Counsel for State Legislature’s (2015) review of states that define competency for juveniles.

¹ States with criminal competency statutes extended to juveniles AL; IL; IN; IA; KY; MA; MT; NV; NJ; NC; ND; PA; SC; SD; TN; WA; WV; WI WY; states with specialized juvenile statutes or court rules AZ; AR; CA; CO; CT; DC; DE; FL; GA; ID; KS; LA; ME; MD; MI; MN; MO; NE; NH; NM; NY; OH; OK; OR; TX; UT; VT; VA; states with no statute or case law (but a history of competence hearings) AK; HI; MS; RI.

Figure 1. States with Juvenile Competency Laws, NCSL (2015)²

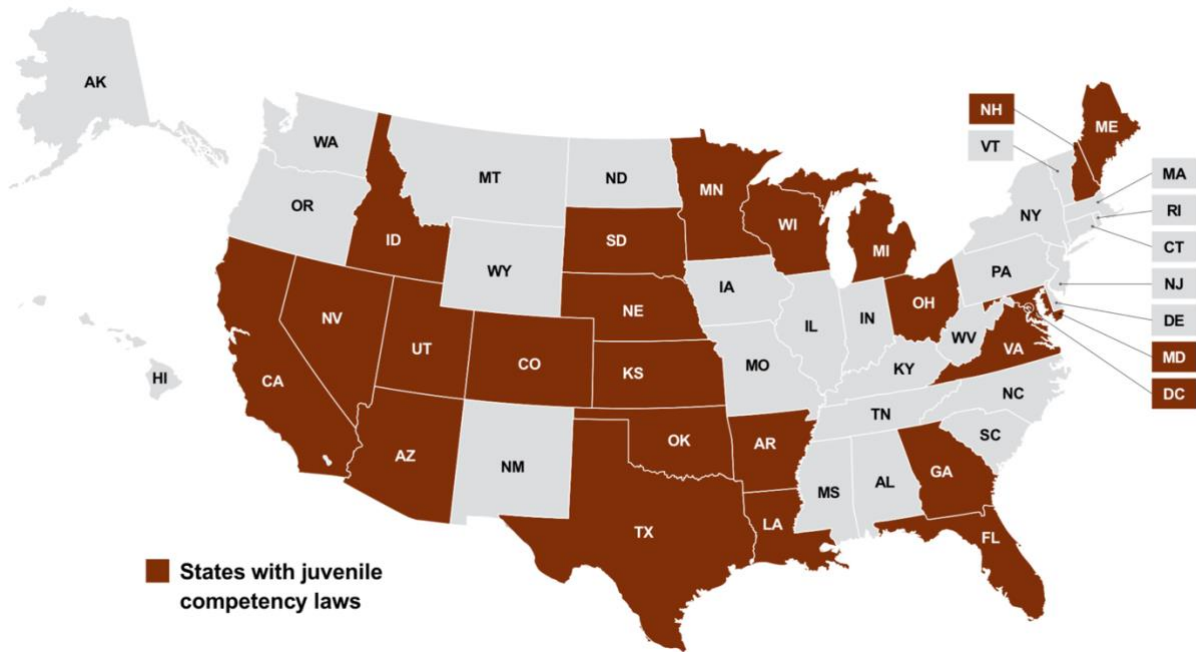
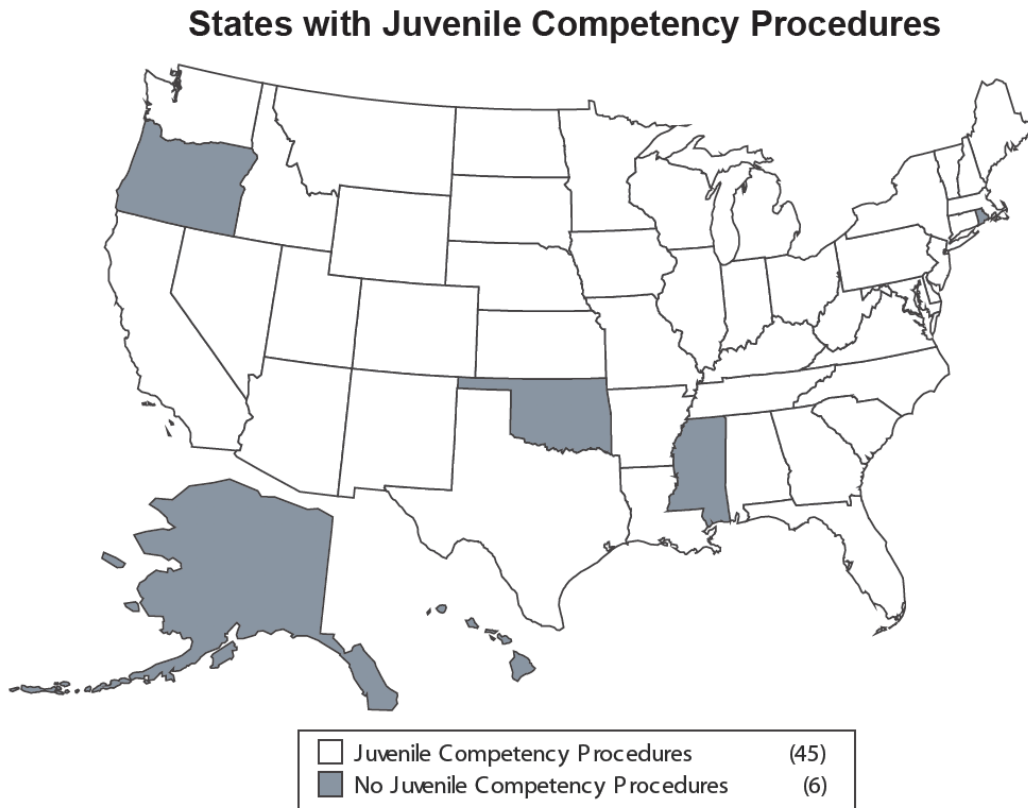


Figure 2. States with Juvenile Competency Procedures, Szymanski (2013)³



There is a prevailing presumption that adjudicated youth may be “undetected incompetents” (McKee & Shea 1999). Evaluators may determine that the youth have any one or number of identified issues that contribute to a designation of incompetence. However, this information is insufficient to establish whether or not the youth is ICST or CST. Pre-existing mental illness, cognitive delays, or other disorders is not a determining factor in whether someone is determined CST (Mossman, 2007). Competency must be determined in light of the case context. For instance, Grisso (2003) notes the importance of congruency in the consideration of CST.

A decision about legal competence is in part a statement about congruency or incongruency between (a) the extent of a person’s functional ability and (b) the degree of performance demand that is made by the specific instance of the context in that case. Thus, an interaction between individual ability and situational demand, not an absolute level of ability, is of special significance for competence decisions. (pp. 32-33)

Understanding context requires that further criteria are applied, including the focus on CST. As Golding and Roesch (1988) explain in their example of a severe disturbance:

Mere presence of severe disturbance is only a threshold issue—it must be further demonstrated that such severe disturbance in this defendant, facing these charges, in light of existing evidence, anticipating the substantial effort of a particular attorney with a relationship of known characteristics, results in the defendant being unable to rationally assist the attorney or to comprehend the nature of the proceedings and their likely outcome. (p. 79)

Factors that Impact Competency Findings in Juveniles

There are a number of general factors that may be the underlying reasons that a juvenile is initially identified as ICST. These factors may include psychopathology, attention-deficit/hyperactivity disorder, anxiety, trauma, cognitive, intellectual disability & cognitive deficits, disruptive behavior disorders, substance use disorders, and even immaturity (i.e., developmental incompetence) (Grisso, 2008; 2014). Those with a treatment history for existing disorders were more likely to be found CST. Importantly, there is significant evidence of comorbidity among these disorders and for juveniles this comorbidity is often high (Allely & Cooke, 2016; Grisso 2004). Students with more than one disorder were more likely to be found incompetent to stand trial. Moreover, evidence suggests that comorbidity of issues may render remediation for CST more difficult, particularly when the confounding issues are intellectual disability and mental illness (Warren et al., 2009). Table 1. Examples of Contributing Factors Identified for ICST provides an overview of some contributing factors and the associated issues that must be overcome in an attainment curriculum to support youth progress to CST.

Immaturity

Notably, a significant amount of development occurs iteratively during adolescence. Grisso (2005) identified four relevant areas of on-going development in adolescence: neurological, intellectual and

² Source: Brown, S. A., (2015) Trends in Juvenile Justice State Legislation, 2011-2015. National Conference of State Legislature.

³ Source: Juvenile Justice Geography, Policy, Practice & Statistics, State Scan: Juvenile Competency Procedures, Szymanski (2013)

cognitive, emotional and psychosocial. While scholars, policymakers, and courts alike recognize the developmental nature of the period of time until a child is 18, determining the degree to which this development and any peripheral developmental issues may impact their competency in court proceedings is less settled.

Using immaturity as a basis for incompetence findings is a contested area (Sellers & Arrigo, 2009), particularly among legal scholars and policymakers. For example, Wingrove (2007) argues that immaturity is sufficient reason to consider whether or not a juvenile is competent or not. Though others may propose that age is a more relevant standard of maturity and potential competency than other factors, this too is contested terrain. Steinberg and Cauffman (1996), who argue against the use of age-based policies for determining how a child should be treated—juvenile or adult, highlight their rationale, suggest that immaturity must be attended to when considering CST. “Indeed, other than infancy, there is probably no period of human development characterized by more rapid or pervasive transformations in individual competencies, capabilities, and capacities” (p. 53). Viljoen and Wingrove (2007) emphasize why considerations of immaturity have to extend beyond discussions of a juveniles chronological age or even state of maturity. They indicated:

Although there is evidence that developmental immaturity contributes to competence-related legal impairments in adolescents, it may be that very few adolescents are incompetent because of developmental immaturity alone. Instead, incompetence in young adolescents may often stem from a complex combination of immaturity, mental disorders, and/or cognitive impairments. (p. 226)

In addition to drawing attention to the need for the courts to give attention to reducing or eliminating recidivism, Kanter (2015) argues that juvenile protections would be better served by presuming competence doesn’t exist unless demonstrated otherwise. Moreover, the issue of chronological immaturity further raises questions about the intellectual and emotional capabilities necessary for decision-making, which are relevant to both determining competence as well as implementing an attainment curriculum (Steinberg & Cauffman, 2001).

Research nationally indicates that younger juveniles are more likely to be found incompetent than older juveniles, particularly for reasons thought to be related to developmental immaturity. Younger juveniles are found incompetent more often than their older counterparts (Kruh & Grisso, 2009). Reportedly, one-third of 11 to 13-year olds and one fifth of 14 to 15-year-olds qualified as incompetent (Grisso et al., 2003).

There is evidence that some judges take the age and psychosocial immaturity of a juvenile into consideration (Mayer-Cox et al., 2012; Wingrove, 2007). As of 2013, states such as Georgia, Idaho, Maine, Maryland, and Vermont can consider a juvenile’s age or immaturity in determining competency while Arizona, Connecticut, Delaware, Montana, and Virginia age alone is considered insufficient in determining competency, particularly as a measure of “chronological immaturity” (Szymanski, 2013). Bonnie and Grisso (2000) recommend that courts offer a minimal age of 14 upon which they consider the developmental immaturity as sufficient to order a competency proceeding. This has been advocated elsewhere (Kanter, 2015; Savitsky & Karras, 1984). As Grisso (1997) contended, even at age 15 most adolescents should not be assumed competent, particularly when it comes to understanding and protecting their own interests during a legal proceeding.

Intellectual Disability and Decision-Making Competence

Individuals identified with intellectual disabilities are among the group with the lowest competency determination rates. Moreover, for those who individuals with intellectual disabilities, the time duration to become competent when it does occur may be longer as well. Intellectual disability, similar to immaturity, may contribute to a lack of lack of decision-making competence continues to be of concern where juveniles are concerned (Scott et al., 1995).

There is some evidence that IQ may impact findings of incompetence. This occurs, for instance, when a high IQ is said to mediate immaturity (Warren, Aaron, Ryan, Chauhan, & DuVal, 2003; Warren et al., 2009) and a high IQ can be a significant predictor of competency restoration (Chien et al., 2016; Grisso et al., 2003). Chien and colleagues., speculated that this was somewhat predictable given that many of the restorative programs rely heavily on education-oriented programs.

Intellectual disability has been noted as having a significant correlation to finding of incompetence while those with mood disorders had a higher correlation of being found CST (Bath et al., 2015; Cowden & McKee, 1995; Cooper, 1997; Grisso et al., 2003; Warren 2003). Reportedly, 35 percent of 11 to 13-year-olds and 22 percent of 14 to 15-year-olds demonstrated impairment in understanding and reasoning of trial-related matters. In particular, youths aged 11 to 13 years demonstrated less ability to focus on the long-term consequences of their decisions (Ficke, Hart, & Deardorff, 2006; Larson 2011).

Mental Health and Behavioral Disorders

There is often a presumption that if mental illness and other cognitive disorders are treated that a juvenile may be more likely to be found competent. However, Chien and colleagues (2016) indicated that this was not the case in their study. They speculate that perhaps not knowing the severity of the issues among persons in their small sample may have contributed to lack of significance in their findings.

Reportedly, 50-75% of those juveniles in the juvenile justice system meet the threshold for being identified with a mental health disorder and of those detained two-thirds of males and approximately three-quarters of females met the threshold for being diagnosed with one or more psychiatric disorders such as attention-deficit and hyperactivity disorder, bipolar disorder, and even post-traumatic stress disorder (Grisso, 2000; Grisso, 2008; Teplin et al., 2002; 2013). For example, generally speaking, youth with mental disorders commit fewer of the crimes than their peers without identified mental disorders (Grisso, 2008). Weiss and Garber (2003) indicate that an estimated 15-30% of youth in the juvenile justice system suffer from depression or related depressive disorders.

Teplin and colleagues., report that 20% of females were identified with a major depressive episode. They added that 60% of males and more than two thirds of females meet diagnostic criteria for one or more psychiatric disorders. Those with substance use disorders are also prevalent in the juvenile justice system (Grisso, 2008). Approximately half of both males and females has substance use disorder while over 40% of males and females were identified with disruptive behavior disorders (Teplin et al., 2003).

Table 1. Examples of Contributing Factors Identified for ICST

Factor	Examples of Potential Areas Affected	Supporting Research
Psychopathology	Trust issues; immaturity; misunderstanding of situation people and their roles; limited abstract reasoning and decision-making abilities; communication skills	Grisso et al., 2003; Heilbrun & Griffin, 1999; Roesch, Ogloff, & Golding, 1993; Viljoen & Grisso, 2007; Viljoen & Roesch, 2005; Warren, Aaron, Ryan, Chauhan, & DuVal, 2003;
Attention-Deficit/Hyperactivity Disorder	Difficulty with communication, lack of self-regulation, aggression, short attention span; anti-social behavior; lack social skills or competence; immaturity; academic difficulties; mood disorders and anxiety	DuPaul & Weyandt, 2006; Viljoen & Roesch, 2005; Wiener & Daniels, 2016
Anxiety	Trust issues, depression, difficulty with communication, limited social skills or competence, language problems;	Grisso, 2005; Viljoen & Grisso, 2007
Trauma	Trust issues, anger, depression, difficulty with communication, limited social skills or competence, language problems	Cohen, Davine, Horodezky, Lipsett, & Isaacson, 1993; Grisso, 2005; Spence, 2003; Viljoen & Grisso, 2007
Intellectual Disability & Cognitive Deficits	Reduced verbal abilities, limited reasoning and decision-making abilities, memory, attention, executive abilities, immaturity	Grisso et al., 2003; McGaha et al. 2001; Mossman et al., 2007; Noffsinger, 2001; Viljoen & Roesch, 2005; Viljoen et al., 2007
Immaturity (i.e., developmental incompetence)	Reduced reasoning and decision-making abilities; Difficulty with communications; reduced independence; oppositional, lack social competence;	Frost & Volenik, 2004; Grisso et al., 2003; Scott & Grisso, 2005; Scott et al., 1995; Steinberg & Cauffman, 1996 Viljoen & Grisso, 2007; Viljoen, Klaver, & Roesch, 2005;

Assessing Competency to Stand Trial: Uses and Findings

A number of factors have been identified that may confound the results of standardized assessments, including age, immaturity, and existence of intellectual, verbal, cognitive, psychosocial, emotional developmental factors. Scholars have noted several concerns with previous and current practices in assessments of competency, including issues with the focus and methods of assessment

(Cunningham, 2006). Sanborn (2009), who summarizes that ideology not practicality is prohibiting some youth from being declared CST, argues that there are issues with what is measured, by whom, and of whom, as well as issues with the assessments currently used. Skeem & Golding (1998) added: “failure to adequately address fundamental CST abilities, including defendants’ decisional competence (See Bonnie, 1992); b) failure to present the critical reasoning underlying one’s psycholegal conclusions; c) failure to use forensically relevant methods of assessment” (p. 358).

The increased importance among competency evaluation professionals to document reasons that youth are not deemed competent (Ryba Panza, Cooper & Zapf, 2003; Zapf, 2013) and in need of development to be CST has raised the importance of remediation implementers to give attention to these assessment findings. In particular, assessments can inform the remediation plan, particularly recommended foci and potential targeted strategies. While describing the reports that competency evaluators should provide to the courts, Redding and Frost (2003) indicated that the competency evaluator should: “Identify specific competence-based abilities that the defendant is impaired, specific recommendations for restoring competency in those areas and an estimate of time required to restore competence and likelihood of restoration” (p. 10). Another way to assess adolescents is to conduct interviews. These interviews serve a dual purpose to gather background information about the juvenile, their circumstance, their understanding and their current competence and these interviews can also provide insight into how to differentiate the competency curriculum to maximize results (Mossman et al., 2007).

Given the nature of competency assessments and their findings, subsequent treatment may require a multiprong approach, including appropriate diagnosis, psychotropic medication, and an individualized attainment plan. In a Ryba, Cooper and Zapf (2003) study, 70% or more of their respondents recommended that CST evaluation reports contain at minimum: current mental status, understanding of charges or penalties, CST abilities, capacity to participate with attorney, mental illness opinion, understand of trial process, and mental illness/intellectual disabilities/immaturity rationale. In compiling these reports, the competency evaluator has the opportunity to consider how the reason(s) identified for not being CST may be mitigated by the attainment curriculum. As a means of targeting the attainment process, Skeem and Golding (1998) suggested that the evaluator “...(a) carefully consider the nature and content of the defendant’s primary symptoms, (b) consider how these symptoms might relate conceptually to the defendant’s specific psycholegal impairments, then (c) asses, as directly as possible, whether there actually is a relationship between the symptom and the CST impairment” (p. 364)

Current methods for evaluating competency varies. There is no standard nor commonly acceptable form of evaluation to date. See Table 2. Competency Assessment Examples for a general overview of the competency assessments frequently used. While initially designed for implementation with adults, numerous assessments are utilized with juveniles. Note, the psychometric properties and pros and cons of each type of assessment is not addressed as it is beyond the scope of this project.

Table 2. Competency Assessment Examples

Developer	Assessment	Contents	Used with Adults	Used with Juveniles
Rogers, Tillbrook, & Swell	<i>Evaluation of Competency to Stand Trial</i>	<ul style="list-style-type: none"> Semi-structured interview protocol designed to evaluate the competence of individuals age 18-90 to stand trial, Takes approximately 25-45 minutes 	X	
Lipsit, Lelos, and McGarry (1971)	<i>Competency Screening Test (CST)</i>	<ul style="list-style-type: none"> 22-item sentence completion test Takes approximately 25 minutes 	X	
Laboratory of Community Psychiatry (1973)	<i>Competency to Stand Trial Assessment Instrument (CAI)</i>	<ul style="list-style-type: none"> Semi-structured one-hour interview. Assesses 13 functions 	X	
Everington & Luckasson (1992)	<i>Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST-MR)</i>	<ul style="list-style-type: none"> Used specifically with persons identified with intellectual disabilities Items that address basic legal concepts, skills to assist defense, understanding case events 	X	
Golding and Roesch (1981; 1984)	The Interdisciplinary Fitness Interview (IFI)	<ul style="list-style-type: none"> Semi-structured interview of 5 questions for assessing a person's competence to stand trial. Includes 11 categories of psychopathological symptoms within three categories (Legal, Psychopathological, Evaluation of Competency) 	X	
Roesch, Zapf, Eaves & Webster (1998)	The Fitness Interview Test - Revised (FIT-R)	<ul style="list-style-type: none"> Structured interview questions for assessing a person's competence to stand trial. Includes 16 items in three broad domains (Factual Knowledge of Criminal 	X	X

Developer	Assessment	Contents	Used with Adults	Used with Juveniles
		Procedure, Appreciation of Personal Involvement in and Importance of the Proceedings, and Ability to Participate in Defense)		
Hoge, Bonnie, Poythress & Monahan, Eisenberg, & Feucht-Haviar (1997)	MacArthur Structured Assessment of the Competence of Criminal Defendants (MacSAC-CD)	<ul style="list-style-type: none"> Includes a vignette and 82 questions on foundational and decisional abilities Takes two hours to complete 	X	
Hoge, Bonnie, Poythress & Monahan (1999)	MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT-CA)	<ul style="list-style-type: none"> Shorter version of the MacSAC-CD Provides a vignette with hypothetical situation about a crime and questions regarding the defendant’s understanding of the legal system (charges and trial) and adjudicative process and his or her reasoning abilities in legal situations Includes questions regarding own specific to the defendant's own legal situation 	X	X
Rogers & Tillbrook (1998); Rogers, Tillbrook, & Sewell (2004) Norton & Ryba (2010)	Evaluation of Competence to Stand Trial—Revised (ECST-R)	<ul style="list-style-type: none"> Includes a semi-structured interview that was developed using the criteria outlined in the Dusky (1960) (assesses factual and rational understanding of proceedings, and consultation with counsel) Includes a screener for “feigned incompetence” 	X	X
Wildman (1978)	Georgia Court Competency Test-Juvenile Revision	<ul style="list-style-type: none"> Includes 21 items that assess general courtroom knowledge, courtroom layout, and specific legal knowledge. 	X	X

Developer	Assessment	Contents	Used with Adults	Used with Juveniles
Colwell et al., (2008)	Test of Malingered Incompetence	<ul style="list-style-type: none"> Includes two 25 item scales Assesses both general and legal knowledge 	X	
Musick & Otto (2010)	Inventory of Legal Knowledge	<ul style="list-style-type: none"> Consists of 61 true/false items Aimed at measuring the individual's approach to questions about their legal knowledge 	X	
Grisso (2005)	Juvenile Adjudicative Competence Interview (JACI)	<ul style="list-style-type: none"> A semi-structured interview protocol used to assess understanding, appreciation, and decision making for determining CST. 		X

Attainment Curriculum

Both scholars and practitioners in this field recognize that success of attaining competency may be impeded by mental illness, cognitive disorders, intellectual impairments and any variety of other issues. See previous discussion on Factors that Impact Competency Findings in Juveniles that outlined underlying issues that may mitigate competency. However, it is generally accepted understanding in the field that most people can become CST. As Melton and colleagues (2007) articulated, “Barring an irreversible condition (e.g., a severe organic deficit) or a functional disorder that has repeatedly proven treatment-resistant, most defendants are restorable” (p. 162). Exceptions, however, do exist.

As noted by Viljoen and Grisso (2007), we must be attentive to not permit factual understanding to serve as a proxy for competency. To avoid this pitfall, we propose use of the phrase remediation for competency, which is consistent with the scholarship of Viljoen and Grisso (2007). In particular, they note that “the term remediation may be preferable to restoration in describing the goals of interventions for such youths because this term does not assume prior competence” (p. 88). Also, using the perspective of remediation, establishes a base for the attainment curriculum as an intervention.

For the purposes of our review, we do not use the term restoration nor restorative. As Jackson and colleagues (2014) noted, restoration aims to: ““restore” an individual’s abilities and capacities articulated in *Dusky*, and are not more broadly designed to make permanent therapeutic or rehabilitative changes in the individual’s overall life functioning” (p. 24). By choosing remediation, we further avoid the debate as to whether youth were ever competent in the legal sense of the word (Viljoen & Grisso, 2007).

Attainment Curriculum for Juveniles

A review of literature reveals that more attention has been given to the contents of legislation and whether legislation attends to expectations for competency, particularly as prescribed in *Dusky*. Legislation seems far more likely to follow the contents suggested by Larson and Grisso (2011). They noted that statute should focus on where competency attainment services should be provided, how long they should be provided, how these services are to be provided. States that do not have specific legislative provisions for a juvenile attainment program rely on adult statutes for competency. Here, we turn our focus from state legislation nationally to the available literature on the existence and contents of a competency attainment curriculum.

Existing systems of care that include a competency attainment program vary across states, and there is not significant research on the development or effectiveness of these programs. That said, the agreed upon general purpose of the competency curriculum is to ensure that defendants may proceed to trial. The minimum threshold for a curriculum and intervention program is to ensure that the juvenile has both a factual understanding of their situation *and* that they can communicate their understanding (Viljoen & Grisso, 2007). Viljoen et al., (2007) further add:

it may be possible to improve youths' legal understanding somewhat with instruction, this does not necessarily mean that youths' legal incompetence can easily be remediated. Youths' capacities for reasoning and appreciation also must be sufficient in order for them to competently participate in their adjudication. Competency interventions for youth should therefore target not only youths' basic legal understanding, which was the focus of the current study, but also their capacities for reasoning and appreciation. (p. 430)

While programs such as those in Virginia and Florida are often cited, to date, no single attainment program has been recommended or endorsed by medical, law, or social work professionals (Bath & Gerring, 2014). The University of Virginia Juvenile Competency Attainment Research and Development Center does provide a repository of some of the information in this area. Furthermore, in conducting this review, we were surprised to discover that there is a dearth of research in the area of competency attainment curriculum. Minimal attention has been given to the recommended, or even preferred, elements of attainment programs. Though only speculative, we did consider whether the lack of resources, particularly evidence-based practices, is a by-product of the scholarly domains in which this research has largely been studied—law, sociology, and psychology.

Attainment Curriculum as Intervention

Where they exist, delivery and administration of the juvenile attainment programs also differ nationally. Viljoen and Grisso (2007) contend that curriculum attainment be considered as a “curriculum and intervention” approach for remediation. This view of curriculum as intervention requires us to consider how the curriculum is differentiated to meet the needs of particular juveniles. Remediation allows one to address underlying issues that may impede competency (Viljoen & Grisso, 2007); thus, serve as an intervention.

In light of this perspective, Warren and colleague (2009) suggested that successful remediation program have the following characteristics:

- individualized
- psycho-educational intervention that combined intensive case management,
- developmentally informed interactive educational tools and case integration, and
- mentoring by specially trained restoration counselors.

The Slater Method, which was developed by Wall, Krupp, and Guilmette (2003) for implementation at the Eleanor Slater Hospital within the Rhode Island Department of Mental Health, Retardation and Hospitals, was specifically designed to be a trial competency training tool for individuals identified with intellectual disabilities. Although designed for adults, the Slater Method reportedly has been deemed successful, although the program itself is also seen as controversial. In part, this controversy comes from the intent to prepare individuals to be deemed CST by becoming trial ready (Wall et al., 2003) rather than serve as a remediation tool. The *Slater Method* includes five modules that include role-play, mock trials, and other visual aids to simulate the courtroom and trial experience.

Module 1: Purpose of Competency Training; Review of Charges, Pleas, and Potential Consequences

Module 2: Roles of Courtroom Personnel

Module 3: Courtroom Proceedings, Trial Process, Plea Bargain and Consequence of Entering Plea

Module 4: Communicating with Attorney, Giving Testimony, and How to Assist in Defense

Module 5: Review Expectations and Standards for Proceedings and Courtroom Behavior

In general, we discovered that it is imperative that training materials be developmentally appropriate, targeted, and able to be differentiated and supplemented with other materials to account for both scaffolding and transfer of learning (Viljoen, Odgers, Grisso, & Tillbrook, 2007). Understanding that programs should be developmentally appropriate and differentiated requires consideration of how the program is inclusive of services that meet the assessed needs of the juveniles. For example, for those identified as not competent due to mental illness, there is a general presumption that provision of mental health services is an effort to restore competence (Grisso et al., 2003).

There remains a debate as to what constitutes success with an attainment curriculum. As Pinal (2005) noted “Whether competence restoration programs are successful has often been measured in the literature by an ultimate clinical recommendation to the court that the defendant has regained or attained competence, and/or whether the courts have adjudicated the defendants as competent” (p 97). Other metrics used may include the time it takes to CST (Pinal, 2005) whether or not there is reductions in recidivism. Regardless, the designation of competence in the adjudication process is important and has substantive effects, as it may contribute to decisions of whether juvenile proceeds stands trial, receives mental health services, or even is tried as an adult (Grisso et al., 2003).

Time to Attainment

The variable of time to CST remains a central question, particularly as debates about how much time is necessary and sufficient for one to be determined CST. According to Zapf and Roesch (2011) between 75 and 90% of persons identified as incompetent initially are deemed competent within six months to one year. Consistent with this finding, most legislation permits up to a year for the juvenile to work through a particular attainment process or program in order to restore competency so that the trial may proceed. Though this window of time is permitted, it is at least implied that the process for remediating someone to CST would occur as expeditiously as possible. CST remains predicated on the legal parameters established in *Dusky*. Thus, CST does not require full remediation or restoration of competency. Instead, the time allowed for the attainment curriculum is to be used for either competency determination or competency remediation (Redding & Frost, 2003).

From a review of the literature, it is apparent that brief instruction may not impact CST (Viljoen et al., 2007). Thus, it is essential that consideration must be given to the amount of time necessary within the curriculum and intervention to move competence from awareness to learning or mastery are essential. Thus, consistent with the earlier discussion of the purpose of a curriculum, the attainment curriculum and intervention program time allowances must attend to scaffolding and the learning transfer theory. In this way, as Viljoen and Grisso (2007) explain, youth will then develop the "...capacity to retain understanding of information across time so as to apply the information later, not merely understanding the information at the moment it is taught" (p. 94).

Provision of Curriculum in the Least Restrictive Environment

The US Supreme Court in *Jackson v. Indiana*, 406 U.S. 715 (1972) found that a defendant cannot be held for an indefinite period of time based purely on the finding that they are incompetent to stand trial, as this is the equivalent to finding guilty without a trial. Subsequently and similar to provisions in Individuals with Disability Education Act (IDEA), juveniles in the system who have been identified as ICST must be afforded an opportunity to demonstrate CST. Specifically, those engaged in a curriculum attainment program are expected also to be served in the least restrictive environment (Warren et al., 2009). In Utah, a juvenile cannot be held in custody with DCFS, DHS or DSPD based on a designation of incompetency *Utah 78A-6-1303(4)(a)*

To date, a preponderance of juveniles who participate in competency attainment programs do so in community-based, outpatient programs, which are the preferred, in part, due to cost and the availability and ability of the youth to stay at home. For those who are unable to remain in their home or related environment and who must be detained either in a hospital or other center, competency-based programs are provided in their in-patient location.

Curriculum Foundations

What is curriculum? Curriculum is a critical factor in student success, (Steiner, 2017) and can be described as a framework that sets expectations for student learning outcomes. Among the many variations and interpretations of curriculum, the actual curriculum is the one that is enacted with students (English & Steffy, 2001). It serves as a guide for teachers that establishes standards for student performance.

Curriculum Components

Curriculum refers to an integrated system linking learning, instruction, and assessment, that includes, specific goals/learning objectives, instructional methods, resources, measures, ways of differentiating the content allowing students with diverse needs opportunities and experiences to access the content (Ali, 2018, Kelly, 2009, Ball & Cohen, 1996). For a description of these components see Table 3. Curriculum Components with Description. As outlined below, a curriculum is attentive to the learning objectives, content/subject matter and learning experiences (Lunenburg, 2011).

Table 3. Curriculum Components with Description

Component	Description
<i>Goals and Objectives</i>	The expectations for teaching and learning made explicit in the form for a scope and sequence of skills.
<i>Instructional Methods</i>	The strategies a facilitator/teacher may use.
<i>Resources</i>	The media, activities, technology application, tools, and textbooks.
<i>Assessments</i>	The measures of student learning of intended objectives.
<i>Differentiation</i>	Identifies different ways to support each student who does not learn intended objectives or needs enrichment because the student already mastered the objectives.

Curriculum Purpose and Scope

A curriculum addresses four basic questions:

1. What do all students need to know and be able to do? (Standards/Learning Goals),
2. How do we teach so all students learn? (Instructional Methods, Differentiation)
3. How do students demonstrate their learning so we know if they have learned it? (Assessment and Outcomes)
4. What will we do if students don't know or already have an understanding? (Differentiation).

A curriculum generally appears as a document that includes three major components: content, structure, and process. The desired outcome of curriculum is successful student acquisition of knowledge, skills, and attitudes, along with the skills to transfer learning into a new context (Berchin-Weiss, et al, 2016, Bancroft, 2002, Hayes-Jacobs, 1997). A curriculum identifies to the learner what to expect, including content, and methods of student support. The curriculum advises the teacher what to do to deliver the content in a way that supports each learner in their task of gaining understanding and proficiency with the content.

Many definitions and interpretations of curriculum exist in the literature. From the *Glossary of Education Reform* (2015):

Curriculum typically refers to the knowledge and skills students are expected to learn, which includes the learning standards or learning objectives they are expected to meet; the units and lessons that teachers teach; the assignments and projects given to students, the books, materials, and readings used in a course, and the tests, and other methods used to evaluate student learning.

The curriculum outlines the objectives that students are expected to meet by the end of a set time frame. Some guides are specific, providing details as to what instruction should look like, and what content is to be learned by the end of the designated time period. Students are given activities for practice, and assessments/quizzes to demonstrate the degree they have learned it. Some curricula are clearer about the objectives of lessons and provide better teacher supports for implementing the lessons (Stein and Kaufman 2010), which could in turn lead to differing effects.

Curriculum is multi-faceted, and can be thought of as more than just the technical listing of the textbook, the materials, activities, videos and worksheets that guide teachers to teach the curriculum. Curriculum can and should address issues of equity, cultural relevance, and students with diverse needs, such as cognitive, physical, and/or emotional disabilities. (Anderson & Nash, 2016, Berchin-Weiss, et al, 2016, Bancroft, 2002). Curriculum includes guidance for instruction that ensures student learning, specifically, suggesting strategies to differentiate the learning for diverse, individual student needs, ways of assessing students, and suggestions for interventions when students aren't successful transferring content to new situations. Recent scholarship further indicates that differentiated instruction is attentive to cultural, familial, and academic differences (Fiedler et al., 2008; Santamaria, 2009; Suddan, 2006; Tomlinson, 2017)

Underlying the design of curriculum are assumptions about student learning, namely, that everyone learns in the same way, and that if we “deposit the information” (Freire, 1993), then students will learn and know the information in the way that it is presented to them (Cullen, et al, 2012, Freire, 1993). Research tells us that a variety learning theories can be used to guide “equitable pedagogy” - instructional decisions that allow each student the opportunity to construct, acquire, and retain knowledge and apply in different contexts (Cullen & Hill, 2013). Moreover, we know that students with disabilities are not served by a “one fits all curriculum”, and need adaptations and modifications to access intended content and to be successful in learning intended objectives.

Instructors who engage in a student-centered approach to curriculum increase opportunities for student engagement. Researchers have synthesized the evidence from reviews of curriculum related research and found that there are some key findings about how students engage in learning, whatever the subject, phase or pedagogic focus, to guide teachers in intentionally planning activities creatively in response to the needs and abilities of students (Bell, et al, 2010). They found that learning thrives when students engage in collaborative learning and structured dialogue in group work, and that the curriculum and its delivery builds on students' current knowledge and understanding.

Research shows that engaging students in the learning process increases their engagement and ownership in their own learning, and motivates them to practice skills, and promotes authentic and relevant learning experiences connected to their context. (Saphier, 2017). Instructors who engage in a student-centered approach to curriculum and instruction increase opportunities for student engagement and the realization of intended learning outcomes. For students with identified disabilities, attention must be given to methods of teaching, or pedagogy, that will enhance the

student's ability to understand and apply the learning. The research on curriculum implementation with students with disabilities highlights that disabilities are a variable rather than a disadvantage (Hartmann, 2015).

Methods that have demonstrated effects on student learning include direct and explicit instruction, including use of examples/nonexamples, model-lead-test, T-chart (Flores & Ganz, 2009; Knight, Spooner, Browder, Smith, & Wood, 2013), engagement of students on content (Göransson, Hellblom-Thibblin, & Axdorph, (2016), and engagement between students (Göransson et al., 2016), differentiation and flexibility in delivery (Jorgensen & Lambert, 2012; Knowlton, 1998), graphic organizers (Knight et al., 2013; Lee, Amos, Gragouda, Lee, Shogren, Theoharis, Wyhmeyer, 2006), goal setting (Lee et.al, 2006), chunking and breaking down tasks (Lee, et al., 2006; McDowell, 2010); team work and collaborative learning (Prendergast, Spassiani, Roche, 2017)

Curriculum is a beneficial guide for teaching and learning when the curriculum clearly identifies learning outcomes, that is, what students are to know and are able to do, provides guidelines for teachers to choose appropriate methods that result in student learning, focuses on goal proficiency, connects to student's context and application to context, and provides measurements of student progress. Curriculum can be constraining, however, when a curriculum results in students' low motivation or interest, lack of cognitive engagement, none to minimally activities or suggested strategies to differentiated to meet students' needs, and the content inaccessible to some students due to cultural (lack of experiences with presented situations), academic (can't access content), or ability (language) differences (Krajcik & Delen, 2017)

In the context of accountability, assessment serves as the key tool for change. Are students learning what is intended and identified by learning objectives in the curriculum? In today's accountability-driven context, student learning results are the intended outcome (Drake, 2007). One pathway to student learning results is the alignment of the written curriculum, instruction to achieve student learning results, and assessment of written objectives – what students should know and do, how they learn objectives, and how they demonstrate their understanding (English & Steffy, 2001). A second pathway allowing students to learn is the consideration of cultural, physical, and emotional factors. Teacher capacity (their level of education, experience, and knowledge) and their use of curriculum influence instruction, subsequently, and student learning. (Stein & Kaufman, 2010).

Scaffolding, Bloom's (Revised) Taxonomy, and Learning Transfer

Here we address three inter-related aspects of teaching and learning for consideration: scaffolding, Bloom's Taxonomy, and Learning Transfer. Taken together, these three aspects provide a basis for planning and implementation of the curriculum.

Scaffolding. While there is content scaffolding, here we will address instructional scaffolding. Instructional scaffolding is a process that involves teachers adding supports for students allowing them assistance in mastering content, skills, and/or tasks. Scaffolding instruction originates from Lev Vygotsky's sociocultural theory and his concept of the *zone of proximal development* (ZPD). "The zone of proximal development is the distance between what children can do by themselves and the next learning that they can be helped to achieve with competent assistance" (Vygotsky, 1978, Raymond, 2000, p.176). The primary goal of scaffolding is that the learner gains the skills required to perform the target task independently, and also assumes responsibility for the task. Scaffolding

aims at promoting the capacity and the willingness to perform complex tasks independently (Belland, Kim, & Hannafin, 2013). Scaffolding helps fill in key gaps in students' abilities and knowledge allowing them the opportunity to complete a task independently, and also helps enlist students' interest in the learning task to sustain their engagement.

Scaffolding is useful when students are learning new tasks that have multiple steps. A key feature that distinguishes scaffolding from other forms of instructional support is that it is temporary, not continued indefinitely, and provided as students engage with problems (Belland, 2014). As students master the assigned tasks, instructional supports are gradually removed. A teacher scaffolds by systematically building on students' experiences and knowledge as they are learning. Just like a scaffold is a temporary structure for holding workers' materials during the construction of a building, instructional supports, used as scaffolds, are temporary and adjustable.

Effective scaffolding strategies break up learning into chunks or smaller parts, and then provide a tool or structure with each part. For example, instead of reading a chapter or lengthy passage and answering multiple choice questions at the end, a teacher with a student, can preview the parts, use visual aids, gives students time to talk and proves new ideas, discuss key vocabulary, shorten the text, or activate student's prior knowledge or experiences about the topic. Scaffolding supports students with learning disabilities, who often disengage in tasks because they do not understand the underlying concepts to which they should be attending during each step (Olson & Platt, 2000). According to Belland (2014), scaffolding can be provided by teachers (one-to-one scaffolding), peers (peer scaffolding), and computers (computer-based scaffolding). See Table 4. Types of Scaffolding in Curriculum Delivery.

Extensive research shows that scaffolding improves student success throughout a course toward mastery of course objectives (Ge & Land, 2003; Johnson & Smith, 2008; Williams van Rooij, 2009). Instructional scaffolding provides necessary support for students while promoting both independent learning, and developing a deeper understanding of the course and/or lesson objectives. (Skene & Fedko, 2014). Scaffolding breaks the learning objectives into doable and manageable steps throughout the curriculum, and not just once or twice until the students can do tasks independently. The teacher makes the process for content objectives transparent and clear through the course of study (Fink, 2003). Four methods of scaffolding can be used throughout a curriculum:

1. Process scaffolding - breaking a finished product into its component parts.
2. Critical Thinking scaffolding - use of different types of assignments to build students critical thinking skills.
3. Disciplinary practice - builds concepts gradually and is helpful for lower level students who need support in understanding different expectations of the discipline of study.
4. Blended to encourage student to develop a range of skills (Skene & Fedko, 2014). Because some assignments require complex skill sets, scaffolding provides students opportunities to stay on track to complete assignments, and more opportunities to receive feedback toward mastering course objectives.

Bloom's Revised Taxonomy. Utilizing Bloom's Taxonomy as a support to both individual and content scaffolding is beneficial. Benjamin Bloom's Taxonomy (1956) originally included Knowledge, Comprehension, Application, Analysis, Synthesis, and Evaluation. The original taxonomy was considered, or at least implemented as, a step-wise process wherefore mastery was considered necessary before progression to the next- and more abstract- level of learning. Research has

demonstrated that when applied in the classroom setting a significant amount of time is often spent in the knowledge and comprehension levels versus the other levels. Recently, Anderson, Krathwohl, Airasian, Cruikshank, Mayer, Pintrich, Raths and Wittrock (2001) proposed a revised two-dimensional Taxonomy. The Knowledge Dimension encompasses four categories: factual knowledge, conceptual knowledge, procedural knowledge, and metacognitive knowledge. The Knowledge Dimension Categories exist on a continuum from concrete to abstract (Anderson et al., Abridged, 2001). The Cognitive Process Dimension includes six categories: Remember, Understand, Apply, Analyze, Evaluate, and Create (Anderson et al., 2001; Krathwohl, 2002). Appendix D provides an overview of the revised Taxonomy as well as definitions and verbs that characterized the type of teaching, learning, and assessment experience available.

Learning Transfer. Learning transfer, which is a necessary aspect of development, is demonstrated through three dimensions: application, generalizability and maintenance of new knowledge (Baldwin & Ford, 1988; Blume et al., 2010; Ford & Weissbein, 1997; Holton et al., 2000). Research indicates that there are three conditions that impact the ability of an individual to transfer their learning. These conditions include the characteristics of the learner (i.e. ability, personality and motivation), the design of the learning experience (i.e. the program), and the environment (i.e. support and opportunities for use) (Baldwin and Ford, 1988).

Table 4. *Types of Scaffolding in Curriculum Delivery*

Type of Scaffolding	Description of Scaffolding
<i>One-to one scaffolding</i>	Involves the teacher working one on one with a student and leads to the strongest influence on learning outcomes. Using one-to-one scaffolding, teachers question student understanding, actions for which human teachers are more suitable than computer-based scaffolding (Belland, Burdo, & Gu, 2015; Lin et al., 2014).
<i>Peer scaffolding</i>	Is support provided by students by peers of similar or greater ability. Individual empirical studies indicate that peer scaffolding positively influences cognitive outcomes (Oh & Jonassen, 2007; Pifarre & Cobos, 2010).
<i>Computer scaffolding</i>	Involves embedding a computer tool into a curriculum that helps students engage in and gain skill at tasks that are beyond their unassisted abilities. A recent meta-analysis found that it leads to an average effect size of 0.79 on cognitive learning outcomes (VanLehn, 2011). Computer-based scaffolding can help students with persistent support related to important concepts and strategies that figure into the problem solution.

The following information describes both instructional methods as well as components of programs that have demonstrated some success. These descriptions characterize the component, how it works, including what are the necessary elements and roles of the instructor and the youth, and the identified best techniques and approaches.

Instructional Methods

Instructional methods identify the strategies used by teachers to support student learning of curriculum content and processes. The methods explored for suggested use in the attainment curriculum are student-centered allowing for both teacher and student to play an active role in a student's learning processes, rather than being only teacher-centered that uses direct instruction to transmit information in just one way to students. The key to a curriculum's successful choice of instructional methods is to have sufficient strategies to meet a variety of diverse student learning needs. A curriculum can maximize student learning success by identifying a variety of student-focused instructional strategies that match their unique learning needs (Voltz, Sims, & Nelson, 2010). The following instructional methods are explored more deeply: interactive and participatory, technology integrated instruction, systematic and explicit instruction, cultural competence strategies, augmentative and alternative communication aids, vignettes, exemplars, individualized and differentiated instruction, group instruction, and formative and summative progress monitoring (Langley et al., 2016).

Interactive and participatory instructional methods

Interactive and participatory instructional methods include the action of students taking part in processes and activities that allow them to play an active role in their learning. Students participate in their own learning and their voices shape learning outcomes, rather than listening passively to a lecture. Participatory methods especially support culturally and ethnically diverse students by increasing access to high quality, high-status knowledge (Gay, 2010). Participatory instructional approaches, in contrast to the teacher-centered transmission model of instruction, are common to most subject area classrooms in the United States (Bean, 2000; Wade & Moje, 2000), support adolescents' academic literacy development by integrating structures that promote peer interaction (e.g., peer led literature discussions or reading/writing workshops, journaling) and interaction with a knowledgeable other. This engagement includes scaffolded instruction where a teacher supports student learning and then gradually withdraws that support when students show they are capable of assuming responsibility for their learning (Kenny & Wirth, 2009). Participatory approaches to instruction are also concerned with mastering learning objectives similar to a general transmission model.

A distinguishing feature between participatory approaches to instruction and a transmission model of teaching is the role of the text in students' learning. Using transmission methods, teachers are viewed as dispensers of knowledge, contrasted with using participatory methods where the teacher's role is one of facilitator, motivator and a promoter of learning during classroom interactions. Students use texts as tools for learning and for constructing new knowledge. In transmission classrooms, subject matter textbooks are often primary curriculum; in participatory classrooms, a mix of textbooks, magazines, student-generated texts, hypermedia productions, visuals, and so on are used to support and extend the curriculum (Wade & Moje, 2000).

Interactive instruction also encourages and expects learners to participate. Questions are used frequently to stimulate discussion, and visual aids and tools are used intentionally to gain and retain student engagement. Interactive instruction relies heavily on making learning objectives/outcomes clear, and includes discussion and sharing among participants to learn the objectives. (Ambrose, et al., 2010). Students learn from peers and teachers to develop social skills and abilities, to organize their thoughts, and to develop reasoning skills.

Research shows that people will listen for only 15-20 minutes without a break, learn more when given an opportunity to process what they are learning, and retain more if they use information immediately following the learning session (Bransford, et al, 2000). The teacher's role in an interactive learning environment is to outline a topic, plan for discussion, organize groups, and identify how students report and share what they learned.

Interactive instruction requires the refinement of observation, listening, and intervention skills by both teacher and students. Examples include small group discussion, think- pair-share, peer partner learning, brainstorming, role playing. The success of the interactive instruction strategy and its many methods is dependent upon the expertise of the teacher in structuring and developing the dynamics of the group. Moreover, interactive, multimodal strategies have been identified as helpful with those who are have psychological problems, conduct disorder and anxiety disorders (Lasker, LaPointe, & Kodras, 2005; Noffsinger, 2001; Spence, Donovan, & Brechman-Toussaint, 2000). Suggested strategies include modeling, role-playing and rehearsal, feedback, self-monitoring, social problem solving, and self-regulation were effective in enhancing specific social skills such as expressing opinions, refusing unreasonable requests.

Technology Integrated Instruction

Technology integrated instruction is the use of technology tools, such as, computers, mobile devices like smartphones and tablets, digital cameras, social media platforms and networks, software applications, the Internet, etc. that becomes a part of daily life as part of students' learning practices, and could be regarded as an approach or a process to look for problem solutions (Donnelly et al., 2011). Basically, the curriculum drives the use of technology and not the other way around. Successful technology integration is achieved when the use of technology is: routine and transparent, accessible and readily available for the task at hand, supports curricular goals, and helps students effectively achieve learning goals. Technology integrated instruction is expected to enhance students' learning effectiveness through the inclusion of information technology and learning opportunities. In addition, this method for teaching promotes students' information abilities. In one study of English Language Learners (ELLs), students' use of interactive whiteboard technology increased student achievement in reading and fostered closing the achievement gap between ELL and non-ELL students (Lopez, 2010). When technology integration is at its best, a child or a teacher doesn't stop to think that he or she is using a technology tool. Students engagement and motivation increases in projects when technology tools were a seamless part of the learning process.

Systematic and Explicit Instruction

Explicit instruction is a structured and effective instructional strategy for teaching academic skills. It is called explicit because it is a clear and direct approach to teaching that includes both instructional delivery and design. Explicit instruction is characterized by a series of supports or scaffolds where teachers guide students through the learning process with clear statements about the purpose and rationale for learning a new skill, clear demonstrations of the learning target, and support student practice with feedback from the instructor until mastery is achieved (Archer & Hughes, 2011). Elements of explicit instruction include the following: focused instructional on critical content, sequence skills logically, break down complex skills and strategies into smaller instructional units, design organized and focused lessons, begin lesson with clear statement of goals, review prior, skills, and use clear and concise language.

Students who have difficulty reading, for instance, are more likely to learn essential reading skills if an explicit model of instruction is part of the teacher's instructional methods. Directly/explicitly teaching means imparting new information to students through meaningful teacher–student interactions and teacher guidance of student learning. Using explicit teaching, the teacher leads the learning process that includes explicit explanations, modeling or demonstrating, and guided practice (Rupley, et al, 2009).

Cultural Competence and Responsiveness

Another important aspect of competency attainment programs includes attention to cultural competence on behalf of curriculum delivery (Mossman et al., 2007). Cultural competence, according to Cross, Bazron, Dennis & Isaacs (1989) define cultural competence as:

A set of congruent behaviors, attitudes, and policies that come together in a system, community, or among professionals that enables them to work to work effectively in cross-cultural situations. Cultural competency is the acceptance and respect for difference, a continuous self-assessment regarding culture, an attention to the dynamics of difference, a continuous self-assessment regarding culture, an attention to the dynamics of difference, the ongoing development of cultural knowledge, and the resources and flexibility within service models to meet the needs of minority populations. (p 33).

As noted by Thompson & Thompson (2012), knowledge and understanding as well as the skills to demonstrate that services align with the client's culture "...may be the most important factor in making services accessible to people of diverse backgrounds" (p. 302). Saldaña (2001, p. 4-7), who provided a comprehensive list of knowledge, skills, and attributes that mental health providers should be attentive to when working with clients, addressed specific communication and rapport building techniques, and offered specific considerations for cross-cultural client work. Communication techniques included attention to personal space, eye contact and other feedback behaviors, interruption and turn-taking behaviors, gesturing and facial expressions, use of silence, dominance behaviors, volume and touching. Rapport building approaches such as understanding who may need to be present (or not), addressing confidentiality, goals and priorities, environmental

supports, providing feedback and explanations of actions, and even addressing the impact of potential consequences.

Augmentative and Alternative Communication Aids

Augmentative and alternative communication aids (AAC/A) are ways that individuals with severe language or other speech problems find to communicate. They are often used with individuals who have autism or developmental disorders. AAC/A systems use some type of device or tool, such as a pen and paper, pointing to letters, words, and/or pictures, touching on a screen, or using a speech generated device. Now, AAC/A software applications also run on smartphones and tablet computers and can be used to meet the diverse needs of individuals with autism spectrum disorders, or other communication disorders (Sennott & Bowker, 2009). Research suggests that a thorough analysis of a person's communication needs, accompanied by explicit practice in techniques to overcome barriers to participation, can result in a successful vocational outcome enabling a person to maintain their identity. Multi-modal systems that are preferred from the observers' perspective include using synthesized speech from the computer and using key word techniques (Lasker, et al. 2005).

Vignettes

Vignettes present an issue that the learner can identify with regardless of whether that exact situation has occurred with them. Generally, the vignettes provide an account of an actual problem and/or situation an individual and/or group experienced. Vignettes might be considered as “short stories about hypothetical characters in specific circumstances to whose situation the interviewee is invited to respond...moving from the abstract to context-specific” (Finch, 1987, p. 106). The instructional method provides a means of analyzing and solving a typical problem that asks the basic question, “What would you do?” The solution must be practical and represent the best solution you can come up with under the circumstances. A vignette sets up a situation in which there is no one “right” answer, and can be used to discover how learners transfer learning in one context to a new situation. (Jeffries & Maeder, 2005).

Vignettes are comprised of text or images, such as short written prompts to actual experienced events, to which the learner is asked to respond. Research from the fields of health and behavioral science by Hughes and Huby (2002) suggest that vignettes could serve as an assessment tool designed to collect evidence of a learner's understanding and proficiency with skills, objectives, and concepts for the following reasons: provide a useful focus and stimulus for discussion, vignettes are valuable in detecting subtleties and nuances, are useful in addressing difficult-to-explore and sensitive topics, and vignettes do not necessarily require participants to have in-depth knowledge of the topics under study.

Exemplars

Exemplars are another instructional method and are samples of learning outcomes that are used to illustrate quality. They exemplify a final product or level of performance expected after engaging in a lesson or course of study. The value of an exemplar is that it provides a visual and generates a dialogue about what is to be achieved. An exemplar can also take the form of a performance task or model that best exemplifies the ideal in a curriculum that can serve to improve assessment and

instruction resulting in students knowing how to master core learning objectives. (Ellis, 2014). Exemplars can also identify the type of cognitive demand that is required to fulfill course objectives, or what behavior is required to transfer learning in one context to another. An exemplar can begin a lesson so students know what the final product looks like, and teachers can use the exemplar to redirect misunderstandings back to the exemplar.

According to (Sadler, 2002), there are many benefits to using exemplars in teaching that include the following: concreteness of exemplars versus rubrics which are vague and abstract for students, promote self-evaluation as they can be used to illustrate what good work looks like and can be used by students for comparing their own performance, develop evaluative expertise in learning to apply criteria, self-evaluate and make informed judgments about what they are learning to do, analysis and higher order learning is facilitated. Students are given the opportunity to identify strengths and weaknesses manifest in the samples and suggest improvements, students gain experience in making judgments, and then apply their insights to their own work. It is the quality of the dialogue about the strengths and weaknesses of the exemplars which is a crucial factor in supporting student learning. (To & Carless, 2015).

Individualized and Differentiated Instruction

Individualized, or differentiated, instruction focuses on the needs of the individual student, and teaching specifically targets one need at a time. Individualized instruction can be used on its own, or it can be part of differentiated teaching. Some students who receive individualized instruction need more teacher attention to help them understand and learn. Other students using the same teaching method can skip topics they already know and go on to advanced information. Evidence suggests students who experience a lack of competence in their academic abilities and learned helplessness in early school years, benefit from an individualized instruction and assessment system to remediate these differences. (Ross & Broh, 2000). Analysis of the research suggests that the psychological experience of school for low achieving students may be changed when instruction is individualized, where students are challenged at their own levels, and where each student receives specific assessment information confirming successful advancing to higher levels (Yeh, 2010).

Group Instruction

Group instruction generally occurs in small groups. Small group instruction usually follows whole group instruction to reinforce or reteach specific skills and concepts and provides a smaller student-teacher ratio (1 to 4 or 6). Small groups typically range in size from four to six students. Small group instruction and cooperative learning have a significant impact on student achievement (Hattie, 2009). Four key benefits to small group instruction:

1. *Personalized Instruction:* small group instruction allows teachers to work more closely with each student to provides the opportunity to evaluate students learning strengths, locate gaps in the development of their reading or math skills and focus on specific learning objectives,
2. *Provide Feedback:* allows a teacher to monitor student actions closely and provide individualized feedback to improve specific reading or math skills,
3. *Reteach:* small group instruction gives teachers time to provide additional teaching and practice needed for struggling students to master important skills, and

4. *Build Confidence Through Collaboration*: provides a safe environment to boost the confidence of students who might not otherwise participate in a lesson or activity.

Another form of group instruction is didactic group programming (Brown, 1992), which has been used to work with individuals identified as ICST. Often used with individuals identified with mental health, substance abuse, or other disorders, didactic group goals include:

- Setting social and behavior expectations for cooperation and participation in the criminal justice system,
- Providing accurate and relevant information about the system,
- Monitoring progress in the stabilization of the patient’s mental disorder and in the ability of to understand the criminal justice system, and
- Assisting in the treatment team in narrowing the issues relevant to fitness in each case (Brown, 1992, p. 732).

Because of its structure with sequenced and scaffolded content and its intent to build awareness, decision-making skills, and knowledge transfer, didactic group programming is conducive for competency training.

Formative and Summative Progress Monitoring

Student progress monitoring, such as formative and summative monitoring, is a practice that helps teachers use student performance data to engage in ongoing evaluation of the effectiveness of their teaching and select more informed instructional decisions (Safer & Fleischman, 2005). Research demonstrates that when teachers use student progress monitoring, students learn more, teacher decision making improves, and students become more aware of their own growth. Research conducted over the past 30 years has shown progress monitoring to be a reliable and valid predictor of student performance on many outcome measures, and useful for a wide range of instructional decisions (Deno, 2003). Fuchs and Fuchs (2002) conducted an analysis of research on student progress monitoring that considered experimental, controlled studies. They concluded:

When teachers use systematic progress monitoring to track their students' progress in reading, mathematics, or spelling, they are better able to identify students in need of additional or different forms of instruction, they design stronger instructional programs, and their students achieve better. (p. 1)

Table 5. Curriculum and Instructional Methods

Curriculum & Instructional Method	Description	Implementation
Scaffolding	A process that involves teachers adding supports for students allowing them assistance in mastering content, skills, and/or tasks. The learner gains the skills required to perform the task independently and assumes responsibility for the task.	Effective scaffolding strategies break up learning into chunks or smaller parts, and then provide a tool or structure with each part. Instead of reading a chapter or lengthy passage and answering multiple choice questions at the end, a teacher with a student, can preview the parts, use visual

Curriculum & Instructional Method	Description	Implementation
		aids, gives students time to talk and proves new ideas, discuss key vocabulary, shorten the text, or activate student’s prior knowledge or experiences about the topic.
Bloom’s Revised Taxonomy	Identifies six processes on a continuum of increasing cognitive complexity. Cognitive Process Dimensions moving from concrete to abstract include: Remember, Understand, Apply, Analyze, Evaluate and Create.	Used when designing tasks to promote students thinking and reasoning as they acquire knowledge to meet learning outcomes. Students begin at a lower level dimension – remembering, recalling, then progressively increase their level of thinking to apply, analyze, and create.
Learning Transfer	Refers to applying knowledge, skills, and behavior learned in one context to new and unfamiliar situations in another context.	Activities focus on ensuring that the learner is prepared for the core learning event and include practice activities, role modeling, setting learning goals, coaching and connecting learning to the actual situation for application.
Cultural Competence and Responsiveness	Attends to the knowledge and understanding as well as the skills to demonstrate that learning tasks align with the client’s culture, and to a set of congruent behaviors, attitudes, skills, and policies that come together in a system, community, or among professionals that enables them to work and learn effectively in cross-cultural situations.	Communication techniques include attention to personal space, eye contact and other feedback behaviors, interruption and turn-taking behaviors, gesturing and facial expressions, use of silence, dominance behaviors, volume and touching. Rapport building approaches such as understanding who may need to be present (or not), addressing confidentiality, goals and priorities, environmental supports, providing feedback and explanations of actions, and even addressing the impact of potential consequences.
Differentiated Instruction	Taking into account students’ individual learning abilities and levels of readiness before designing a lesson plan. The teacher then delivers the lesson at varying levels of rigor and challenge based on the abilities for each student informed by data.	Lessons are designed based on students’ abilities, students are grouped by shared interest, topic, or skill for the lesson or task, formative assessment is used to assess students’ learning of objectives, and lessons and tasks are continually adjusted to allow each student to access the content.
Interactive and Participatory Instructional Methods	Includes students taking part in processes and activities that allow them to play an active role in their learning. Students participate in their own learning, and their voices shape learning outcomes, rather than listening passively to a lecture.	Interactive instruction requires the refinement of observation, listening, and intervention skills by both teacher and students. Examples include small group discussion, think- pair-share, peer partner learning, brainstorming, role playing, use a mix of textbooks, magazines, student-generated texts, hypermedia productions,

Curriculum & Instructional Method	Description	Implementation
		and visuals to support and extend the curriculum.
Technology Integrated Instruction	The use of technology tools, such as, mobile devices like smartphones and tablets, digital cameras, social media platforms and networks, software applications, the Internet, etc. that becomes a part of daily life as part of students' learning practices.	Use of technology is integrated into instruction, is routine and transparent, accessible and readily available for the task at hand, supports curricular goals, and helps students effectively achieve learning goals.
Systematic and Explicit Instruction	A clear and direct approach to teaching that includes both instructional delivery and design characterized by a series of supports or scaffolds where teachers guide students through the learning process with clear statements about the purpose and rationale for learning a new skill, clear demonstrations of the learning target, and support student practice with feedback from the instructor until mastery is achieved.	Involves imparting new information to students through meaningful teacher–student interactions and teacher guidance of student learning. The teacher leads the learning process that includes explicit explanations, modeling or demonstrating, and guided practice.
Augmentative and Alternative Communication	Ways that individuals with severe language or other speech problems find to communicate.	AAC systems use some type of device or tool, such as a pen and paper, pointing to letters, words, and/or pictures, touching on a screen, or using a speech generated device.
Vignettes	Presents an issue that the learner can identify with regardless of whether that exact situation has occurred, and provides an account of an actual problem and/or situation an individual and/or group experienced.	Comprised of text or images, such as short written prompts to actual experienced events, to which the learner is asked to respond to a situation in which there is no one “right” answer, and can be used to discover how learners transfer learning in one context to a new situation.
Exemplars	Exemplifies a final product, visual, or level of performance expected after engaging in a lesson or course of study and generates a dialogue about what is to be achieved.	Students are given the opportunity to identify strengths and weaknesses manifest in the samples and suggest improvements, apply making judgments, and apply their insights to their own work. Takes the form of a performance task or model that best exemplifies the ideal in a curriculum that serves to improve assessment and instruction resulting in students knowing how to master core learning objectives.
Individualized and Differentiated Instruction	Focuses on the needs of the individual student. Teaching targets one student or learning need at a time.	Teachers set clear and specific goals, make goals challenging and realistic, design tiered assignments, adjust questions, provide

Curriculum & Instructional Method	Description	Implementation
		students choice activities, and let students be accountable and own their progress.
Group Instruction	Small group instruction usually follows whole group instruction to reinforce or reteach specific skills and concepts, and ranges in size from 4-6 students.	Based on frequent monitoring and use of multiple data sources, students are grouped with shared skill needs, are assigned required tasks that reinforce recent learning aligned to intended goals,
Formative and Summative Progress Monitoring	Helps teachers use student performance data to engage in ongoing evaluation of the effectiveness of their teaching and select more informed instructional decisions.	Teacher identifies students in need of additional or different forms of instruction, then design strong and effective instructional programs allowing students to achieve better.

Skill Development Program Elements

In the previous section, we provided a review of instructional methods that are useful in curriculum delivery. Now, we turn our attention to specific types of programs that are useful when working with adolescents, particularly those who have been assessed as lacking in cognitive, social, behavioral, communication, and decision-making skills.

Supporting Cognitive Development

Cognitive development refers to changes in the brain that prepare people to think and learn. In adolescence, just as in early childhood, the brain undergoes substantial amount of growth and development. The changes in the adolescent brain affect adolescents' thinking skills. These changes reinforce adolescents' abilities to make and carry out decisions. The brain grows and strengthens itself in three ways:

1. ***New brain cells grow.*** The brain produces a large number of cells at a very fast rate.
2. ***Brain structure changes.*** The brain trims down the extra growth based on the parts of the brain the adolescent uses and gives access the information they use most.
3. ***Connections strengthen.*** The brain wraps a special fatty tissue around the cells to protect and insulate them. These changes help adolescents recall information and use it efficiently (McNeely & Blanchard, 2009).

Programs that support adolescents' cognitive development include an emphasis on the following:

- *Doing abstract thinking:* thinking about possibilities and developing a broader understanding of abstract ideas,
- *Reasoning from known principles:* forming own new ideas or questions to plan for their future and consider how their choices will affect future outcomes,
- *Considering multiple points of view:* comparing or debating ideas or opinions,

- *Using metacognition*: thinking about the process of thinking; means being aware of the act of thought processes (Steinberg, 2005).

Teaching methods might include:

- asking open ended questions that invite thought and debate,
- encourage making decisions based on factual evidence,
- use role-playing and problem solving, and
- use explicit instruction.

Explicit instruction is an effective method for teaching critical thinking skills to high school students, and in one research study, students receiving explicit instruction showed much larger gains than those in the imbedded instruction groups (Marin & Halpern, 2011).

Developing Social Relationships and Social Skills

Quality social relationships and effective *social skills* play a role in healthy psychological development, academic success, and later life relationships that develop social and emotional learning. Social skills include conflict resolution, self-control and behavior regulation, social confidence, assertiveness, self-efficacy, and social initiative. Social skills have proven to be effective in improving students' attitudes towards school, feeling more connected to school, having more positive attitudes towards themselves and others, reducing conduct problems, decreasing emotional distress (e.g., anxiety, depressive symptoms), and improving academic grades (i.e., 11 percentile points higher on academic achievement measures; Durlak, Weissberg, Dymnicki, Taylor, & Schellinger, 2011).

Studies indicate that social relationships and social skills can be fostered and developed by a variety of programs (Hair, et al, 2002). To develop programs, curriculum or teaching strategies that enhance social skills, the following questions need to be addressed (Otten and Tuttle, 2011):

- Does the program or curriculum provide this flexibility?
- What types of delivery methods are provided and are possible?
- What are the performance deficits, skill deficits, and fluency deficits and does the program distinguish these and provide strategies to address each?
- How does the program lead to effective self-management, including self-management without any or minimal cues and prompts?

Evidence-based social skills programs will always include instructional techniques such as:

- large group instruction
- small skill groups
- individual social skills instruction
- direct instruction,
- modeling,
- role- playing the skill,
- practice of the skill in different settings, and
- performance feedback.

Developing Communication Skills

Communication skills are important in terms of building positive relationships with peers, self-esteem, and healthy socio-emotional adjustment, independence, and the ability to communicate with adults in authority. Positive peer relationships are important during adolescence (Eckert, 2005; Larson & McKinley, 2003; Smetana, Crean, & Campione-Barr, 2005). Several themes have emerged in the literature about communication skills that are important for good relationships, including those that adolescents have with their peers. One study identified 14 communication skills considered important in facilitating adolescents' positive peer relations and/or reported as problematic for adolescents with learning disabilities. Ultimately five communication skills were considered more important: nonverbal comprehension, perspective taking, vocal tone comprehension, tact, and turn taking (Reed, McLeod & McAllister, 1999).

Communication skills support adolescents to more effectively engage in interactions with the adults around them, allowing them to communicate with people in authority and to negotiate their own place in the social world (Drury & Dennison, 2000). Adult figures may perceive adolescents as having problems with communication, as young people are said to be uncommunicative and hostile, and professionals report a growth of anti-authority attitudes among young people (MacDonald, 1998), while adolescents perceive a power imbalance inherent in people with authority. The implication is that many teenagers lack the skills, and desire, to communicate effectively. Reed, McLeod, and McAllister (1999) found that, although adolescents tend to perceive skills associated with empathy as relatively more important for their communication with peers, communication skills related to discourse management strategies were deemed more important with adults.

Similar to programs that develop decision-making skills, programs that build adolescent communication skills allow students to develop and practice skills with both peers and adults in authority. Teenagers with special needs, in particular, may need direct teaching to develop these skills. Effective instruction may include:

- Role-playing – Giving them a real-life situation, and ask “What would you say?” Have them practice the situation in their group then act out the situation,
- Videos – observing video examples of individuals communicating in different situations both in and out of the school setting. Students create lists of “successful” and “unsuccessful” behavior and communication, and
- Peer Mentoring – A peer mentor can “coach” another student by giving advice about situations in their real-life context.

Developing Behavioral Interventions

Since behavior follows a set of consistent rules, methods can be developed for defining, observing, and managing behavior, then designing effective interventions that can be maintained, changed, or shaped by the consequences of that behavior. Problem behavior early in life can be related to later development of negative outcomes, such as school dropout, academic problems, violence, delinquency, and substance use; in addition, early childhood delinquent behavior may predict criminal activity in adulthood (Bradshaw et al., 2010). Interventions designed to address problem behavior and increase prosocial behavior are important for children and adolescents and for families, teachers, school officials, community members, and policy makers. Findings of an extensive review

suggest a number of benefits to the implementation of behavioral management interventions (Mather, 2001). For instance, these programs may produce positive outcomes such as reduced externalizing behavior, fewer inattention symptoms, and improved social and organizational skills (Johnson, et al, 2014).

Behavioral management interventions may occur as family-centered behavioral interventions, school-based behavioral intervention that can include services implemented across grades or classrooms or as individually targeted services, and integrated home-school programs. Integrated home-school programs may include state mental health and substance use directors, managed care companies, and county behavioral health administrators.

By first understanding behavior problems and seeing the world through the eyes of students, and, by then developing and using a set of intervention strategies on a regular basis, problems of emotions and behavior can be effectively managed and changed to alternative (desired) behaviors. To manage behavior through consequences, programs might use a multi-step process: define the problem in objective terms, measure the behavior, design a way to change the behavior, identify an effective reinforcer, consistently provide the reinforcer contingent on a desired response to shape or change behavior.

Instruction aimed at intervention strategies may include:

- systematic positive reinforcement,
- modeling of prosocial behavior,
- verbal instruction,
- role playing,
- classroom moral discussions of real-life dilemmas,
- hypothetical situations and literature;
- student engagement and student opportunities to respond,
- direct instruction;
- reinforcement techniques, including social praise, material reinforcers and tokens;
- punishment-oriented techniques, including verbal reprimand (e.g., “That’s not funny”) or response cost (e.g., taking away a privilege);
- group contingency techniques such as the Good Behavior Game;
- social problem solving,
- behavioral contracting,
- logical consequences and restorative practices,
- preventative techniques such as stating rules and expectations at the beginning of the class.

Schedules define and identify the amount of work required or the time that must elapse between reinforcers (Mather, 2001).

Reasoning, Problem Solving, and Decision-making

Adolescence is a period in which significant experiences such as problem solving, and decision making have a significant effect on the well-being of adolescents (Albert & Steinberg, 2011; Reyna et al., 2011). Research shows that problem-solving and decision-making skills have an effect on well-

being (Cenkseven-Önder, 2012; Deniz, 2006). High problem-solving skills is a predictor of well-being. High problem-solving skills reflect an individual's ability to successfully focus on the problem, define the problem, generate alternative ways of solutions, determine the solution to implement, implement the solution, and evaluate the result (Cenkseven – Onder & Collakkadioglu, 2013).

Concerns about reasoning and decision-making abilities of children and adolescents has increased among many groups (e.g., parents, educators, policymakers, and researchers) (Jacobs & Klaczynski, 2005). Questions about adolescents remain, including asking why they make risky choices, how they can be taught to be better decision makers, and what types of age-related changes occur in decision making. Adolescents' social cognition, the way they think about their social world, the people they interact with, and the groups they participate in may differ from that of adults and influence their decision-making skills (McKee, 1998). As teenagers approach maturity, they develop and apply the skills necessary to navigate adulthood and compete in a technologically changing world. Decision theory describes the steps involved in making any decision, including recognizing that a decision must be made, understanding the goals that one hopes to attain, making a list of options, determining the consequences—both positive and negative—of each option, determining the desirability of each consequence, evaluating the likelihood of each consequence, and integrating all the information (Larson & Angus, 2011). Decision theory provides a common descriptive framework for describing how people actually make decisions, for comparing what people actually do with what they could conceivably do under ideal circumstances, and for uncovering ways to help people improve their decision-making skills.

Research examines how youth develop *strategic thinking*, defined as use of dynamic systems reasoning to anticipate real-world scenarios and plan work (Larson & Angus, 2011). Strategic thinking appeared to develop through youth's creative engagement with tactical challenges in the work and feedback from the work's outcomes. Program advisors support this development by giving youth control and by providing nondirective assistance when needed. One successful program of study, "Essential Decision Skills", is organized around four components: 1) framework (decision basics, pro-activity and personal responsibility, and the definition of making good decisions), 2) personal and interpersonal (inter-personal skills, team dynamics), 3) correct reasoning (relevance, prospects and probability, measuring outcomes), and 4) process (framing the alternatives, finding alternatives, identifying consequences).

Adolescents, however, can benefit from social problem solving, which includes opportunities to practice problem solving in a natural environment or the "real world" (D'Zurilla & Nezu, 1982). D'Zurilla, Nezu, and Maydeu-Olivares (2004) define a problem in this context as:

A problem (or problematic situation) is defined as any life situation or task (present or anticipated) that demands a response for adaptive functioning but no effective response is immediately apparent or available to the person or people confronted with the situation because of the presence of one or more obstacles. (p.12)

One intervention model for developing youth's problem solving and intervention skills for drug treatment, "Integrated Judgement and Decision-Making Model (IJDM), focused on how adolescents can develop schemas (ways of thinking) and metacognition (self-monitoring) (Dansereau, et al, 2013). In this model, intervention components included using examples, collaborations, demonstrations, and language that speak to and motivate adolescents focused on increasing participation in substance abuse treatment by helping youth think more clearly about their drug use

and personal problems. Participants had opportunities to practice problem-solving, decision-making, and self-control strategies during eight interactive group sessions (Bartholomew, et al, 2011). Importantly, problem-solving and decision-making skill programs anchor experiences in real-life decision-making opportunities with concrete experiences, materials may appear as “guide-maps”, and rely more heavily on scaffolded learning opportunities that focus on process, which permits the adolescent to transfer their learning (Dansereau, et al, 2013).

Cognitive Acceleration Programs

Cognitive Acceleration (CA) is a teaching approach that accelerates the development of students’ thinking so that they increase intelligence, faster. CA shares a view with constructivism that the learner needs to construct meaning for themselves, as opposed to knowledge being transmitted to the learner by someone else. Moreover, CA acknowledges that concepts can’t be learned in the same way by all students. Lessons developed by Philip Adey and Michael Shayer at King's College London (1994), which were designed to promote student's thinking from "concrete" to "formal", abstract thinking, reflect the intent of CA programs. Research on CA programs demonstrates that these programs can support long-term transfer of learning with young adolescents (Adey, et al, 2010). In the context of the study, a cognitive intervention program had a significant immediate effect on the rate of students’ cognitive development. Using CA, there are a specific set of subskills that underpin abstract thinking, and CA lessons center on a challenge which can only be explained through an abstract idea. Lessons which develop abstract thinking directly have the following structure: 1) introduction which sets the scene (concrete preparation), 2) puzzle or challenge which needs to be solved (cognitive conflict), 3) group-work and discussion where pupils share ideas for solutions (social construction), 4) explanation of the thinking which gave the answer (metacognition), and 5) making links to everyday applications of the ideas discussed (bridging) (Shayer & Adey, 2002).

Table 6. Summary of Skill Development Program Elements

Program Element	Areas to Nurture	Instructional Strategy
Supporting Cognitive Development	<ul style="list-style-type: none"> • Abstract Thinking • Reasoning from known principles • Considering multiple points of view • Using metacognition (Steinberg, 2005) 	<ul style="list-style-type: none"> • Asking open ended questions that invite thought and debate, • Encourage making decisions based on factual evidence, • Use role-playing and problem solving, and • Use explicit instruction.
Developing Social Relationships and Social Skills	<ul style="list-style-type: none"> • Conflict resolution • Self-control and behavior regulation • Social confidence • Assertiveness • Self-efficacy • Social initiative 	<ul style="list-style-type: none"> • Large group instruction • Small skill groups • Individual social skills instruction • Direct instruction • Modeling • Role-playing the skill

Program Element	Areas to Nurture	Instructional Strategy
		<ul style="list-style-type: none"> • Practice of the skill in different settings • Performance feedback.
Developing Communication Skills	<ul style="list-style-type: none"> • Nonverbal comprehension • Perspective taking • Vocal tone comprehension, • Tact • Turn taking (Reed, McLeod & McAllister, 1999) 	<ul style="list-style-type: none"> • Role-playing • Videos • Peer Mentoring
Developing Behavioral Interventions	<ul style="list-style-type: none"> • Consistent rules • Regular use of intervention strategies • Use a multi-step process • Behavior management interventions at family, school, classroom and/or individual level • Integrated programs 	<ul style="list-style-type: none"> • Systematic positive reinforcement • Modeling of prosocial behavior • Verbal instruction • Role playing • Classroom moral discussions of real-life dilemmas • Hypothetical situations and literature • Student engagement and student opportunities to respond • Direct instruction • Reinforcement techniques • Punishment oriented techniques and response costs • Group contingency techniques • Social problem solving • Behavioral contracting • Logical consequences and restorative practices • Preventative techniques
Reasoning, Problem Solving and Decision-making	<ul style="list-style-type: none"> • Social problem solving • Real-world problem solving • Decision-making • Self-regulation 	<ul style="list-style-type: none"> • Concrete experiences • Materials such as guide maps • Scaffolded learning opportunities • Process oriented activities

Program Element	Areas to Nurture	Instructional Strategy
Cognitive Acceleration Programs	<ul style="list-style-type: none"> • Opportunities to construct meaning-making 	<ul style="list-style-type: none"> • Activities that are designed to move from concrete to abstract. Generally, these activities will have the following structure: 1) introduction which sets the scene (concrete preparation), 2) puzzle or challenge which needs to be solved (cognitive conflict), 3) group-work and discussion where pupils share ideas for solutions (social construction), 4) explanation of the thinking which gave the answer (metacognition), 5) making links to everyday applications of the ideas discussed (bridging) (Shayer & Adey, 2002).

Triad of Support for Curriculum Implementation

Additional support such as attorney, caretaker, other engaged adults (e.g., health and mental health professionals) is necessary for the youth during the competency attainment and remediation phase (Viljoen & Grisso, 2007; Sanborn, 2009). While it is imperative to be attentive to the nature of the relationship between caretakers and other professionals with the youth, these persons can often help the youth by providing positive reinforcement, guidance, understand the proceeding. Attorney involvement helps build trust as well as ensure accuracy of information.

Training of Personnel

Reddington and Frost (2003) recommended that those who are providing the competency curriculum have minimally “1) a bachelor’s degree in a human services field, education, or nursing, and 2) two years post-baccalaureate experience providing mental health related services to children or adolescents, under the supervision of a mental health provider licensed to provide services to children and adolescents” (p. 23). Others (Skeem & Golding, 1998) highlight the importance of evaluating the skills of personnel who provide the competency attainment program while others (Ryba et al., 2003) have emphasized the significance of providing on-going professional training and learning, including specific training on use of assessments, instructional methods, and working with adolescents generally.

Analysis and Recommendations for Attainment Curriculum (Re)Design

Utah's Case for Juvenile Competency to Stand Trial

Utah's competency statute is similar to other statutes across the United States, as is the process for determining competency, as indicated in UT 78A-6-1-105 and UT 78A-6-1302. See Figure 2 for a brief overview of competency evaluation expectations when a juvenile is considered for prosecution as an adult. In Utah, 'not competent to proceed' means that a minor due to a mental disorder, intellectual disability, or related condition lacks the ability to: a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding, as established in *Dusky*.

Utah legislation requires a separate hearing to determine competency, as well as entering an order for an evaluation to determine how the mental state of the juvenile might impact various parts of the trial process (see UT 78A-6-1302). A juvenile is presumed competent unless the court, by a preponderance of the evidence, finds the minor not competent to proceed. As established in UT 78A-6-1303, a youth that is competent continues with the delinquency proceedings. If found not competent without a substantial probability that the minor may attain competency in the foreseeable future, the court shall dismiss charges without prejudice. If the evaluation of the youth finds that they are not competent but have a substantial probability that they may attain competency, then they may be assigned participation in an attainment process.

The Department of Human Services is required to establish a criterion in consultation with the Commission on Criminal and Juvenile Justice and contract with persons for "competency evaluations" along with previous juvenile competency evaluations rather than evaluations of juveniles for "mental illness and intellectual disability or related condition." This provision is consistent with Title 77, Utah Code of Criminal Procedure and Title 78A, Chapter 6, Juvenile Court Act. The Department of Human Services must now designate a forensic evaluator to evaluate the defendant. Under Utah's Title 78A, Chapter 6, Juvenile Court Act, the determination for a juvenile competency evaluation must be ordered by the Juvenile Court. When so ordered, the Department of Health Services must designate a competency examiner, and when determined or ordered by the Court shall provide a second evaluator.

Figure 2. Utah Code, 78A-6-1301 Competency to Proceed

Utah Code

78A-6-1301 Competency to proceed.

- (1) Whenever a petition is filed alleging that a minor has committed an act that would be a crime if committed by an adult, a motion for an inquiry into the minor's competency may be filed. The motion shall be filed in the juvenile court where the petition is pending.
- (2) The motion shall contain:
 - (a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed;
 - (b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and
 - (c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.
- (3) The motion may be based upon knowledge or information and belief and may be filed by:
 - (a) the minor alleged not competent to proceed;
 - (b) any person acting on the minor's behalf;
 - (c) the prosecuting attorney;
 - (d) the guardian ad litem; or
 - (e) any person having custody or supervision over the minor.
- (4) The court in which a petition is pending may raise the issue of a minor's competency at any time. If raised by the court, counsel for each party shall be permitted to address the issue of competency.

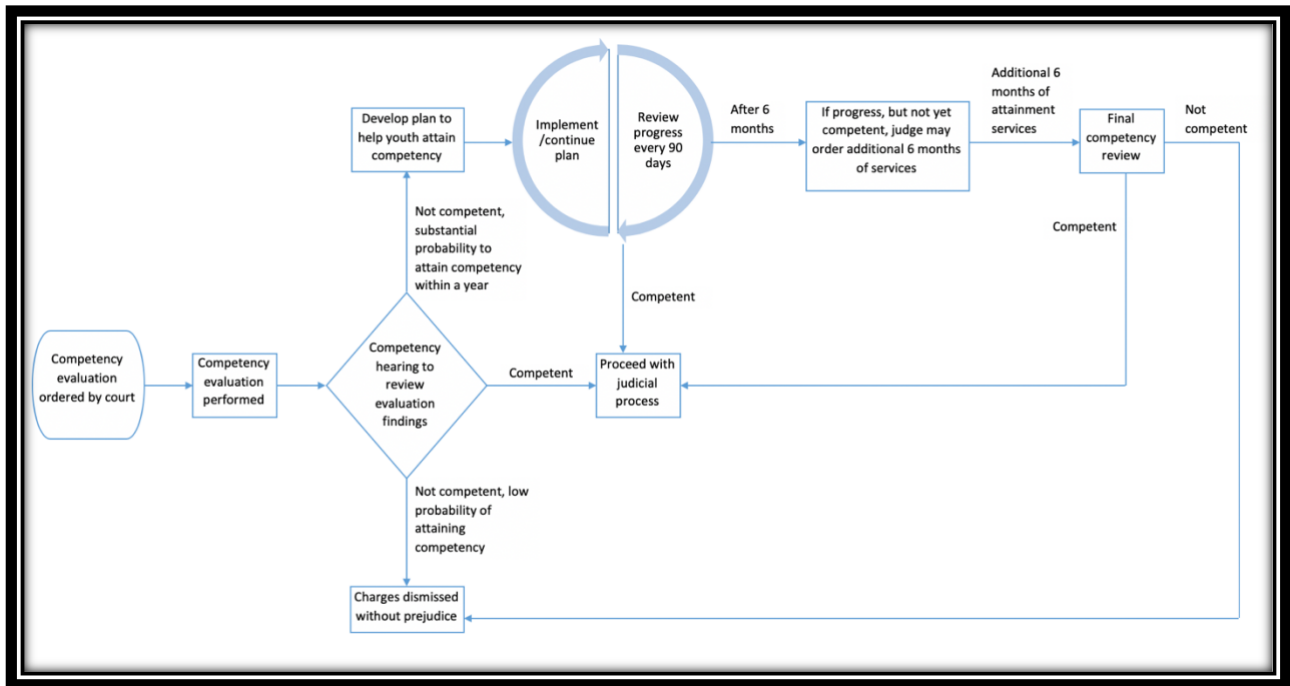
Enacted by Chapter 316, 2012 General Session

Utah's Current Attainment Curriculum Process

In 2012, following more than decade of growth in attention to competency attainment provisions nationwide, Utah developed an attainment curriculum following the enactment of “Part 13, Juvenile Competency,” in Chapter 6, Juvenile Court Act of the Utah Code (see https://le.utah.gov/xcode/Title78a/Chapter6/C78A-6_1800010118000101.pdf). The purpose of Utah's attainment curriculum is to assist juveniles in meeting the required standards of CST, as found in UT 78A-6-1302(7)(a-g). This includes demonstrating the ability to comprehend the charges, disclose pertinent facts, comprehend the range of possible penalties, engage in reasoned choice of legal strategies, understand the adversarial nature of the proceedings, demonstrate appropriate courtroom behavior, and testify relevantly.

In Utah, the Department of Human Services develops an attainment plan 30 days after a juvenile's competency hearing. There are several checks throughout that process, and after the initial six months, if reasonable progress has been made, then an additional six months can be ordered. If reasonable progress has not been made at six months or if competency has not been attained by 12 months, the charges are dismissed without prejudice. Otherwise, if at any point competency is attained, then the court shall hold a hearing within 15 days of notification. See Figure 3. Recommended Utah Competency Attainment Process Flow, which provides a revised overview of the state's procedures regarding competency evaluation for juveniles. Utah, similar to other states, permits the placement of youth awaiting attainment either in the home, a detention center, or another mental health facility (see Utah Code § 78A-6-1303(4)(b)).

Figure 3. Recommended Utah Competency Attainment Process Flow



Curriculum (Re)Design Considerations: Utah CARE

The current Utah Attainment Curriculum for Trial Competence (ACTC) manual for facilitators and clients demonstrates that at the time it was developed and implemented it reflected the core areas that were both required by Utah’s legislation and appeared as base expectations for program content and implementation. We commend the authors and developers of the 2012-2013 ACTC for their efforts and developing the current ACTC manual.

Moving forward, DHS indicated that they want an attainment curriculum that is feasible and of high quality, and that supports the goal of ensuring that clients of DHS are competent to stand trial (CST). With these expectations in mind, we offer the following recommendations. The recommendations herein are based on the literature review on a) competency in the justice system, including the implications for juveniles, b) factors that impact competency findings, c) assessments used to determine competency, d) attainment curriculum programs nationally, and e) curriculum foundations, instructional methods, and even skill development programs. Using the review of literature, we analyzed both the facilitator and client Utah Attainment Curriculum for Trial Competence (ACTC) manual.

The following information provides both an analysis and re-design recommendations for what we are calling the Utah CARE Program: Utah **C**urriculum for **A**ttainment, **R**emediation, and **E**ducation Program. This information reflects the value of framing the remediation program in terms of what the youth should know and be able to do (see Wall et al., 2003; Wall et al., 2012). In adhering to this principle, we avoid the danger found in traditional educational environments of “teaching to the test,” which does not support remediation practices for competence. Taken together, we provide the

following recommendations to align the attainment curriculum stated goals, including those of the individual modules, with each of the lesson’s foci, the instructional strategies, and the assessments used. Moreover, these recommendations integrate the high-leverage, intentional design features discussed in the previous sections. Our recommendations include:

- Utilize Pre- and Formative Assessment Data for Instructional Planning and Delivery
- Enhance the Dimensionality of the Curriculum Focus
- Expand Instructional Methods Used
- Develop Opportunities to Differentiate
- Integrate Cultural Competence and Culturally Responsive Elements
- Expand System of Support during Remediation
- Amplify Knowledge, Expertise, and Skills of Facilitators

Regardless of how many and to what degree these recommendations are adopted or adapted by DHS, the information in Table 5 are minimal features of the revised attainment program.

Table 7. Minimal Program Features

Necessary Education and/or Intervention	Program Considerations	References
Factual Understanding	<ul style="list-style-type: none"> • Address roles of attorneys and judges, the meaning of guilty and not-guilty pleas, their rights, and other basic legal concepts or facts • Interactive and participatory instructional strategies, such as simulations, mock trials, case studies, stories, games, and courtroom visits • Provide opportunities for persons to respond to tasks, and visual aids, break tasks down into smaller components • Provide Systematic feedback, including praise and reinforcement for correct responses and error correction for inadequate responses • Teach skills in the environment they will be used 	Browder, 2001; Grisso et al., 2003; Hallahan & Kauffman, 2006; Heward, 2006; Viljoen & Grisso, 2007; Sanborn, 2009;
Rational Understanding	<ul style="list-style-type: none"> • Use case studies • Provide activities that allow for the application of information to cases • Provide opportunities to develop abstract thinking skills • Learn basic vocabulary and concepts 	Adey, 2004; Adey & Shayer, 2002; Viljoen & Grisso, 2007;

Necessary Education and/or Intervention	Program Considerations	References
	<ul style="list-style-type: none"> • Incorporate opportunities for reflection 	
Communicate with Counsel	<ul style="list-style-type: none"> • Develop and/or improve listening • Verbal communication skills • Enhance social skills such as interpreting social cues • Practice empathy and understanding others’ perspectives • Develop a sense of agency and self-determination among juvenile 	Viljoen & Grisso, 2007;
Reasoning and decision-making skills	<ul style="list-style-type: none"> • Practice communication skills • Train for informed decision making, appraise risks and understand and utilize/respond to feedback to improve decisions long-term consequences of decisions • Incorporate cognitive acceleration programs 	Byrnes, 2005; Coyle et al., 2001; Kipke, Boyer, & Hein, 1993; Steinberg, 2004; Pedlow & Carey, 2004; Reyna, Adam, Poirier, LeCray, & Brainerd, 2005; Rotherham-Borus, Gwadz, Fernandez, & Srinivasan, 1998;

Table 8. Recommendations for Curriculum Attainment Revisions

Recommendation	Areas to Nurture
Utilize Pre- and Formative Assessment Data for Instructional Planning and Delivery	<ul style="list-style-type: none"> • Develop specific criteria or rubrics for the pre- and post-assessments • Utilize pre-assessments and evaluations to plan for competency attainment timeline and contents. • Develop and use assessments that provide evidence of content acquisition and application over time to ensure competency attainment and learning transfer • Remove ambiguity in directions for facilitator (e.g., “use your best judgement”)
Enhance the Dimensionality of the Curriculum	<ul style="list-style-type: none"> • Expand learning beyond factual understanding by specifically building modules around Bloom’s Revised Taxonomy • Create modules to have proactive redundancy on both primarily learning objectives as well as experiences

Recommendation	Areas to Nurture
	<ul style="list-style-type: none"> • Revise activities to both explicitly promote competency and evidence of competency.
Expand Instructional Methods Used	<ul style="list-style-type: none"> • Incorporate a range of instructional methods (e.g., vignettes, cases, exemplars) to ensure that juveniles receive multiple opportunities to engage with material • Provide various opportunities for students to engage individually and in group settings or alternative settings, as appropriate • Integrate use of technology platforms designed to adapt to student learning an engagement • Increase balance between facilitator talk and juvenile’s participation
Develop Opportunities to Differentiate	<ul style="list-style-type: none"> • Utilize pre-assessments and evaluations to tailor curriculum to juvenile needs (e.g., learning styles, intellectual and behavioral abilities, maturity) • Prepare a surplus of instructional activities to a) scaffold students learning, and b) reflect Bloom’s Revised Taxonomy • Incorporate the formative assessments throughout each module to provide immediate opportunities to further differentiate instruction
Integrate Cultural Competence and Culturally Responsive Elements	<ul style="list-style-type: none"> • Situate cultural diversity at the forefront • Revise curriculum materials to reflect juveniles engaged in the system, including their experience, realities, knowledge, values, beliefs • Scaffold content
Expand System of Support during Remediation	<ul style="list-style-type: none"> • Create a network—Individuals connected to the juvenile in their home/community environment, the courts, and any type of treatment or educational support environment—to strengthen engagement and support
Amplify Knowledge, Expertise and Skills of Facilitators	<ul style="list-style-type: none"> • Select facilitators with credentials, experience and expertise, particularly in areas of adolescents, adolescent mental health, intellectual abilities, and related issues, and instructional methods and differentiation • Provide on-going professional learning to increase shared understanding of curriculum, student assessments, curriculum implementation, and implementation fidelity

Recommendation	Areas to Nurture
	<ul style="list-style-type: none"> • Increase the breadth and depth of supplemental activities available for use based on student needs

Utilize Pre- and Formative Assessment Data for Instructional Planning and Delivery

Adjusting the time allowed and increasing the specificity for successfully completing the attainment curriculum is one area that could be enhanced. Currently, the time stipulation for CST is delineated in state law, and importantly has multiple steps (e.g., 90 day and six month) for progress monitoring and reporting. The facilitator is asked to determine in the beginning how much time it is likely to take for the client to attain CST, and this information is updated for progress reports. The lingering question is the value of this judgment when a client has not or is not achieving CST. Moreover, it is not apparent how the “Juvenile Competency to Proceed to Trial Evaluation” and the Juvenile Forensic Evaluation Services: Formulating Remediation, Utah” protocols are used in planning, modification, and differentiation of the curriculum for individual clients. Developing specific criteria or rubrics for the pre- and post-assessments would generate better data to support instructional planning, delivery, as well as more accurate evaluations and decision-making.

Next, as currently structured within the curriculum, the assessments for progress are minimal and sequestered to the judgement of the facilitator and the pre- and post- assessments in the workbook. For example, the *Check for Understanding* in Step 6 of all of the modules indicates:

Questions are provided so you can immediately assess if your client is learning the concepts. Use their answers to guide whether you move on or repeat material. If the client successfully completes the questions in the box, move on to the next content area. Remember that it is more important for the client to demonstrate an understanding of the concepts addressed by each question than to answer every question correctly. If you feel the client has a good understanding of the concepts, they do not need to answer all or even a certain number of the questions correctly. The questions provided throughout the module are simply an attempt to evaluate how well the client understands the underlying concepts being presented. You will need to use your best judgment about whether the client is ready to move on if they have trouble with specific questions, but you believe that they understand the overall concept addressed by the questions.

We have underlined numerous parts of the previous passage to highlight ambiguous words that appear to be proxies for evaluation of the client. Yet, it is unclear if there is a shared understanding of what these words mean by each of the facilitators or how the facilitator would actually evaluate, or judge, competency on behalf of the client. Moreover, the proposed types of assessments may not be sufficient in determining whether or not the client has factual understanding, much less is

proficient. In addition, these directions do not lend themselves to ensuring that the attainment curriculum is scaffolding learning nor remediating, which may be the larger goal. Phrases like "evaluate how well" insinuate that one is making a judgement about the degree to which a client knows something or not. The current structure, organization, and scope of the facilitator's guide and the workbook do not provide evidence of nor support judgments of attainment. Similarly, statements such as "use your best judgement" also do not lend themselves to empirical assessment. As such, erroneous decisions or assessments about client progress to CST may be made. Any curriculum should honor the professional capacity of the facilitator. However, given the concerns expressed by DHS regarding CST rates, this may be one area where process, structure and decision-making can be addressed to improve the rigor of the curriculum and ability of the curriculum to move clients to CST.

In addition, current assessments do not determine whether or not the curriculum or instructional strategies have differentiated the curriculum or increased the accessibility of the content to the client. Consequently, we do not know 1) whether or not the client has sufficient responses to move to the next module, 2) whether or not the learning or demonstration of learning reflects an ability to generalize the module exercises to their own case, 3) whether they could transfer that information in similar circumstances or utilize the curriculum to support their decision-making and problem solving. In addition, post assessments include the identical questions as the "Assessment" questions. While this is beneficial in assessing whether or not the juvenile can answer those questions correctly, these types of assessments do not demonstrate whether or not the learning was scaffolded such that the juvenile has a deeper understanding of "why" they are learning material. Moreover, this type of assessment does not permit the juvenile to demonstrate or develop necessarily the ability to transfer their learning.

Enhance the Dimensionality of the Curriculum Focus

The current curriculum materials appear to rely heavily on factual understanding. However, as noted by Viljoen and Grisso (2007), factual understanding is likely insufficient when instructing for competency attainment. Activities are largely one dimensional with pencil/paper assessments. These types of activities may, for some, be beneficial. For instance, some of these activities lend themselves to memorization of information. However, for capacity building or moving juveniles from just factual understanding to awareness to learning, these types of activities are insufficient. If the ultimate goal is to achieve CST, then the activities that the juvenile engages in need to be scaffolded, provide proactive redundancy in the information, and provide additional opportunities for learning transfer. Enhancing the curriculum by including more detailed scripts and differentiated activities could increase the likelihood of learning transfer and overall CST rates.

Currently, directions for the facilitator may indicate the "what" to do, but do not provide sufficient information for the facilitator, as instructor, to understand the "why" or "how" to adjust their language to help the juvenile acquire the knowledge to demonstrate understanding, or apply that understanding in a meaningful way that may produce the targeted outcome--CST. Moreover, directions and activities are not reflective of Bloom's Revised Taxonomy. For example, there are directions such as:

Continue to review the relevant sections in the module until either: 1) the client learns the material and answers the question correctly, or 2) you decide that the client is not going to be able to learn the material. If you believe your client is not making gains, please consult

with your attainment coordinator before moving to the next module. (ACTC Facilitator Guide).

Instructional scaffolding, as noted in the review, is an important tool for increasing learning. Currently, the Facilitator's Guide and the ACTC workbook do not provide opportunities sufficient to scaffold client learning. The purpose of the scaffolding is to increase independence in the client and permits the client to remain engaged in their competency attainment. Importantly, each module could be enhanced with scripts, activities, and differentiation to address difficulties in student comprehension and application that would build more independence. Additionally, not all exercises in the ACTC have a clear purpose or are tethered to the concepts that the client is intended to learn, nor is it clear how engaging in that exercise will promote either a) competency or b) evidence of competency. Additional scaffolding and explicit instruction and follow-up are necessary to support the client's learning. For instance, in Module 6, there is an exercise called "Inside My Head." In this activity, the client is to offer illustration of events and people that are in the client's favorite story. The facilitator is asked to put "thought bubbles" above each of the images. Further direction is necessary to understand how this supports the client's goal of being able to tell their story from beginning to end with clarity and consistency.

Expand Instructional Methods Used

Next, the current ACTC relies overwhelmingly on instructional strategies that are facilitator dependent. We recognize the imperative role of the facilitator in building the capacity of the client to be CST. However, as currently organized and structured, activities are largely pen/paper, call and response oriented. Furthermore, the current curriculum does not engage multiple methods of instructional delivery, including strategies to differentiate the path to CST for each client. In our assessment, accessibility and attainability of the curriculum are then limited. Expanding the instructional methods to include more active engagement of clients in the learning process will likely lead to increased learning transfer and higher rates of CST.

Another facet to consider here is the incorporation of group sessions (e.g., didactic group therapy) as a compliment to individual sessions with the clients (Brown, 1992). Again, we recognize the need for privacy, protection of the client, and age-appropriateness considerations. However, programs nationally have incorporated these group sessions, including in community-based environments, with success.

The Utah ACTC Workbook is currently on paper. There would be many benefits to integrating technology platforms. For instance, using technology would also permit the manual to have a "read to me" function, which may be beneficial for those who have intellectual disabilities, cognitive deficits, and even ADHD. Technology integration would also permit the use of adaptive software, which may assist the facilitator in diagnosing problem areas in understanding and application including trends in student responses. Moreover, use of technology integration, not a technology platform that students go through independently, would permit greater differentiation for module responsiveness to student learning, maturity, and cultural needs. While recognizing that this would depart from other training modules currently available nationally, development of such a system may also prove to be a revenue generator for Utah and DHS and be extremely beneficial in moving what is currently an antiquated system of CST to one that is more fluid and adaptive. Such a system could

be scaled to address the basic CST requirements, and could be used by counselors and others to remediate, restore, and reduce recidivism.

Inclusion of interactive and participatory activities rather than all pencil/paper activities would be beneficial. For instance, in Module 2 and Module 3, clients engage in content regarding courtroom procedures and roles and responsibilities of people in the courtrooms as well as procedures. Module 2 addresses the "Lawyers, Defense Attorneys, and Prosecutors" and would be an opportunity to consider actual engagement by the client's attorney or a proxy attorney, similar to the Triad of Support for Curriculum Implementation (see Figure 4). As noted in the review, role plays and simulations are helpful instructional methods. In addition to building rapport and trust with a client, role plays and simulations offer concrete learning experiences that are relevant to the client. These type of learning experiences improve the likelihood of the client both generalizing and transferring the learning. Moreover, these types of activities can build problem-solving abilities and capabilities in the client. Currently, Module 3 has a "field trip" as recommended if "feasible." Field trips and the subsequent role play, which indicates that the trainer can take on the different roles, may not be sufficient nor realistic or concrete enough to engage the client in learning or learning transfer.

Activities such as word searches and matching (e.g., Module 1, 2, 3), pictures or flat images (e.g., Module 4 "No laughing matter," activities such as "Keep Pouring," or true/false exercises (e.g., Module 6) to indicate the criminal offense and seriousness of the crime may not adequately communicate or build the capacity of the client to understand the concepts. Consider using different instructional strategies, including explicit instruction with vignettes, film, and exemplars to increase student understanding. Given clients' factors for not being initially determined to be CST, further scaffolding and lessons that move from the abstract to the concrete may be necessary. Vignettes may be particularly helpful in situations such a Module 5, as currently there is emphasis on vocabulary development. Module 5 appears to be an extension of Module 4.

Module 8, which has indicated two role-play activities, provides another example of how instructional methods for each lesson can be reconsidered in light of research on effective instructional strategies. As indicated in the directions for the second activity, the client is to "project themselves into the future." Because Module 8 is about "How do I defend myself," there is an opportunity to more tightly tether the instructional activities to the intended goal. In this instance, similar to other activities, it is essential to determine what the depth and breadth of the goal is and plan for interactive activities that will scaffold student learning to the intended objective (e.g., defending oneself).

Module 6 addresses "My Side of the Story." In anticipation of this Module, it may be helpful to consider implementing a participatory and interactive learning technique of journaling--either written or oral. We recognize that there may be legal implications for this suggestion and that it may not be feasible. In any case, this module lends itself strongly to the inclusion of multi-media materials inclusion, including videos to represent the various concepts that are the focus. As noted elsewhere, there are questions that assume particular knowledge or understanding that are posed as true/false (e.g., snows during the winter, hair turns purple, earth is round), which based on experience and exposure one might answer differently than the expectation. At minimum, there need to be alternative questions available that allow the facilitator to gauge knowledge and understanding of the concept rather than simply fact/true or fiction/false responses which are highly dependent on the client's experience with those few examples.

Though utilization of rewards is often highly contested, the current attainment curriculum does not appear to attend to rewards during delivery. Step 3 and Step 4 of the Teaching Instructions: "Show your client the questions they answered correctly and the ones they answered incorrectly or incompletely" and "reassure the client you will work together to teach them to correct answers to the questions they missed or need to know more about." Given the potential needs of the clients who are engaged in the attainment curriculum and research on the benefits of rewards, incorporating rewards beyond those steps may be important. Research (Mather, 2001; Viljoen & Grisso, 2007) indicates that praise and other rewards may be beneficial as part of an intervention program with juveniles.

Develop Opportunities to Differentiate

There are a multitude of opportunities throughout the curriculum to integrate additional instructional methods and program elements that would enhance the curriculum to a) meet the needs of clients both through general learning activities and differentiation, and b) serve as a remediation and intervention curriculum. For example, the current curriculum is not attentive to the associated issues a client may have as a result of these circumstances (e.g., trust, anxiety, comprehension and learning transfer difficulties). Consequently, it is our assessment that the curriculum does not currently have the leverage to advance all clients to CST. Current activities also do not attend to the differentiation needed by clients. Specifically, clients have been assessed ICST due to their own unique circumstances, which may include, but are not limited to, factors such as immaturity, mental illness, cognitive or intellectual deficits, anxiety, and trauma (Allely & Cooke, 2016; Grisso, 2008; Warren, 2009). Developing various planned activities based on the needs of students (e.g., cognitive deficits or ADHD) would provide greater access to the competency attainment curriculum.

There are several examples in the manual where there are opportunities for greater differentiation. For example, the current manual has questions such as "What's Your Learning Style?" However, there are no current assessments of learning style nor is it evident that information is used from other assessments to gauge the juvenile's learning style. Moreover, there are no associated activities or instructional strategies that would be most helpful for each learning style.

Another example of where differentiation may be needed, for instance, is in the *Knowledge Assessment* section and *Instructions for the Post-Test Knowledge Assessment* section of each module. Directions include a statement such as "ask each question clearly and slowly so your client understands what you are asking. You can repeat each question as many times as the client needs. Ask one question at a time and wait for the answer before moving to the next question." Current directions may be helpful for some clients. However, depending on the conditions that resulted in the client being identified as ICST, repetition of the directions or questions may not resolve issues of understanding.

Integrate Cultural Competence and Culturally Responsive Elements

The current curriculum does not reflect the tenets of a culturally responsive curriculum. We draw attention to this as an important factor for all students. There are images currently that reflect stereotypes or are misleading, regardless of a client's culture and prior experience. Ensuring that the curriculum reflects both cultural competence and is culturally responsive lend themselves to greater

accessibility, and awareness, and knowledge development on behalf of the client and the facilitator (Thompson & Thompson, 2012).

Current images and activities used within the manual are not always consistent with expectations for either a developmentally appropriate or culturally responsive curriculum. For instance, most of the images are of White individuals or often there are stereotypical portrayals (e.g., African American coach; White woman in dress while person of color is screaming). Image use, including contents of the pictures and quality, is an issue throughout, could be updated to reflect the developmental nature and cultural diversity of the clientele that go through the attainment curriculum process.

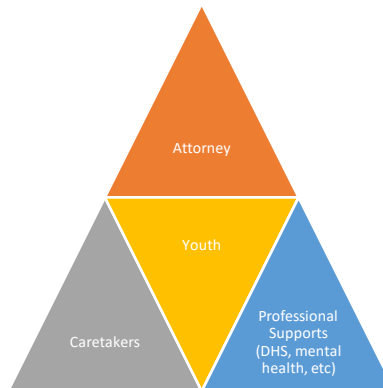
Directions and activities would also benefit from further review and updates to reflect culturally responsive examples, developmentally appropriate examples, and inclusion of activities that are more client-centered and engaging. Some of the activities rely on testing, for instance, client's awareness of pop culture or certain privileges in their life experience rather than knowledge and understanding of particular concepts.

There are occasions where the information in the modules may present information that factually is incorrect, or may need to be more nuanced. For instance, in Module 2 in the "Courtroom Game," the third item has an individual kicking a soccer ball (i.e., a large White man) with the phrase "You are the Captain of your team." Next, in Module 2, there is a practice exercise on "My attorney is my friend, and note from an attorney." These lessons may not reflect the experience of clients nor the reality that they are faced with. Moreover, based on attention to the presenting issues that resulted in an ICST recommendation to participate in the attainment curriculum, numerous clients will certainly have trust issues, including with their attorney, the courts generally, and possibly even the facilitator. Recognizing that trust is not automatic, recommendations for a) having the attorney participate, and/or b) modifying the language to reflect the seriousness and appropriate roles and responsibilities of all parties in the Courtroom process may enhance the clients learning and understanding of the process and their role in both the CST process and their actual trial proceedings. This is applicable across all modules. For instance, in Module 3, there is an activity called the "Courtroom Game." The facilitator is encouraged to compare the courtroom to their client's favorite game (e.g., video game, sport, board game). In addition to making a number of cultural and social assumptions about the client, it also poses that the courtroom is a game. This raises questions about the relevance of the example as well as whether or not that is the conceptual grounding that is most useful for a) moving the client to CST and b) remediating the client for CST and beyond.

Expand System of Support during Remediation

Previous research indicates the importance of a network of support, including the role of individuals connected to the juvenile in their home/community environment, the courts, and any type of treatment or educational support environment. Recognizing the potential downsides of having youth work primarily only with the facilitator, we propose a more comprehensive system of support that includes the facilitator, the caretaker network, and the attorney or supporting judicial team (see Figure 4. System of Support During Remediation). A more robust system of support provides additional opportunities for successful progress towards CST (e.g., is less reliant on one person) and increases capacity of the system to reach desired outcomes.

Figure 4. System of Support During Remediation



Amplify Knowledge, Expertise, and Skills of Facilitators

There is great variety nationally in the expectations for the expertise and experience of curriculum attainment facilitators. Credentials, experience, and expertise are three relevant factors for consideration. We recognize that the credential aspect of this equation is established. However, from this review, we suggest that further consideration be given to the depth and breadth of expertise that facilitators should attain and maintain through professional learning. In particular, understanding of and work with adolescents, adolescent mental health, intellectual abilities, and related issues, and instructional methods and differentiation are imperative to ensuring the success of students who have initially been identified as ICST.

To support implementation of the attainment curriculum, we recommend that the facilitators manual be reformatted to improve accessibility by the wide-range of facilitators who participate in the attainment curriculum delivery. In addition to professional learning to prepare all facilitators to have a baseline of knowledge, expertise, and skill at program implementation, we recommend on-going professional learning to increase shared understanding and consistent implementation. We note that currently adaptations, including examples or supplemental activities, appear to be up to the discretion of the facilitator. As with any curriculum, the existence of a few standardized lessons for differentiation would be a preferred method of instruction.

Conclusion

The debate as to whether the juvenile justice system is established for rehabilitation or accountability, remediation, or restoration remains contested. In conducting our analysis, we have resolved this by suggesting that one consider the re-design to be the Utah CARE Program: Utah **C**urriculum for **A**ttainment, **R**emediation, and **E**ducation Program. We believe this program reflects the values in the System of Care philosophy and the intent of the attainment curriculum, as outlined in state legislation and previous curriculum materials.

Our review of literature extended approximately four decades. Generally speaking, it is apparent that while there is a cluster of research and researchers within psychology, the psycho-legal arena, social work, and sociology, competency attainment research has not emerged as a priority for the field. For

instance, given the increasing demand for competency attainment programs nationally since 2012, it is surprising that more research on existing programs has not occurred. Moreover, given the inclination of entrepreneurs to fill policy niche areas, it is also a bit surprising that vendors have not filled the void and developed a marketable program.

Our review and analysis lead us to recommend the following next steps.

4. Share findings with focus group of current ACTC facilitators. Utilize a semi-structured protocol to a) understand how the finding resonates with their implementation practice, b) identify what from their experience was not captured by the review of literature and the analysis of the current curriculum, and c) understand what degree of training and support facilitators would need to implement a revised program.
5. Engage interdisciplinary collaborative teams that include current facilitators, experts in juvenile mental health, cognitive abilities, and instructional effectiveness, for instance, to develop revised curriculum that a) progresses competency development from awareness and facts to understanding and decision-making, and b) incorporates robust multi-modal, multi-method instructional strategies based on assessments and needs, and build capacity of youth through remediation as intervention.
6. Expand modality of curriculum to incorporate technology and adaptive programming.

Again, these recommendations are made in light of the intended goal of DHS to utilize the attainment curriculum to support juvenile CST. Using the review as a guide, recommendations may be reviewed and evaluated as Essential, Recommended, and Optional (Ryba, Cooper, Zapf, 2003). Collectively, however, these recommendations could ensure that the Utah Attainment Curriculum becomes a beacon for programs nationally, particularly at serving as an intervention program.

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Appendix A: Ut. Code Ann. §78A-6-1303(8) Utah Code, Judiciary and Judicial Administration, Juvenile Court Act for Juvenile Competency

78A-6-1303 Disposition on finding of incompetency to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

- (1) If the court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the court shall notify the Department of Human Services of the finding, and allow the department 30 days to develop a six-month attainment plan for the minor.
- (2) The attainment plan shall include:
 - (a) any services or treatment the minor has been or is currently receiving;
 - (b) any additional services or treatment the minor may require to attain competency within the six-month time period;
 - (c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;
 - (d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and
 - (e) the likelihood that the minor will attain competency in a six-month period.
- (3) The department shall provide the attainment plan to the court, prosecutor, defense attorney, and guardian ad litem at least three days prior to the competency disposition hearing.
- (4) During the attainment period, the minor shall remain in the least restrictive appropriate setting.
 - (a) A finding of not competent to proceed does not grant authority for a court to place a minor in the custody of the department or any of its divisions, or create eligibility for services from the Division of Services for People with Disabilities.
 - (b) If the court orders the minor to be held in detention or placed outside of the home of the parent or guardian during the attainment period, the court shall make the following findings on the record:
 - (i) the placement is the least restrictive setting;
 - (ii) the placement is in the best interest of the minor;
 - (iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and
 - (iv) the placement is necessary for the safety of the minor or others.
- (5) If the minor is held in detention pending placement in a less restrictive setting, the department shall locate and transfer the minor to the alternative placement within 14 days.
- (6) The court shall review the case at least once every three months to determine whether the placement is still the least restrictive appropriate placement.
- (7) At any time that the minor becomes competent to proceed during the attainment period, the executive director of the Department of Human Services, or its designee, shall notify the court, prosecutor, defense attorney, and guardian ad litem. The court shall hold a hearing with 15 business days of notice from the executive director.
- (8) If at any time during the attainment period the court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings shall be initiated within seven days after the court's order,

unless the court enlarges the time for good cause shown. The minor may be ordered to remain in custody until the commitment proceedings have been concluded.

(9) During the attainment period, the court may order a hearing or rehearing at anytime on its own motion or upon recommendation of any interested party or the executive director of the Department of Human Services.

(10) At the conclusion of the attainment period, the department shall provide a report on the minor's progress towards competence. The report shall address the minor's:

- (a) compliance with the attainment plan;
- (b) progress towards competency based on the issues identified in the original competency evaluation;
- (c) current mental disorder, intellectual disability, or related condition and need for treatment, if any; and
- (d) whether the minor has attained competency, or the likelihood of the minor attaining competency and the amount of time necessary to attain it.

(11) The court on its own motion, or upon motion by either party or by the executive director, may order an updated juvenile competency evaluation to examine the minor and advise the court on the minor's current competency status and progress toward competency restoration.

(12) Within 30 days of receipt of the report, the court shall hold a hearing to determine the minor's current status. At the hearing, the burden of proving the minor is competent is on the proponent of competency. The court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(13) If the minor has not attained competency after the initial six month attainment period but is showing reasonable progress towards attainment of competency, the court may extend the attainment period up to an additional six months.

(14) If the minor does not attain competency within one year after the court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the delinquency charges without prejudice.

Enacted by Chapter 316, 2012 General Session

Ut. Code Ann. §78A-6-1-105(39) (2018).

"Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

- (a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or
- (b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

Ut. Code Ann. §78A-6-13-1302 (2017).

Effective 8/1/2017

78A-6-1302 Procedure -- Standard.

(1) When a motion is filed pursuant to Section 78A-6-1301 raising the issue of a minor's competency to proceed, or when the court raises the issue of a minor's competency to proceed, the juvenile court in which proceedings are pending shall stay all delinquency proceedings.

(2) If a motion for inquiry is opposed by either party, the court shall, prior to granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion. If the court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and prior to a full competency hearing, the court may order the Department of Human Services to evaluate the minor and to report to the court concerning the minor's mental condition.

(4) The minor shall be evaluated by a mental health examiner with experience in juvenile forensic evaluations and juvenile brain development, who is not involved in the current treatment of the minor. If it becomes apparent that the minor may be not competent due to an intellectual disability or related condition, the examiner shall be experienced in intellectual disability or related condition evaluations of minors.

(5) The petitioner or other party, as directed by the court, shall provide all information and materials to the examiners relevant to a determination of the minor's competency including:

- (a) the motion;
- (b) the arrest or incident reports pertaining to the charged offense;
- (c) the minor's known delinquency history information;
- (d) known prior mental health evaluations and treatments; and
- (e) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(i)(I), records pertaining to the minor's education.

(6) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad litem, shall cooperate in providing the relevant information and materials to the examiners.

(7) In conducting the evaluation and in the report determining if a minor is competent to proceed as defined in Subsection 78A-6-105(38), the examiner shall consider the impact of a mental disorder, intellectual disability, or related condition on a minor's present capacity to:

- (a) comprehend and appreciate the charges or allegations;
- (b) disclose to counsel pertinent facts, events, or states of mind;
- (c) comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the minor;
- (d) engage in reasoned choice of legal strategies and options;
- (e) understand the adversarial nature of the proceedings;

- (f) manifest appropriate courtroom behavior; and
 - (g) testify relevantly, if applicable.
- (8) In addition to the requirements of Subsection (7), the examiner's written report shall:
- (a) identify the specific matters referred for evaluation;
 - (b) describe the procedures, techniques, and tests used in the evaluation and the purpose or purposes for each;
 - (c) state the examiner's clinical observations, findings, and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the examiner could not give an opinion;
 - (d) state the likelihood that the minor will attain competency and the amount of time estimated to achieve it; and
 - (e) identify the sources of information used by the examiner and present the basis for the examiner's clinical findings and opinions.
- (9) The examiner shall provide an initial report to the court, the prosecuting and defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the court's order. If the examiner informs the court that additional time is needed, the court may grant, taking into consideration the custody status of the minor, up to an additional 30 days to provide the report to the court and counsel. The examiner must provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the evaluation and provide the report. The report shall inform the court of the examiner's opinion concerning the competency and the likelihood of the minor to attain competency within a year. In the alternative, the examiner may inform the court in writing that additional time is needed to complete the report.
- (10) Any statement made by the minor in the course of any competency evaluation, whether the evaluation is with or without the consent of the minor, any testimony by the examiner based upon any statement, and any other fruits of the statement may not be admitted in evidence against the minor in any delinquency or criminal proceeding except on an issue respecting the mental condition on which the minor has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the minor's competency.
- (11) Before evaluating the minor, examiners shall specifically advise the minor and the parents or guardian of the limits of confidentiality as provided under Subsection (10).
- (12) When the report is received the court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the court enlarges the time for good cause.
- (13) A minor shall be presumed competent unless the court, by a preponderance of the evidence, finds the minor not competent to proceed. The burden of proof is upon the proponent of incompetency to proceed.
- (14)
- (a) Following the hearing, the court shall determine by a preponderance of evidence whether the minor is:
 - (i) competent to proceed;
 - (ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or
 - (iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.
 - (b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall proceed with the delinquency proceedings.

(c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall proceed consistent with Section 78A-6-1303.

(d) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings shall be initiated within seven days after the court's order, unless the court enlarges the time for good cause shown. The minor may be ordered to remain in custody until the commitment proceedings have been concluded.

(15) If the court finds the minor not competent to proceed, its order shall contain findings addressing each of the factors in Subsection (7).

Amended by Chapter 330, 2017 General Session

Appendix B: Department of Human Services Juvenile Competency Process

Send All Orders and Documents to jvcompcor@utah.gov

Juvenile Competency Evaluation Motion and Court Order

- The Motion for Inquiry into Competency should contain: certificate filed in good faith and reasonable grounds to believe minor is not competent, identify facts, observations, and conversations with the minor that support the basis for the motion. 78A-6-1301(2)
- Juvenile Competency Evaluation Orders should be a separate order.
- Clerks: Email all court orders and supporting documentation pertaining to juvenile competency to: jvcompcor@utah.gov.
- While in court, the Judge may include in the order a request for the prosecutor, defense and guardian ad litem attorneys, parents/guardian or others acting on the minor's behalf to submit the following supporting documents to expedite the process: the motion, arrest or incident reports, delinquency history, prior mental health and intellectual disability evaluations and treatment records, education records, or other important documents. These documents shall be submitted to jvcompcor@utah.gov. Documentation determines if an evaluator from DSPD or DSAMH shall provide the evaluation. 78A-6-1302(4)(5)
- Upon a finding of good cause, the Court may order DHS to assign a second examiner to evaluate the minor. 62A-1-108.5(3)(b)

Assigning Examiner

- Upon receipt of the order, DHS creates a file and record gathering occurs.
- Competency Evaluation Orders are received and an evaluator will be assigned upon receipt of the order and supporting documentation required by statute.
- For evaluations, an initial report will be submitted to the court, prosecutor, defense attorney, and guardian ad litem 30 days from receipt of court order by appointed examiner. Court may grant time extensions for reasonable circumstances upon request of the examiner. 78A-6-1302(9)
- Written report shall inform the Court of the evaluator's opinion concerning competency and the likelihood that the minor will attain competency within a year. 78A-6-1302(9)
- Upon receipt of the report, the Court shall set a date for a competency hearing within 15 days, unless the court enlarges the time for good cause. 78A-6-1302(12)

Court Finding on Competency: Competent or Not Competent

- If the Court finds minor is competent to proceed, the Court shall proceed with delinquency proceedings. 78A-6-1302(14)(b)
- If the Court finds minor is not competent with substantial probability minor will attain competency in foreseeable future, the Court shall initiate the attainment process. 78A-6-1302(14)(c)
- If the Court finds minor is not competent without substantial probability minor will attain competency in foreseeable future, the Court shall dismiss charges without prejudice. 78A-6-1302(14)(d)
- The Court shall release minor from any custody related to delinquency proceedings, unless the prosecutor informs Court commitment proceedings have been initiated. 78A-6-1302(14)(d)
- Commitment proceedings shall be initiated within seven days and the Court may order the minor to remain in custody until commitment proceedings are concluded. 78A-6-1302(14)(d)

Attainment Process

- Attainment Orders should be a separate order.
- Clerks: Email all court orders pertaining to juvenile competency to jvcompcor@utah.gov.
- Attainment orders are made when the Court finds the minor is incompetent to proceed and the minor is likely to attain competency within 6 months.

- During the attainment period the minor will remain in the least restrictive appropriate setting. Court cannot order DCFS, DHS or DSPD custody solely based on incompetency. *78A-6-1303(4)(a)*
- A Juvenile Competency Coordinator will be assigned and attainment plan will be developed and attainment services provided. Attainment plan will be submitted to the Court 30 days from receipt of Court Order and a competency disposition hearing shall be scheduled for the Court to approve attainment plan. *78A-6-1303(1)(3)*
- The Court is required to review the status of the minor's attainment of competency every 90 days. The competency coordinator will not appear, but will make sure that reports are submitted 3 days prior to the competency review hearing. *78A-6-1303(6)*
- At the 6-month review, if the minor has not attained competency, a report to the Court will be submitted addressing whether or not the minor is showing reasonable progress towards attaining competency. If reasonable progress is being made, the Court may order additional 6 months of attainment. *78A-6-1303(13)*
- If it becomes evident there is not a substantial probability the minor will attain competency prior to the one year review, a staffing with parties involved in the case may be held to determine what is in the best interest of the minor and society.
- If any time during the attainment period the Court finds the minor not competent without substantial probability minor will attain competency, the Court is obligated to terminate competency proceedings and dismiss the charges without prejudice. *78A-6-1303(8)*
- The Court shall release minor from any custody related to delinquency proceedings, unless the prosecutor informs Court commitment proceedings have been initiated. *78A-6-1303(8)*
- Commitment proceedings shall be initiated within seven days and the Court may order the minor to remain in custody until commitment proceedings are concluded. *78A-6-1303(8)*
- If minor does not attain competency within a year, the Court shall terminate the competency proceedings. *78A-6-1303(14)*

Appendix C: Utah Department of Human Services FY 2018 Report on Juvenile Competency

Item Name: Juvenile Competency Data Summary
Fiscal Year Summary: 2018

Since [House Bill \(HB\) 393](#) became effective May 8, 2012, the Utah Department of Human Services' (DHS) has contracted for 446 competency evaluations. The report summarizes evaluations conducted during Fiscal Year (FY) 2018 and compares FY 2018 results with results from prior years, beginning in FY 2013.

Number of Evaluations

In FY 2018, the Utah Juvenile Courts (hereafter referred to as Courts) ordered juvenile competency evaluations (hereafter referred to as evaluations) for 82 youth. Second evaluations were ordered for six youth. In total, evaluators contracted by DHS were ordered to conduct 88 evaluations for 82 youth during FY 2018. Table 1 shows number of youth evaluated and the number of evaluations since FY 2013.

Table 1. Numbers of evaluations ordered and youth evaluated

	Youth Evaluated	Evaluations Ordered
FY13	51	57
FY14	54	57
FY15	60	60
FY16	81	86
FY17	96	98
FY18	82	88
Total		446

Reasons for Evaluation

Of the 87 evaluations ordered in FY 2018, 45 evaluations were ordered for youth due to Mental Illnesses (MI) and 42 were ordered for youth due to intellectual disabilities (ID). Table 2 shows the number and percentage of evaluations ordered due to MDs or IDs since FY 2013.

Table 2. Primary reason competency evaluation was court ordered

Fiscal Year	Mental Illness (MI)	Intellectual Disability (ID)	Both MI & ID	Total Evaluations Ordered
FY13	31 (54%)	18 (32%)	8 (14%)	57
FY14	34 (60%)	21 (37%)	2 (4%)	57
FY15	41 (68%)	19 (32%)	N/A	60
FY16	64 (74%)	22 (26%)	N/A	86
FY17	40 (41%)	58 (59%)	N/A	98
FY18	45(52%)	42(48%)	N/A	87*
Total	255 (57%)	180 (40%)	10 (2%)	445

*Primary reason for competency evaluation information was not provided for one competency order

The criteria for categorizing a youth as having an ID changed between FY 2016 and FY 2017. This change accounts for the increase in the percentage of cases categorized as ID beginning in FY 2017.

Judicial Districts Ordering Evaluations

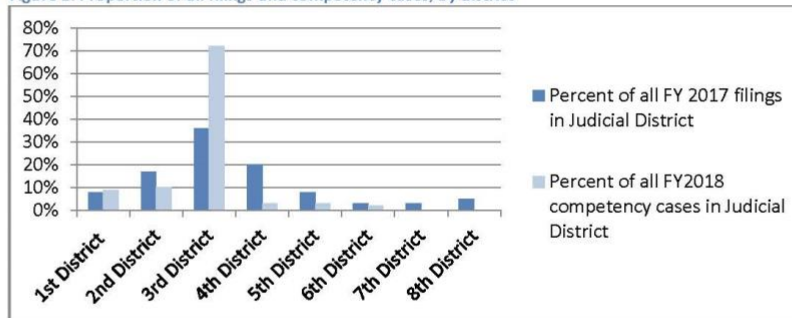
The Courts are comprised of eight Judicial Districts. Six of the eight Judicial Districts ordered evaluations during FY 2018. Like previous years, the majority of the Court orders for evaluations in FY 2018 were from the 3rd Judicial Districts. Table 3 shows the number of youth and percentage of cases with Court orders from each of the eight Judicial Districts since FY 2013.

Table 3. Competency cases by judicial district

Judicial District	FY13	FY14	FY15	FY16	FY17	FY18
1st District	1 (2%)	1 (2%)	0 (0%)	2 (2%)	6 (6%)	8 (9%)
2nd District	12 (24%)	8 (15%)	18 (30%)	8 (10%)	15 (15%)	9 (10%)
3rd District	31 (61%)	43 (80%)	36 (60%)	63 (78%)	62 (63%)	63 (72%)
4th District	5 (10%)	1 (2%)	2 (3%)	3 (4%)	7 (7%)	3 (3%)
5th District	1 (2%)	1 (2%)	1 (2%)	2 (2%)	3 (3%)	3 (3%)
6th District	0 (0%)	0 (0%)	0 (0%)	1 (1%)	4 (4%)	2 (2%)
7th District	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0
8th District	1 (2%)	0 (0%)	3 (5%)	2 (2%)	1 (1%)	0
Total	51	54	60	81	98	88

Filings data from the Courts are currently not available for FY 2018 but are available from FY 2017 ([link to FY 2017 Court filings](#)). Filings data show 36% of the total juvenile cases filed in FY 2017 were filed by the 3rd Judicial District. Competency data showed that 72% of the evaluations ordered in FY 2018 were filed by the 3rd Judicial District. This reflects significant over-representation of the 3rd Judicial District among evaluation orders. Figure 1 shows the percent of total filings by district in FY 2017 and the percent of total competency orders by District in FY 2018.

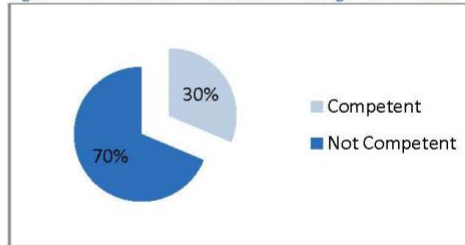
Figure 1. Proportion of all filings and competency cases, by district



DHS Evaluation Findings

Evaluators contracted by DHS use an evaluation process that results in either a “Competent” or a “Not Competent” finding. Of the 84 evaluations completed for FY 2018 evaluation orders (three cases are still in the evaluation process; one had the evaluation order vacated), 25 (30%) of the findings indicated Competency and 59 (70%) of the findings indicated Non-Competency. Figure 2 shows the proportion of “Competent” and “Not Competent” evaluation findings in FY 2018.

Figure 2. DHS contracted evaluation findings from FY 2018



Court Findings

After considering evaluation findings and other evidence, Courts may find a juvenile “Competent to Stand Trial (CMP)”; “Not Competent To Stand Trial **WITH** A Substantial Probability Juvenile May Attain Competency Within 1 Year (ATT)”; or “Not Competent To Stand Trial **WITHOUT** A Substantial Probability Juvenile May Attain Competency Within 1 Year (NCA).” At the writing of this report, UFCs had issued findings for 74 of the cases ordered to attainment in FY2018.

Of the 73 cases with findings, Courts found the youth CMP in 19 cases (26%); ATT within a year in 15 cases (20%); NCA within a year in 39 cases (53%). Table 4 shows Courts findings since FY 2013.

Table 4 Court findings FY 2013-FY 2018

Fiscal Year	CMP	ATT	NCA	Total
FY 2013	14 (33%)	7 (16%)	22 (51%)	43
FY 2014	13 (24%)	10 (19%)	31 (57%)	54
FY 2015	12 (25%)	8 (17%)	28 (58%)	48
FY 2016	28 (34%)	20 (24%)	35 (42%)	83
FY 2017	28 (31%)	32 (36%)	29 (33%)	89
FY2018	19 (26%)	15 (20%)	39 (53%)	73
Total	114 (39%)	92 (24%)	184 (47%)	390

Relationship between DHS Contracted Findings and Court Findings

Of the 73 cases with both DHS and Courts findings, Courts findings agreed with finding from DHS contracted evaluators 99% of the time (72 out of 73 cases). Table 5 shows the relationship between DHS contracted evaluation findings and Courts findings in FY 2018. Courts found clients evaluated as Not Competent by DHS to be NCA 72% of the time (38 out of 53).

Table 5 Agreement between DHS contracted and Court findings

DHS finding \ Court finding	CMP	ATT	NCA	Total
Competent	19	0	1	20
Not competent	0	15	38	53
Total	19	15	39	73

Court Findings by Evaluation Reason

Table 6 shows that in FY 2018 Courts (and DHS) findings differed by evaluation reason. Youth that received evaluation orders due to Mental Illness (MI) were more likely to be found CMP than youth receiving orders due to Intellectual Disability (ID); Similarly, youth receiving evaluation orders due to MI were also more likely to be found NCA than youth receiving orders due to ID; there was not a statistically significant difference between the percentage of youth with MI and DI who were found to have a substantial probability of attaining competence.

Table 4 Court findings upon receipt of competency evaluations, FY 2018

Finding	MI	MI %	ID	ID%	Total	%
(CMP)	14	39%	5	14%	19	26%
(ATT)	7	19%	8	22%	15	21%
(NCA)	15	42%	24	29%	39	53%
Total	36	100%	37	100%	73	100%

Longitudinal trends in Courts findings by evaluation reasons are shown in Figure 3 and Figure 4. These trends show that historically, youth with ID have been more likely than youth with MI to be found NCA. That trend reversed in FY 2018. Similarly, a trend in which youth with ID were less likely than youth with MI to be found ATT reversed in FY 2017. That reversal persisted into FY 2018 with 22% of youth with ID found ATT and 19% of youth with MI found attainable. The number of youth with ID also increased, so FY 2018 was the second year in a row in which attainment providers served more youth with ID than with MI.

Figure 3 Competency due to MI

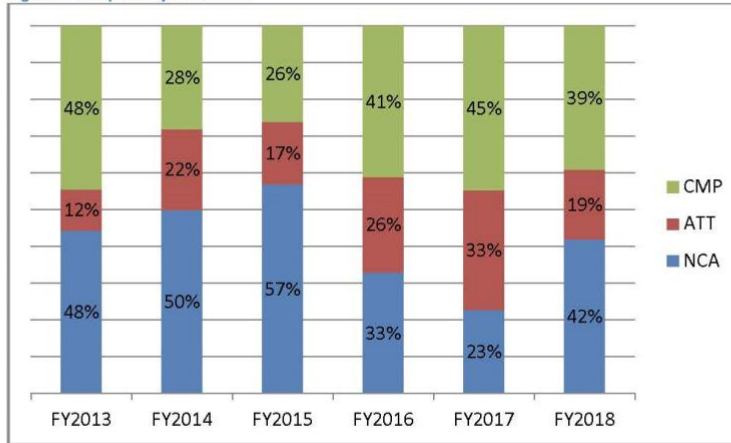
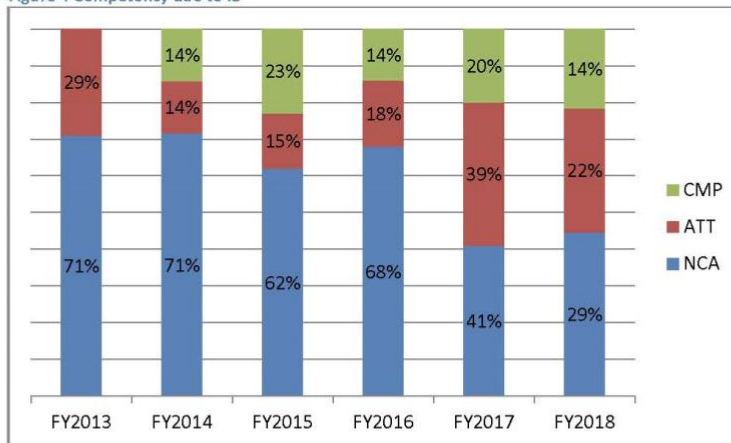


Figure 4 Competency due to ID



Attainment Outcomes

Youth determined to have a high probability of attaining competency spend up to a year working on attainment with a DHS attainment provider. Youth are then found to be either “Competent” or “Not Competent” by the Courts. During FY 2018, findings were made on 27 youth that had completed the attainment process. Of those 27 youth, 8 were found Competent (30%) and 19

(70%) were found Not Competent. Table 7 provides a summary of post-attainment competency outcomes for all youth who completed the attainment process between FY 2013 through FY 2018.

Table 5 Court findings after attainment services, FY 2013-FY 2017

Court Found Minor Competent to Proceed After Attainment Period	40	49%
Court Found Minor Not Competent and Not Attainable After Attainment Period	41	51%
Total	81	100%

Appendix D. Revised Bloom's Taxonomy

Table 9. Revised Bloom's Taxonomy, Definition and Verbs

Categories	Remember	Understand	Apply	Analyze	Evaluate	Create
Definition	Exhibit memory of previously learned material by recalling facts, terms, basic concepts, and answers.	Demonstrate understanding of facts and ideas by organizing, comparing, translating, interpreting, giving descriptions, and stating main ideas.	Solve problems to new situations by applying acquired knowledge, facts, techniques and rules in a different way.	Examine and break information into parts by identifying motives or causes. Make inferences and find evidence to support generalizations.	Present and defend opinions by making judgments about information, validity of ideas, or quality of work based on a set of criteria.	Compile information in a different way by combining elements in a new pattern or proposing alternative solutions.
Verbs	Choose Define Find How Label List Match Name Omit Recall Relate Select Show Spell Tell What When Where Which Who Why	Classify Compare Contrast Demonstrate Explain Extend Illustrate Infer Interpret Outline Relate Rephrase Show Summarize Translate	Apply Build Choose Construct Develop Experiment with Identify Interview Make use of Model Organize Plan Select Solve Utilize	Analyze Assume Categorize Classify Compare Conclusion Contrast Discover Dissect Distinguish Divide Examine Function Inference Inspect List Motive Relationships Simplify Survey Take part in Test for Theme	Agree Appraise Assess Award Choose Compare Conclude Criteria Criticize Decide Deduct Defend Determine Disprove Estimate Evaluate Explain Importance Influence Interpret Judge Justify Mark Measure Opinion Perceive Prioritize Prove Rate Recommend Rule on Select Support Value	Adapt Build Change Choose Combine Compile Compose Construct Create Delete Design Develop Discuss Elaborate Estimate Formulate Happen Imagine Improve Invent Make up Maximize Minimize Modify Original Originate Plan Predict Propose Solution Solve Suppose Test Theory

Source: Anderson, L. W., & Krathwohl, D. R. (2001). A taxonomy for learning, teaching, and assessing, Abridged Edition. Boston, MA: Allyn and Bacon.

3. Level of Impairment on Statutorily Identified Criteria (None or Mild/Moderate/Severe):

				Comments
Comprehend & Appreciate Charges or Allegations	N	Mod	Sev	
Disclose to Counsel Pertinent Facts, Events or States of Mind	N	Mod	Sev	
Comprehend and Appreciate the Range and Nature of Possible Penalties that may be imposed in the proceedings (if applicable)	N	Mod	Sev	
Engage in Reasoned Choice of Legal Strategies and Options	N	Mod	Sev	
Understand the Adversarial Nature of the Proceedings	N	Mod	Sev	
Manifest Appropriate Courtroom Behavior	N	Mod	Sev	
Testify Relevantly (if applicable)	N	Mod	Sev	

Discussion of other factors relevant to competence (e.g., communication skills; attentional capacity)

4. Competency remediation formulation table:

COMPETENCE DEFICIT	SOURCE(S) OF DEFICIT	POSSIBLE INTERVENTIONS	NEEDED / AVAILABLE TIME-FRAME	LIKELIHOOD OF SUCCESS
e.g./ Poor Appreciation of certain legal concepts	e.g./ Poor abstraction skills from young age & Borderline IQ	e.g./Repeated and multi-modal teaching and discussion	e.g./ 12 months / 12 months	e.g./Moderate to High

5. Reasoning for recommending inpatient vs. outpatient remediation: