

Juvenile Capacity Remediation

NC Association of District Court Judges
2025 Summer Conference

Agenda



New capacity law through a judicial lens



ABC's of remediation



What is the JRC and where did it come from?



Activity: What would you order, Part I?



JRC demonstration



Activity: What would you order, Part II?



Judicial Perspective

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The “Dusky” Standard

Whether a defendant has “a rational as well as factual understanding of the proceedings against him” and “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding.”

- *State v. LeGrande*, 346 N.C. 718, 724 (1997)
- Quoting *Dusky v. U.S.*, 362 U.S. 402 (1960) (per curiam)



**Skills/Abilities
needed remain
the same**

Unable
to:

Understand nature and
object of proceedings

Comprehend own
situation in reference to
proceedings, or

Assist in defense in
rational or reasonable
manner



BECAUSE OF:

mental disorder,

intellectual disability,

neurological disorder,

traumatic or acquired brain injury, or

developmental immaturity.

Remediation may be ordered when:

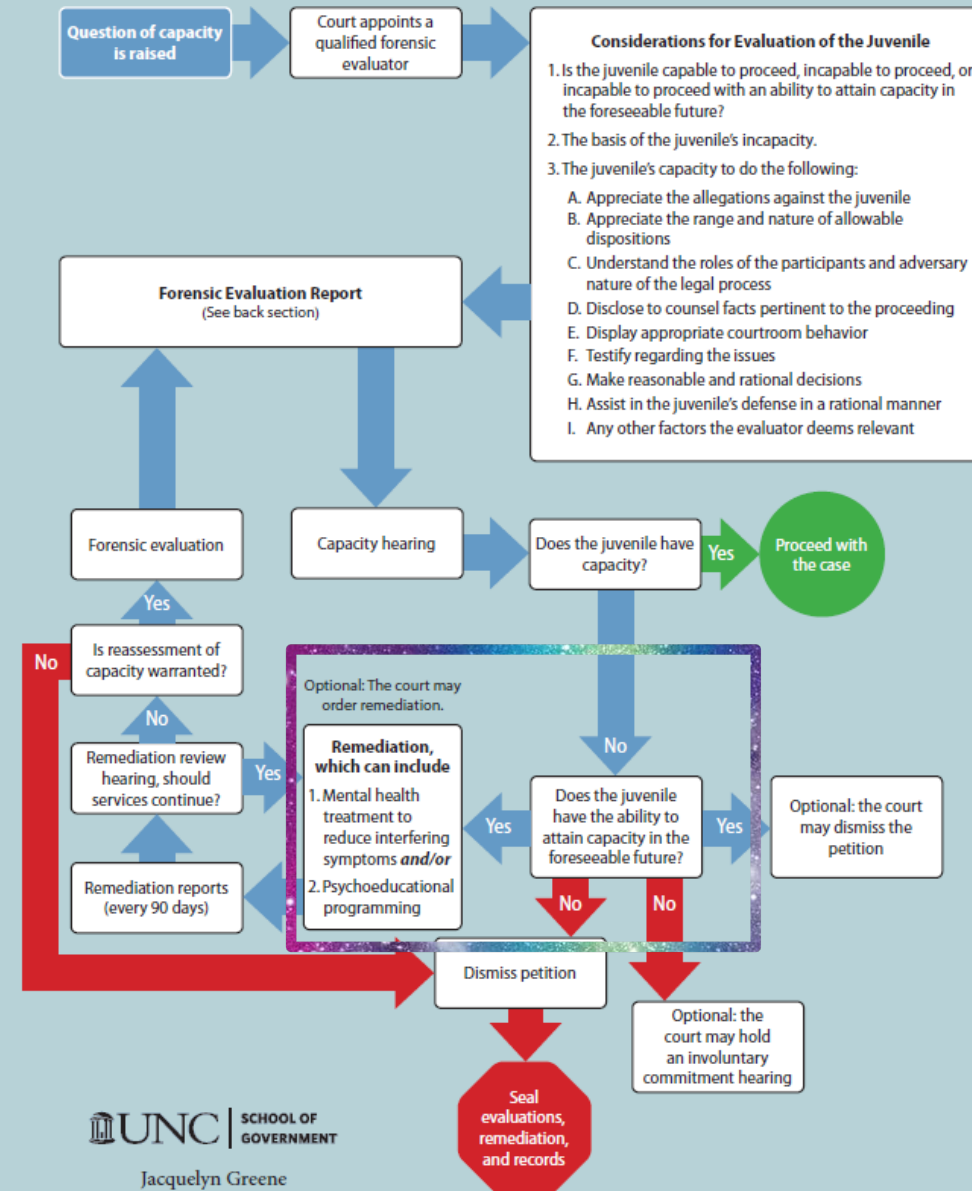
the court finds the juvenile

1) incapable to proceed, and

2) substantially likely to attain capacity
in the foreseeable future

Juvenile Capacity to Proceed Procedure

(G.S. 7B-2401–2401.5)



Remediation



Mental health treatment
and/or psychoeducational
programming



Based on
recommendations in
forensic evaluation

Psychoeducation v. Mental Health Treatment

Psychoeducation

- Not clinical
- Provider trained in curriculum
- Teaching content and applying learning
- Records are not health records

Mental health treatment

- Clinical healthcare
- May include medication
- Licensed/credentialed provider
- Records are health records

Remediation v. Forensic Evaluation

Remediation

- Not clinical
- Teaching factual understanding
- Growing rational understanding
- Teaching how to work rationally with attorney
- No determination of capacity
- G.S. 7B-2401.4

Forensic evaluation

- Completed by clinician
- Does juvenile have capacity
- Basis of any incapacity
- Recommend treatment and/or education to attain capacity (with length and setting)
- G.S. 7B-2401.3

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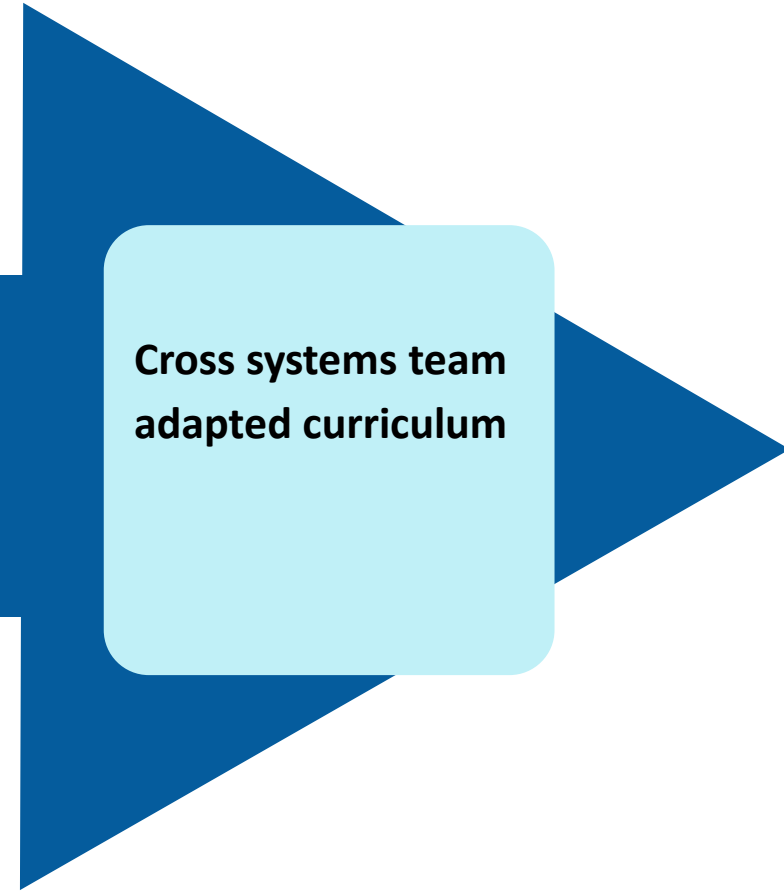
JRC ADAPTATION PROCESS

National scan

**Selected curriculum
for adaptation**

**Feedback from the
field through focus
groups, court
observations, and
local stakeholder
meetings**

**Cross systems team
adapted curriculum**



THANK YOU, UTAH!!!

- Utah Attainment Curriculum for Trial Competence (ACTC)
 - Developed by Judith M. Holt, PhD., Tracy Gold, PhD., Jefferson Sheen, MSW, Marilyn Hammond, PhD., and Amy Notwell, MSW at the Center for Persons with Disabilities at Utah State University
 - Generously shared with us by the Utah Department of Health and Human Services

JRC ALIGNMENT WITH BEST PRACTICE RECOMMENDATIONS

(Kruh, Gowensmith, Alkem et al., 2022)

Best Practice Recommendation	NC remediation program
Experienced and trained service provider	✓
Individualized instructional services using clear strategies and innovative approaches	✓
Ongoing didactic training relationship	✓
Individualized competency-relevant clinical services	✓
Case management for competency related services	✓
Developmentally sensitive services	✓
Data driven services	✓
Services based on statutory timelines and participants capacity	✓
Services integrated into the larger juvenile competency process	✓


JUVENILE REMEDIATION CURRICULUM GOALS

**Factual
Understanding**

**Rational
Understanding**

**Ability to work
effectively with
attorney**

JUVENILE REMEDIATION CURRICULUM ELEMENTS

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- Digitally-based Remediation modules
 - JRC curriculum manual
 - Court report template

MODULE OVERVIEW

Module 1:

Getting Comfortable with Remediation and My Provider

Module 2:

My Attorney, the Prosecutor,
and the Judge

Module 3:

The Juvenile Justice System

Module 4:

What Am I Charged With (Allegations)?

Module 5:

What Could Happen to Me?

Module 6:

My Side of the Story

Module 7:

Working with My Attorney to
Tell My Side of the Story

Module 8:

How Do I Defend Myself?

Module 9:

Testifying

Module 10:

How Do I Act in Court?

KEY CONCEPTS FOR REMEDIATION

- Appreciate the allegations against the juvenile. ••
- Appreciate the range and nature of allowable dispositions that may be imposed in the proceedings against the juvenile.
- Understand the roles of the participants and the adversary nature of the legal process.
- Disclose to counsel facts pertinent to the proceedings at issue.
- Display appropriate courtroom behavior.
- Testify regarding the relevant issues
- Make reasonable and rational decisions.
- Assist in the juvenile's defense in a rational manner

Statutory skill/ability	Module(s)
Appreciate the allegations against the juvenile	4 (What and I Charged With?)
Appreciate the range and nature of allowable dispositions that may be imposed in the proceedings against the juvenile	5 (What Could Happen to Me?)
Understand the roles of the participants and the adversary nature of the legal process	2 (My Attorney, the Prosecutor, and the Judge); 3 (The Juvenile Justice System); 9 (Testifying)
Disclose to counsel facts pertinent to the proceedings at issue	2 (My Attorney, the Prosecutor, and the Judge); 6 (My Side of the Story); 7 (Working with My Attorney to Tell My Side of the Story); 8 (How Do I Defend Myself?)
Display appropriate courtroom behavior	10 (How Do I Act in Court?)
Testify regarding the relevant issues	6 (My Side of the Story); 9 (Testifying)
Make reasonable and rational decisions	7 (Working with My Attorney to Tell My Side of the Story); 8 (How Do I Defend Myself?); 9 (Testifying)
Assist in the juvenile's defense in a rational manner	2 (My Attorney, the Prosecutor, and the Judge); 3 (The Juvenile Justice System); 6 (My Side of the Story); 7 (Working with My Attorney to Tell My Side of the Story); 8 (How Do I Defend Myself?)


Curriculum Structure & Delivery Format

Structure:

- Manualized, digital curriculum
- Modular format
- Individualized instruction
- Regular court reports
- Frequency: up to 2 times per week
- Duration: up to 1 hour per session.

Delivery Format:

- Support specialist meet in person in a one-on-one format with youth
- Delivered both in the community and secure settings.



JRC MODULE CONTENT

Module overview

Factual knowledge development

Practice opportunities

Rational appreciation (application) activities

Assessment

Sample Constructs to Teach Legal Content

Two teams in court

Three stops in a case

Some charges are bigger than others

Tell your attorney the full story

Talk with your attorney about the pros and cons of making an admission and testifying

Follow rules of behavior in court

Disposition is a plan you must follow

Impacts on life increase from Level 1 to Level 3 dispositions

Your attorney is the only one who can't be forced to tell the court what you tell them

JRC INSTRUCTIONAL METHODS

Module Overview

- **Animated video**

Factual knowledge development

- **Relatable animated narrators**
- **Animated videos**
- **Narrated text**
- **Learning heuristics**
- **Interactive images/pictures**
- **Carousels/Accordions**

JRC INSTRUCTIONAL METHODS CONTINUED

Practice Opportunities

- Drag and Drop Activities
- Matching Activities
- Card Sort Activities
- Flashcards

Rational appreciation (application) activities

- Scenarios
- Engagement with support specialist
- Matching Activities
- Card Sort
- Drag and drop
- Flashcards

Assessment

- Scenario based questions
 - Multiple choice
 - True/false

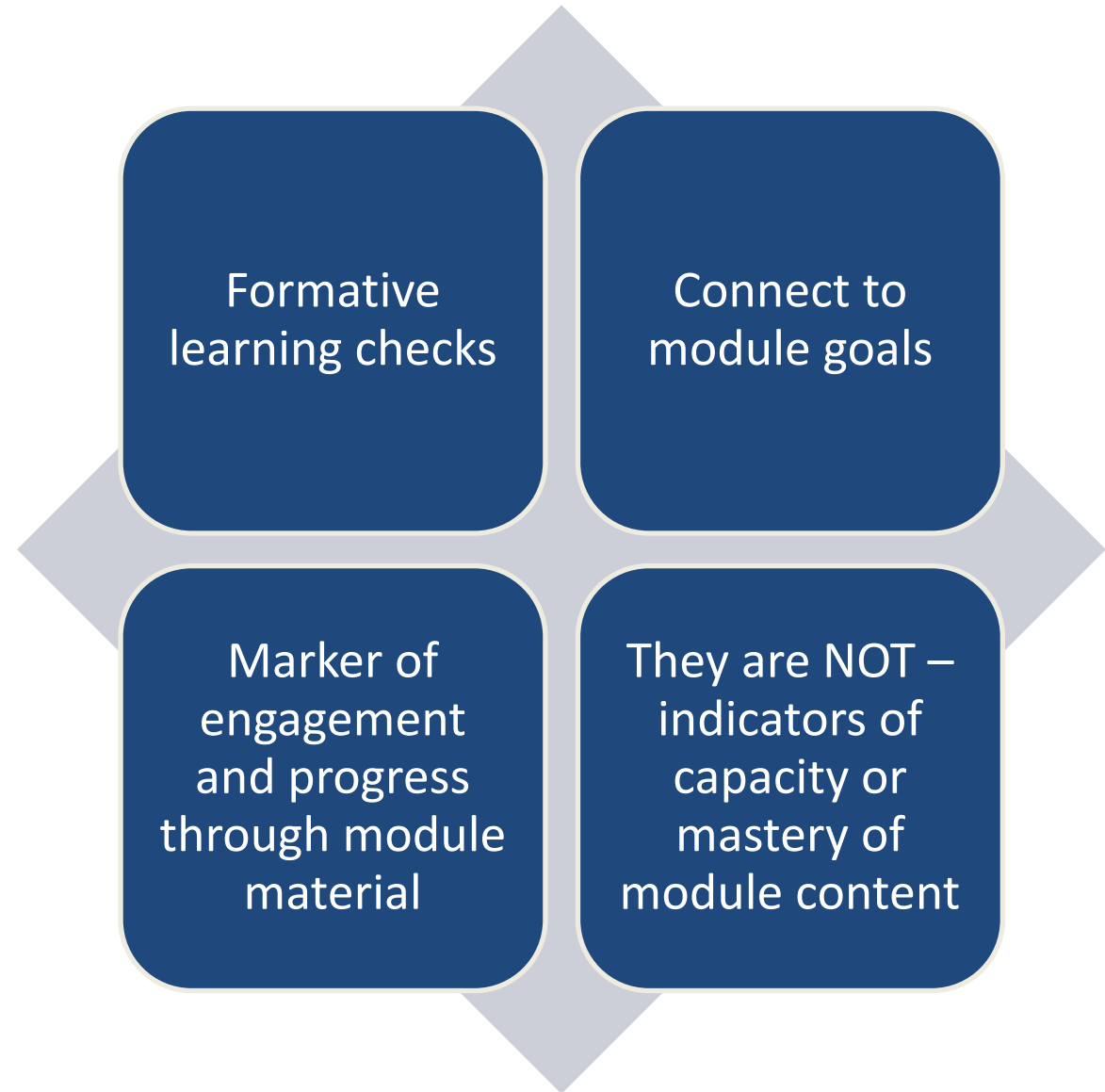
Strategies to Individualize Delivery of Curriculum Content

Instructional Delivery

Instructional Setting

Instructional Supports

The Role of Assessments in the JRC



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Remediation Review Reports and Hearings



Reports to the court required every 90 days



Remediation review hearing required within 30 days of report receipt

To review remediation services

If court determines reassessment of capacity is warranted, shall order a new forensic evaluation