



## Psychiatry & Behavioral Science Section – 2010

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### I22 Developmental Immaturity as a Basis for Juvenile Incompetence to Stand Trial

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By attending this presentation, attendees will learn about the core principles of child and adolescent development relevant to the understanding of juvenile competence to stand trial and the legal status of developmental immaturity as a basis for incompetence to stand trial across jurisdictions. Attendees will also learn about the practical

implications that arise in assessing juvenile competence to stand trial and providing recommendations for restoration of competence.

This presentation will impact the forensic science community by raising awareness of the unique developmental issues that affect juvenile competence to stand trial and by increasing practitioners' understanding of how these issues are being addressed in competence proceedings.

In recent years, juvenile adjudicative competence has received increased attention from legal and mental health practitioners. As youthful offenders increasingly face serious sanctions in the juvenile court system and are more frequently subject to prosecution in adult criminal courts, their ability to rationally understand and participate in their trial has become a pressing concern.

The test of competence to stand trial, articulated by the United States Supreme Court in *Dusky v. United States* (1960), is, generally speaking, whether the defendant can rationally consult with his attorney and rationally understand the proceedings against him. For adult defendants in most jurisdictions, incompetence must be based upon a predicate mental disease or defect; however, many children and young adolescents who are free of mental illness may nonetheless fail to meet the standard set forth in *Dusky*.

In assessing juveniles' competence to stand trial, evaluators should have adequate training in the principles of child and adolescent development. Several specific social, emotional and cognitive aspects of their development have a potential effect on a juvenile's ability to rationally participate in his or her adjudicative process. These include the still-developing abilities to act autonomously, weigh the risks and benefits of alternative courses of action, and consider the long-term consequences of their choices, among others. The authors will discuss how these factors should be assessed and addressed in a comprehensive evaluation.

The standards for juvenile competence to stand trial vary across state jurisdictions. Therefore, forensic mental health evaluators must be familiar with the laws in their jurisdiction. Based upon a review of case law and state legislation, the authors will discuss several states' approaches to developmental immaturity and juvenile competence to stand trial to illustrate important cross-jurisdictional differences.

Developmental immaturity as a basis for incompetence to stand trial presents a conundrum for the restoration of incompetent youth. Forensic experts are often asked what interventions will help restore a defendant to competence (e.g., medication, therapy, court competence training). However, normative developmental differences that affect juveniles' competence, by their very nature, will only be addressed with maturation and the passage of time. Thus, options for short-term psycho-educational restoration training are limited.

It is concluded that a comprehensive approach to assessing juveniles' competence to stand trial requires forensic evaluators to consider normative child and adolescent development as well as the presence of mental illness and developmental delay. Evaluators must also be aware of state laws regarding developmental immaturity as a basis for incompetence and should know about local resources for competence restoration services.

**Adjudicative Competence, Developmental Immaturity, Juveniles**