Individuals with Disabilities Education Act (IDEA) Guidance on Students with Disabilities in County and Local Jails

Annual Technical Assistance

September 12, 2023

Purpose

- Discuss the Child Find and Free Appropriate Public Education (FAPE) requirements for students with disabilities in county and local jails

- Discuss the model Memorandum of Understanding (MOU) between local educational agencies (LEAs) and local correctional facilities

- Discuss appropriate reporting of students with disabilities in county and local jails

- Share tips and resources to assist with implementation

What is Child Find?

- <u>Affirmative requirement</u> that local educational agencies (LEAs) have <u>in effect policies and procedures</u> to ensure that all suspected children with disabilities regardless of the severity of their disability, and who are in need of special education and related services, are <u>identified, located, and evaluated</u>.

- The policies and procedures shall provide for the screening and evaluation of all children with suspected disabilities through age 21 to include:

  - Children who are detained or incarcerated in city/county operated jails or correctional facilities. State Board Rule 160-4-7-.03(1)

Points to Remember

- All IDEA and State Child Find policies must be implemented.
- Child Find includes students never identified as a student with a disability prior to their entry in a local or county jail who:
  - Are 21 years of age or younger and
  - Have not received a regular high school diploma.
- Evaluations must be completed in a timely manner even if the student will not be in a local or county jail long enough to complete the evaluation or the student transferred to a local or county jail after the evaluation began.

Additional Points to Remember

- Include the appropriate professionals in the Child Find discussions, such as:
    - Intake staff in County and Local Jails
    - Social Workers
    - Probation Officers
    - Truant Officers
    - Police
    - Medical and Mental Health Professionals

Tips from LEAs

- Obtain weekly inmate list from local or county jail
- Add questions to inmate intake process
- Include "Child Find language" in local or county jail inmate handbook
- Create Child Find informational presentation to play in local or county jail common areas
- Include contact information for LEA Special Education Department in jail resource information for departing inmates

Free Appropriate Public Education (FAPE)

- Absent a specific exception, all IDEA protections apply to students with disabilities in correctional facilities and their parents.

- Absent a specific exception, all IEP content requirements apply to students with disabilities in correctional facilities.

- Transfer students must receive comparable services in their IEP, or a new IEP must be developed.

- Special factors
  - Positive behavioral interventions and supports
  - Other strategies to address behavior

- Transition Plan

Free Appropriate Public Education (FAPE) continued

- Possible Related Services
  - Counseling
  - Parent Counseling and Training
  - Psychological Services
  - Social Work Services

- Parental Engagement
  - Parents do not lose their rights while the student is incarcerated.
  - Correctional facility may not assume the role of the parent under IDEA.

FAPE Points to Remember

- IEP Development (Specific to the student)
  - Present Levels of Academic Achievement and Functional Performance
  - Annual Goals
  - Special Education and Related Services
  - Transition Plan
  - Assistive Technology
  - Behavior Intervention Plan
- Compensatory Services

Educational Records

- General Supervision
  - Written procedures for sending and receiving records
  - Assign staff to be responsible
- Transfer records expeditiously
- No undue interruption in providing services

Shared Responsibility

- **<u>Every agency</u>** at any level of government that is involved in the provision of special education and related services to students with disabilities in correctional settings **<u>must ensure the provision of FAPE</u>**, even if other agencies share that responsibility and regardless of whether the agency receives funds under IDEA Part B.

Student in jail within jurisdiction of his/her LEA of residence

- The LEA where the jail is located is responsible for providing special education services to students in that jail.

- The LEA must convene an IEP Team meeting and determine appropriate special education services.

- Students incarcerated in local jails in the LEA's jurisdiction should remain enrolled in the LEA and receive special education services.

Student in jail within outside the jurisdiction of his/her LEA of residence

- The LEA where the jail is located is responsible for providing special education services even though the student is not a resident of the county/city where the jail is located.

- It is best practice for the LEA where the student resides to work with the LEA where the jail is located and participate in the IEP Team meeting to determine appropriate services.

- The two LEAs should collaborate to do what is most appropriate for the student. The student may be withdrawn from their LEA of residence and enrolled in the LEA where the jail is located. If this occurs, the LEA where the jail is located will provide the services

Memorandum of Understanding (MOU) with County and Local Jails

- The goal is to collaboratively establish an agreement to ensure students with disabilities are identified and receive all required special education related services while incarcerated in county and local jails.

- A MOU is not required <u>unless necessary for implementation</u>.

Model Interagency Agreement

- Includes responsibilities for the following parties:
  - All parties involved
  - Juvenile court
  - Department of Probation
  - Department of Health or similar agency
  - School Superintendent
  - Law Enforcement Chief or Sheriff
  - State attorney or district attorney
- [JAIBG Bulletin: Model Interagency Agreement (ncjrs.gov)](ncjrs.gov)
- This example is geared toward the juvenile justice system but can be used as a framework for the local or county jail system.

MOU Tips

- Include appropriate "players" from each agency
  - Research and identify your local jailer to make contact

- Open communication
  - Open dialogue to explain IDEA, FAPE, and IEP services with your local jail officials

- Be proactive
  - Emphasis the benefactors of the partnership (e.g., community, LEA, jail, families of the incarcerated)

- Provide training
  - Include appropriate training needed for each agency staff, if applicable

Possible items to include in MOU

- Child Find Procedures (e.g., weekly reports, intake process)
- Evaluation Process
- IEP Team meetings (e.g., notice, participants, location)
- Special education and related services (e.g., staff, security, location, resources)
- State Assessments
- Educational records
- Student Discipline

*not an exhaustive list

Resources

- [OSEP DEAR COLLEAGUE LETTER on the Individuals with Disabilities Education Act for Students with Disabilities in Correctional Facilities (December 5, 2014)](#)

- [JAIBG Bulletin: Model Interagency Agreement (ncjrs.gov)](#)

- [JAIBG Bulletin: Policy Issues (ncjrs.gov)](#)

- [IDEA Compliance for youth with disabilities within correctional facilities (osepideasthatwork.org)](#)

- [Guidance for Serving Youth who are Detained or Incarcerated- FINAL 11.2.20.pdf (gadoe.org)](#)

Incarcerated Students and Data Reporting

GaDOE
Georgia Department of Education

FY22 and 23: Count of Students Reported* as Served in Correctional Facilities

LEA	FY22	FY23
Dept. of Corrections	134	
Dept. of Juvenile Justice	212	
Foothills	138	
Effingham, Fayette, Cobb, Sumter, and McDuffie Counties	21	
*Total Alternate School Code = 5555 in Student Class	**505**	

Incarcerated Students with Disabilities (SWD): Served / Reported Discrepancy

- **If your LEA has SWD who are incarcerated, why aren't they reported?**
  1. My services to incarcerated SWD are a work in progress, and more information is needed.
  2. I did not previously understand that my LEA is required to report students we are serving in the local jails.
  3. I did not previously understand that SWD who were arrested and incarcerated in my jurisdiction while living in the jurisdiction of another LEA must still be served and reported by my LEA.
  4. My LEA is serving and reporting incarcerated SWD, but they were not properly coded.

Responsibility for Incarcerated SWD

- The LEA in which the jail or detention center is geographically located is responsible for the serving students in those facilities.

- The LEA serving the students **must** report the students served in local jails or detention centers. Failure to report these students is not an option.

- Exception: It is permissible for youth to maintain enrollment in their home LEA while detained or incarcerated in your LEA if the home LEA prefers to maintain enrollment, provide services, and report the student. (see Guidance for Serving Youth who are Incarcerated or Detained)

- These youth **must be** reported by one of the LEAs.

FIND Your Students

- The local jail should be providing your LEA with a weekly list of those who became incarcerated during the preceding week.
- Work with the appropriate facilities to obtain that information.
- Determine how and when that information will be shared.
- Determine what information will be shared
  - Full name
  - Date of birth
  - Copy of driver's license if available
  - Last known address
  - Last School attended
  - Parent names and contact information

Review Information in SIS

- Use that list and search in your own SIS to determine if you have information from current or prior enrollments.
  - If currently enrolled in your LEA, and if this is a SWD, do not withdraw student from your LEA. (Students <u>without</u> disabilities may be withdrawn as incarcerated.)
  - For SWDs, maintain enrollment in the same School, or transfer to another school in your LEA. GaDOE has no preference regarding the school. This is an LEA choice.

Review Information in GUIDE

- If there is no information in your SIS for a student, look for the student in GUIDE.
  - Go to the Sp Ed History Report
  - Use the new option, "By Unclaimed GTID" to preview special education information and determine whether this is a student with a disability. This is the last button in the top row below.

The 'By Unclaimed GTID' option is only available if the portal role is Special Ed Director or Special Ed Staff. If you need assistance with your portal roles, please reach out to your local portal security officer.

By GTID	E799 Records	By Claim Date	By Last Name	By Unclaimed GTID

GTID: [   ]   Get History

What Will I Find in GUIDE?

- The Special Education History report provides information on the Primary Area, the Special Education Events and dates, whether there is current year event data from Student Record, and if there is an FTE Exit Event.
- The 'By Unclaimed GTID' option allows special education personnel (Special Ed Director and Special Ed Staff) to look up the special education history of a student that is currently incarcerated in a local jail.

What Will I Find in Guide? continued

- This will allow you to determine if the student is currently a student with a disability.

- If so, claim the student for a school in your LEA.

- The "By Unclaimed GTID" option is available if your portal role is Special Ed Director or Special Ed Staff. If you need assistance with your portal roles, please reach out to your local portal security officer or the GaDOE HELPDESK.

Reporting Incarcerated Students: FTE

- **SPECIAL ED ENVIRONMENT** = '8'
- **ENVIRONMENT** (residential environment, not Sp. Ed. Environment) – leave this field null since none apply
- All other reporting requirements are the same as all other students.
- Report segments in the same manner as they are reported for Hospital Homebound students.

Reporting Incarcerated Students: SR

- All reporting requirements are the same as all other students.

Reporting Incarcerated Students: Student Class

- Students must receive instruction allowing them to make progress in the general curriculum, earn grades and credits when appropriate, and receive a diploma when appropriate. This means they must be enrolled and reported in appropriate courses with appropriate teachers. Like teachers serving hospital/homebound students, they might remain enrolled in the same courses in which they were enrolled prior to their arrest, or a new schedule may need to be developed.

- If the teacher(s) serving the student are working with a different teacher of record, the teacher of record might continue to be the primary teacher.

Reporting Incarcerated Students: Student Class continued

- The student must have an IEP reflecting the services he should receive while incarcerated. Services should be identified in the IEP as "out of general ed" and "small group or individual" and should be reported in Student Class with either a **DELIVERY MODEL** of '6' or '7'. The **DELIVERY MODEL** of '7' should be used if a different teacher of record continues to be the primary teacher.

- **ALTERNATE SCHOOL CODE** = the pseudo code of '5555' – in a local jail or correctional facility

- **ALTERNATE SYSTEM CODE** = system providing services

- **COURSE TEACHER CODE** = teacher providing services

- All other reporting requirements are the same as all other students.

Delivery Model 6:
Specialized Placement - Individual or Small Group, Outside Regular Class

Delivery Model Code	6
Description, Comments	➤ The special education teacher provides instruction to students with disabilities in a separate classroom, outside the regular classroom. ➤ Reported for courses in a separate day school or program and residential settings that serve only SWD. ➤ No additional teacher; no **INCLUSION CODE**

Delivery Model 6:
Specialized Placement - Individual or Small Group, Outside Regular Class

COURSE TEACHER CODE	➢ Special Education Teacher with appropriate grade and Content Certification in addition to appropriate Sp Ed Service Certification (General or Adapted Curriculum) as needed. (NOTES: Pseudo Courses do not require Content Certification.
ADDITIONAL TEACHER	➢ No
COURSE NUMBER	➢ Content Area Course Number for the class is xx.8

Incarcerated Student with Primary Teacher as Computer Program for a Content Area and Special Education Teacher as Second Teacher

- **The COURSE TEACHER CODE** (teacher identifier) is 444444444. In most cases, the **ADDITIONAL COURSE TEACHER CODE 1** is the SSN # of the teacher. Codes such as the 444444444 are only used in unique circumstances (see the Student Class Data Element Detail).

- The **SPECIAL EDUCATION DELIVERY MODEL** must be '7' with a .8 course number as identified in the IEP.

Student Information Systems (SIS) Local Attendance Codes

The SIS allows LEAs the option to create locally developed attendance codes. Local Attendance Codes allow the LEA to track attendance for students that are reported to GaDOE as present or absent but are not physically in an LEA school building.

Student Information Systems (SIS) Local Attendance Codes

These codes can be developed for unique groups of students, including those served while incarcerated. A single code can be used for all (such as preschool community, expelled SWDs, Hospital Homebound Home-based) or a unique code can be created for each group. This "Present" code would be used each day as appropriate to indicate all IEP services were provided that week.

Power School Local Attendance Code Screenshot

The screens in Power School show the local codes that an LEA has created. Additional screens will allow the creation of new local codes and designate how they will report, both locally and during Student Record.

Infinite Campus Local Attendance Code Screenshot

The screens in Infinite Campus show the local codes that an LEA has created. Additional screens will allow the creation of new local codes and designate how they will report, both locally and during Student Record. Other SIS systems have similar functionality.

Richard Woods, Georgia's School Superintendent | **Georgia Department of Education** | *Educating Georgia's Future*

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