

What I Need to Know about Students with Disabilities in County and Local Jails

SELDA

July 11, 2024

Purpose

- Discuss the Child Find and Free Appropriate Public Education (FAPE) requirements for students with disabilities in county and local jails
- Recommended steps and best practices for LEAs
- Discuss the model Memorandum of Understanding (MOU) between local educational agencies (LEAs) and local correctional facilities

LEGAL OBLIGATIONS



What is Child Find?

- Affirmative requirement that local educational agencies (LEAs) have in effect policies and procedures 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 identified, located, and evaluated.
- 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.

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

FAPE

Free Appropriate Public Education

Purpose of IDEA

Purpose of IDEA (34 C.F.R. § 300.1)

“The purpose of [IDEA is]... [t]o ensure that children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living...””

Points to Remember

Provide FAPE to IDEA eligible youth:

1. Meet with parents/guardians regarding services
2. Determine what district personnel will provide services.
3. Provide services as soon as possible.
4. Work with the jail officials to determine a safe process to provide the services.
5. Review professional visitation policies.
6. Determine when and how the services can be provided.

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.
- **Reminder: FAPE may look different in county jails.**

FAPE for Incarcerated Students

- Incarcerated students eligible for special education services who have an IEP and who are in a facility operated by the Department of Juvenile Justice (DJJ) or the Department of Corrections (DOC) must receive their educational programs.
- Each of these agencies provides the services to students within their facilities in Georgia. Each agency has the responsibility to identify, evaluate, determine eligibility, and provide special education and related services to students.
- These agencies will contact the most recent public school attended by a student to obtain copies of educational records so that FAPE can be provided.

Notification to Ensure FAPE Guidance

- **Who is responsible for providing services for students with disabilities in county jails?**
 - The LEA in which the jail or detention center is geographically located is responsible for providing services to students in those facilities.
- **How does the jail notify the LEA of newly incarcerated students?**
 - The LEA shall receive a weekly printout from the county jail of incarcerated students ages 17-21. LEAs will review the weekly printout to identify any students with disabilities. The GaDOE data base should be used to verify the students.
- **When will the DJJ notify the LEA of incarcerated students with disabilities who are transitioning to county jails?**
 - The DJJ will notify the special education director of the LEA of any students that are transitioning to county jails via the GaDOE portal.

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
- **FAPE is not just working on IEP goals and objectives with the student.**

Incarcerated Students Checklist

- What are the local jails in your LEAs geographic region?
- Do you have a formal or informal agreement between the jail(s) and the LEA?
- What and when will data be shared?
- Who at the jail provides the weekly list of students who became incarcerated the previous week to the LEA?
- Who receives the list from the Local Jail?
- What happens after the list is received?

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

Educational Records

- 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 unless necessary for implementation.

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

Model Interagency Agreement

- [JAIBG Bulletin: Model Interagency Agreement \(ncjrs.gov\)](https://www.ncjrs.gov/pandoc/bulletin/bulletin.asp?id=1037)
- 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 \(gadoe.org\)](#)

QUESTIONS

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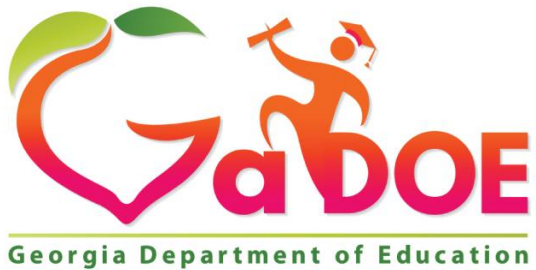
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