

Incarcerated Students



Jamila Pollard
Senior Program Manager/Legal Officer



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

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
- Share tips and resources to assist with implementation

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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)

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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.

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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

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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

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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.
- 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

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Free Appropriate Public Education (FAPE)

- 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.

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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

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Shared Responsibility

- Every agency at any level of government that is involved in the provision of special education and related services to students with disabilities in correctional settings must ensure the provision of FAPE, even if other agencies share that responsibility and regardless of whether the agency receives funds under IDEA Part B.
- Review previous guidance on FAPE for Incarcerated Students in local jails in a neighboring LEA. ([Slides 45-48](#))

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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.

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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 \(ncjrs.gov\)](https://www.ncjrs.gov/pubsrrs/bulletin/bulletin.asp?id=102)
- This example is geared toward the juvenile justice system but can be used as a framework for the local or county jail system.

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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

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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 \(osepideasthatwork.org\)](#)

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