



PRESENTERS

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IDEA Juvenile Justice Overview

- Key Document: OSERS Dear Colleague letter: December 5, 2014
- <https://www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf>



Key Provisions

- Absent a specific exception, all IDEA protections apply to students with disabilities in correctional facilities and their parents.
- The ADA and Sec. 504 of the Rehabilitation Act of 1973 also apply.
- Supporting effective and accountable education for incarcerated and at-risk youth can result in cost savings to the public and enable troubled youth to obtain an education and enhance their future employment options and life choices.



Pathway to Success

- The fact that a student has been charged with or convicted of a crime does not diminish his or her substantive rights or the procedural safeguards and remedies provided under the IDEA to students with disabilities and their parents



Huge Problem

- Reports document that approximately one third of students in juvenile correctional facilities were receiving special education services, ranging from 9 percent to 78 percent across jurisdictions
- In 2012–2013, of the 5,823,844 students with disabilities, ages 6 through 21, served under IDEA, Part B, 16,157 received special education and related services in correctional facilities.



Challenges

- Evidence suggests that proper identification of students with disabilities and the quality of education services offered to students in these settings is often inadequate.
- Challenges such as overcrowding, frequent transfers in and out of facilities, lack of qualified teachers, inability to address gaps in students' education, and lack of collaboration with the LEA contribute to the problem.



Shared Responsibility

- Every agency at any level of government that is involved in the provision of special education and related services to students in correctional facilities must ensure the provision of FAPE, even if other agencies share that responsibility.



Interagency Agreements

- States must have interagency agreements or other methods for ensuring interagency coordination in place so that it is clear which agency or agencies are responsible for providing or paying for services necessary to ensure FAPE for students with disabilities in correctional facilities.



SEA Responsibilities

- SEAs must exercise general supervision over all educational programs for students with disabilities in correctional facilities (unless covered by an exception) to ensure that their educational programs meet State education standards and IDEA, Part B requirements. This responsibility includes monitoring public agencies that are responsible for providing FAPE to students with disabilities in correctional facilities.
- SEAs must make annual determinations on the performance of correctional facilities in their State if those facilities operate as their own LEAs.



SEA Responsibilities cont'd.

- SEAs must ensure that students with disabilities, including those in correctional facilities, are appropriately included in general State and district-wide assessments
- The State Advisory Panel must include representatives from the State juvenile and adult corrections agencies, and include other agencies involved in the financing or delivery of services to students with disabilities.



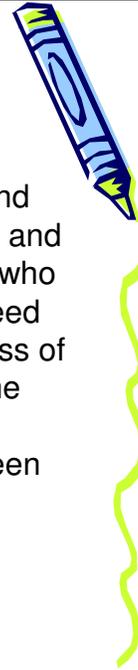
Personnel Qualifications

States and their public agencies must establish and maintain qualifications to ensure that personnel providing special education and related services, including those serving students with disabilities in correctional facilities, are appropriately and adequately prepared and trained. Public school special education teachers in correctional facilities must be “highly qualified,” as defined by IDEA and its implementing regulations, and related services personnel and paraprofessionals in correctional facilities must meet State qualifications for those personnel, as described in IDEA and its implementing regulations. SEAs must monitor to ensure that there are appropriate special education teachers in schools and education programs within correctional facilities.



Child Find & Evaluation

States and their public agencies must have child find policies and procedures in place to identify, locate, and evaluate students who are in correctional facilities who may have a disability under the IDEA and are in need of special education and related services, regardless of the severity of their disability and consistent with the State's child find and eligibility standards. This responsibility includes students who have never been identified as a student with a disability prior to their entry into the facility.



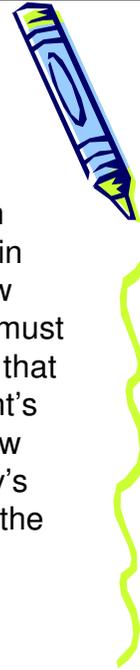
Child Find & Evaluation

Students suspected of having a disability who need special education and related services must be evaluated, subject to applicable parental consent requirements, in a timely manner, even if the student will not be in the facility long enough to complete the evaluation. If a student transfers from an LEA to a correctional facility in the same school year after the evaluation has begun, and the responsibility for FAPE transfers as well, both agencies must coordinate assessments to ensure that a timely evaluation occurs.



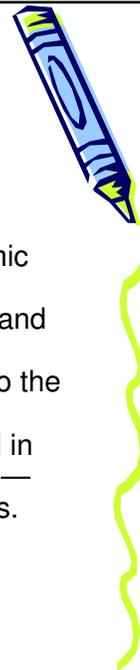
Right to FAPE

- When a student with an individualized education program (IEP) transfers to a correctional facility in the same State in the same school year, the new public agency (in consultation with the parents) must provide the student with FAPE through services that are comparable to those described in the student's IEP from the previous public agency until the new public agency either adopts the previous agency's IEP, or develops and implements a new IEP for the student.



IEP content

Unless there is a specific exception, all IEP content requirements apply to students with disabilities in correctional facilities, including, but not limited to, a statement of: (1) the student's present levels of academic achievement and functional performance; (2) measurable annual academic and functional goals; and (3) the special education and related services and supplementary aids and services that will be provided to the student to enable him or her to advance appropriately toward attaining his or her IEP goals and to be involved in and make progress in the general education curriculum—that is, the same curriculum as for nondisabled students.



Record transfers

To ensure that students with disabilities in correctional facilities continue to receive FAPE, public agencies must have policies and procedures to ensure that the relevant records of students with disabilities who move to, and from, correctional facilities are transferred as expeditiously as possible,” and also must take reasonable steps to appropriately transmit those records to facilitate the student’s transition to or from the correctional facility.



LRE

IDEA requirements related to least restrictive environment apply to the education of students with disabilities in correctional facilities. IEP teams or placement teams must make individualized placement decisions, and may not routinely place all students with disabilities in correctional facilities in classes that include only students with disabilities, even if this means creating placement options or using other arrangements, to the maximum extent appropriate to the student’s needs. This may include, for example, having special education and general education teachers co-teach in the regular classroom.



TRANSITION

- Public agencies must comply with all applicable IDEA secondary transition requirements to facilitate eligible students' movement from secondary education in the correctional facility to appropriate post-school activities.



Due Process

- The IDEA due process protections apply to students in correctional facilities and their parents, including requirements related to providing any required written notices in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.



Educational Discipline

Any exclusion from the classroom is particularly harmful for students with disabilities in correctional facilities. In general, even in the presence of disciplinary concerns, because correctional facilities are run by public entities, their obligation to ensure that special education and related services are provided to eligible students with disabilities continues.



Educational Discipline cont'd.

A student with a disability in a correctional facility who violates a code of student conduct is entitled to the protections in the IDEA discipline procedures that must be afforded to all students with disabilities. These protections apply regardless of whether a student who violates a code of student conduct is subject to discipline in the facility or removed to restricted settings, such as confinement to the student's cell or "lockdown" units.



Change in Placement

A removal from the current educational placement that results in a denial of educational services for more than 10 consecutive school days, or a series of removals that constitute a pattern that total more than 10 school days in a school year is a change in placement, which, in turn, requires a manifestation determination under the IDEA.



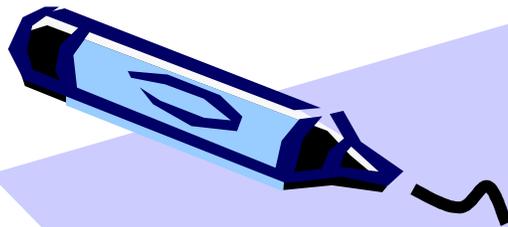
Reentry

- While not specifically addressed in the IDEA, reentry planning improves chances for success and can be considered part of transition planning.



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One Family's Story

Sara Spoerl

