



Services for Students with Disabilities in Local Jails

Purpose

The purpose of this document is to provide guidance to local education agencies (LEAs), including charter schools and state operated programs, regarding their responsibilities to ensure students with disabilities detained in local jails are afforded a free, appropriate, public education (FAPE). The *North Carolina Policies Governing Services for Students with Disabilities* and IDEA apply to all students with a disability residing in North Carolina, including students detained in local jails.

Frequently Used Terminology

Local Jails– Jails are located in various counties across North Carolina and are under the supervision of the local government. Local Jails *do not* apply to correctional facilities under the supervision of the North Carolina Department of Public Safety (DPS).

Frequently Asked Questions

1. What *Policies* relate to students with disabilities detained in local county jails?

NC 1501-1.1 Free Appropriate Public Education (FAPE)

(d) FAPE for children incarcerated in local jail. Each LEA must ensure that FAPE is available to students with disabilities incarcerated in local jail who were eligible prior to their incarceration.

NC 1501-1.2 Limitation – Exception to FAPE for Certain Ages

(3)(i) Children with disabilities who have graduated from high school with a regular high school diploma.

2. Does the *Policies* apply to a student with a disability who is incarcerated in a prison or youth development center in North Carolina?

No, a student with a disability who is incarcerated in an adult prison or youth development center receives services from the Department of Public Safety (DPS). DPS is considered a state operated program; therefore, it is its own LEA. Therefore, DPS is responsible for FAPE for students with disabilities in their custody.

3. Is any student detained in a local jail entitled to a FAPE?

No, only a student determined eligible for special education and related services *prior to* being detained in the local jail and who has not graduated from high school with a regular high school diploma is entitled to a FAPE.



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4. **What LEA is responsible for ensuring FAPE is made available to a student with a disability detained in a local jail?**

- The school district where the student resides *and* is enrolled prior to being detained in the local jail; **OR**
- The school district where the student resides *but* is not enrolled in any public school prior to being detained in a local jail; **OR**
- The charter school where the student is enrolled prior to being detained in a local jail; **OR**
- The state operated program where the student is enrolled prior to being detained in a local jail.

5. **Is a student with a disability entitled to FAPE if not enrolled in a public school prior to being detained in a local jail?**

Yes, a student with a disability who has NOT graduated from high school with a regular high school diploma is entitled to FAPE. The LEA where the student resides, must ensure that FAPE is made available regardless of enrollment status.

The LEA should appoint personnel who is responsible for contacting the parent of the student or the student if the rights had been transferred, to assist with reenrollment so the student can receive services. All efforts to contact the parent and/or student must be documented, including efforts to reenroll the student.

6. **What are the LEA's responsibilities for ensuring FAPE is made available to a student with a disability who is detained in a jail located in a different LEA?**

It is recommended when the LEA is notified that the student is detained in a local jail outside of their LEA, the EC Director should contact the jail authorities and/or the EC Director in the LEA where the student is detained, to discuss providing services to the student.

7. **How will the LEA and local jail authorities establish guidelines for ensuring FAPE is made available to students with disabilities?**

It is highly recommended that the LEA collaborates with the local jail authorities to develop a plan/Memorandum of Agreement (MOA) that outlines the following:

- Develop a mechanism to identify students with disabilities who have been detained in the local jail and their enrollment status, including appointing someone from the jail and the LEA to coordinate this process;
- Schedule meetings with LEA staff and jail authorities;
- Establish a communication plan;
- Plan for students with disabilities to be provided the opportunity to participate in their IEP meeting (via teleconference or other means if available);
- Identify the primary contact personnel in the jail and LEA;



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- Identify the location, time and days for services; and
- Determine any other information that the LEA and/or jail authorities recommend and/or require.

8. **What if the jail authorities will not allow the LEA to provide services while a student with a disability is detained?**

The LEA should discuss with the jail authorities if and/or when services can be provided. If services will not be able to be provided during the student's detainment in jail, then the LEA will be responsible for determining a compensatory education plan when the student is released. This does not preclude the LEA from discussing the option to provide work/assignments to the student while detained. However, this does not equate to providing special education and related services.

9. **Can the LEA withdraw the student with a disability when detained in a local jail due to attendance requirements?**

No, the student should remain enrolled. If the student is dropped from enrollment due to attendance requirements, the LEA should re-enroll the student without requiring the parent and/or student to go through the enrollment process.

10. **Should the IEP team meet if the student with a disability is detained in a local jail?**

Yes, the team should meet to review and revise, as appropriate the IEP. The student and parent must be invited, as required. The team should *NOT* document "jail" as the location of services.

11. **How often should services be provided to the student with a disability in the jail?**

This is an IEP Team decision. However, jail authorities may limit the amount of time services can be provided. This should be noted in the Prior Written Notice (PWN) as part of the explanation of why the student's IEP may not be able to be implemented as written.

12. **What happens when the student with a disability returns to school?**

The IEP Team should reconvene to review and revise, as appropriate, the IEP, continue to implement the IEP, and determine if any compensatory education is required. Refer to Question #7.

Resources

Names, Location and Contact Information for Correction Facilities and County Jails

[Directory](#)

IDEA for Students with Disabilities in Correctional Facilities

[OSEP Dear Colleague Letter](#) (December 5, 2014 and modified June 27, 2017)



Services for Students with Disabilities in Local Jails

Reducing Recidivism for Justice-Involved Youth

[USDOE Fact Sheet](#)

- “You Got This” Guide for Youth Transitioning from Juvenile Justice Facilities
- Transition Toolkit for Practitioners
- Improving Outcomes for Youth with Disabilities in Juvenile Corrections

Protecting the Civil Rights of Students in the Juvenile Justice System

[USDOE Office of Civil Rights](#)