

## IDEA Compliance

### Overview

As a condition of receiving Federal funds under the Individuals with Disabilities Education Act (IDEA), States must demonstrate to the U.S. Department of Education that they have policies and procedures in place to fully comply with the law's requirements.<sup>1</sup> IDEA guarantees that youth with disabilities within correctional facilities have access to a free appropriate public education (FAPE).<sup>2</sup> To ensure the availability of FAPE, IDEA specifies procedures to identify youth with disabilities, address their needs, and design individualized supports and services to help them meet academic and behavioral expectations.<sup>3</sup> In addition, IDEA requires youth to be educated in the least restrictive environment (LRE). For youth with disabilities in correctional facilities, this means that, to the extent possible, they are to be educated with those who are not disabled.<sup>4</sup> Removing youth with disabilities from the regular educational environment should occur only if the severity of the disability is such that satisfactory performance in regular classes cannot be achieved.<sup>5</sup> Also, under IDEA, eligible youth are entitled to an individualized education program (IEP) that details the specially designed instruction and related services that they require.<sup>6</sup> IDEA compliance requires (1) the identification of youth with disabilities who have not previously been identified by the school before they entered the correctional facility, and (2) for identified youth, the continued adherence to their IEPs while they are enrolled in a facility.<sup>7</sup>

### Key Principles of Practice

The following principles were identified in a review of a practice guide titled *Providing Individually Tailored Academic and Behavioral Support Services for Youth in the Juvenile Justice and Child Welfare Systems*.<sup>8</sup>

**Child Find** Some youth enter correctional facilities with an identified disability, whereas others may be going through the evaluation process. Some youth may enter a correctional facility without a previously identified disability, but that does not preclude the facility from evaluating a youth for special education and related services if a disability is suspected. Under IDEA's Child Find requirement, correctional facilities are required to identify and locate youth with disabilities, as well as evaluate youth when a disability is suspected.

To support meeting the Child Find requirements, correctional facilities should develop an intake process to determine which youth are already receiving special education and related services when entering the facility.<sup>9</sup> Coordination with local schools and districts to transfer student records, including special education eligibility evaluations and IEPs, can expedite the provision of special education and related services required to meet a youth's needs. In addition, involving parents and families in the intake process can help facilities learn more about whether youth have, or are suspected of having, a disability.

Child Find processes are in place to ensure that youth who require special education and related services are provided with the evidence-based interventions that address their needs. As such, the implementation of a multi-tiered system of support (MTSS) can help correctional facilities identify youth with disabilities, in addition to youth with academic or behavioral deficits. Within MTSS frameworks, universal screening data can be used to meet the Child Find requirements to locate and identify youth

with disabilities. Further progress monitoring data collected as a component of MTSS implementation can help identify students who may require special education evaluation or support youth who may need even more individualized, or intensified, supports.<sup>10</sup>

**Free Appropriate Public Education in the Least Restrictive Environment** IDEA articulates that youth with disabilities in correctional facilities are to receive special education and related services at the public's expense.<sup>11</sup> However, youth with disabilities in correctional facilities may be at a greater risk of not being provided FAPE compared with peers without disabilities.<sup>12</sup>

Correctional facilities often face challenges with providing evidence-based practices specific to the individualized needs of youth; as a result, violations to the provision of FAPE sometimes occur. These violations typically result from the lack of availability of basic educational services within correctional facilities<sup>13</sup> or the inability to ensure youth with disabilities have the same opportunities to meet challenging academic standards.<sup>14</sup> Correctional facilities are required to provide comparable special education and related services to those offered by the local educational agency (LEA) where the youth previously attended.<sup>15</sup> Coordinating with school personnel and families to identify prior services is an important step to guaranteeing that FAPE is in place.

An additional consideration for correctional facilities related to FAPE rests in the LRE mandate, which requires that to the maximum extent appropriate, youth with disabilities are educated alongside peers who are not disabled.<sup>16</sup> Determinations regarding the educational placement of a youth with disabilities within a correctional facility (i.e., inclusionary or separate setting) are outlined in the youth's IEP. Despite challenges that correctional facilities may face (e.g., staffing shortages and issues with space), providing services in the setting identified in a youth's IEP ensures compliance with IDEA. If a youth's IEP is not available, or if a youth is going through the eligibility process, correctional facilities should examine data sources and involve parents and the individual youth to determine individualized needs prior to making placement decisions.

**Individualized Education Program** Evaluations within the special education eligibility determination or Child Find processes present information that will inform the development of an IEP. Results from assessments provide evidence of a youth's present levels of academic and functional performance, which serve as the foundation for setting goals across academics, behavior, and transition. Because youth with disabilities in correctional facilities often have deficits across multiple academic content areas, as well as with other cognitive skills (e.g., processing information or social skills),<sup>17</sup> it is important that educational programming be individualized. Correctional facilities should examine progress monitoring data and other assessment results to identify ambitious IEP goals and establish a process for monitoring student progress toward meeting those goals. In addition, a youth's progress in the general education curriculum also should be monitored.<sup>18</sup> The IEP should outline the instructional and testing accommodations (e.g., reading text aloud and providing notes in advance, graphic organizers, or extra time) and modifications (e.g., shortened or simplified assignments or examinations) that will best support a youth's progress. A multidisciplinary team must develop the IEP and conduct annual reviews. These reviews should include both the youth and their families.

For youth with disabilities who have challenging behaviors, correctional facilities should ensure that a functional behavioral assessment (FBA) and a positive behavior support (PBS) plan are in place. These plans identify strategies and supports to address the underlying function of a youth's behavior.<sup>19</sup> In all aspects of developing, implementing, or revising a youth's IEP, correctional facilities must adhere to IDEA requirements. The [U.S. Department of Education's Dear Colleague Letter](#) is an important resource for correctional facilities to review to promote the application of best practices related to IDEA compliance.

*This document was retrieved from a Web-based resource on the topic of juvenile corrections. For more information and additional resources, please visit <http://osepideasthatwork.org/jj>.*

## Endnotes

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5. Ibid.
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8. National Evaluation and Technical Assistance Center for the Education of Children and Youth Who Are Neglected, Delinquent, or At-Risk. (2012). *Providing individually tailored academic and behavioral support services for youth in the juvenile justice and child welfare systems (Practice Guide)*. Washington, DC: Author. Retrieved from [http://www.neglected-delinquent.org/sites/default/files/docs/NDTAC\\_PracticeGuide\\_IndividualSrvcs.pdf](http://www.neglected-delinquent.org/sites/default/files/docs/NDTAC_PracticeGuide_IndividualSrvcs.pdf)
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11. Ibid.
12. Ibid.
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15. Ibid.
16. Gagnon et al. (2015).
17. Gagnon & Barber (2010).
18. U.S. Department of Education. (2014). *Dear colleague letter: Students with disabilities who are in correctional facilities and the requirements of Part B of the Individuals with Disabilities Education Act (IDEA)*. Washington, DC: Author. Retrieved from <https://www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf>
19. Burell & Warboys (2000).