

## Special Education Services for Eligible Youth with Disabilities Detained in County Jails

Eligible youth with disabilities detained in county jails are entitled to special education and related services to meet their needs and prepare them for further education, employment, and independent living. *34 C.F.R. § 300.1.*

Administrative Units (AU) share the responsibility for ensuring educational services for detained youth with local juvenile and adult detention centers, including county jails. *34 C.F.R. § 300.2(b).*

### Which youth detained in county jails may be eligible for special education and related services?

- Youth with disabilities under the age of 21 who have not graduated with a regular high school diploma. Because a General Educational Development (GED) does not count as graduation with a regular diploma, a student with disabilities who has obtained a GED is still entitled to special education and related services. *34 C.F.R. § 300.102(3)(iv); C.R.S. 22-32-141(2)(c).*
- Youth awaiting trial as an adult who were:
  - under the age of 18 when the crime was committed; and
  - currently under the age of 21. *C.R.S. 22-32-141(3)(a).*
- Youth aged 18-21 who were:
  - identified as a student with a disability and received special education and related services through an individualized education program (IEP)—even if they left school prior to incarceration; or
  - identified as a student with a disability under IDEA—even if they did not have an IEP in their last educational setting. *34 C.F.R. § 300.102(a)(2).*

Eligibility
<i>Youth with disabilities may be eligible for special education and related services under any of these categories.</i>

### What are key responsibilities for the AU under the Individuals with Disabilities Education Act (IDEA) and The Exceptional Children’s Educational Act (ECEA) for serving youth with disabilities detained in county jails?

1. The AU in which the county jail is located is responsible for locating, identifying, and evaluating youth in county jails who may be eligible for special education and related services. *ECEA Rule 4.02(1)-(2).* To fulfill this obligation for students detained in county jails, each AU must do the following:
  - Designate one person as the child find coordinator responsible for the ongoing child identification process. *ECEA Rule 4.02(2)(b).*
  - Implement a systematic procedure for considering those children ages 17-21 who are out of school and who may have a disability. *ECEA Rule 4.02(2)(c)(iv).*
  - Designate a school district employee to act as the contact person for the county jail(s). This person may also be the

Child Find Recommendations
<i>The CDE recommends that AU procedures for child find include individuals who have contact with juveniles in correctional facilities and the criminal justice system, such as intake staff, social workers, probation officers, police officers, and medical and mental health professionals.</i> <a href="#"><i>Dear Colleague Letter (OSERS 2014)</i></a>



designated child welfare education liaison. *C.R.S. 22-32-141(3)(a)*.

- Provide the designated employee’s name and contact information to the local county jail official. *C.R.S. 22-32-141(3)(a)*.
2. The AU in which the county jail is located must ensure that each detained IDEA-eligible youth receives special education and related services designed to meet their unique needs and provide them with a free appropriate public education (FAPE). If the county jail refuses to allow the educational provider access to the student, the AU should document all attempts to provide services.

### What role do county jails play in ensuring that detained youth receive educational services?

County jails are required to notify the designated AU contact person that a juvenile awaiting trial as an adult may need educational services. *C.R.S. 22-32-141(2)(a)*.

- **What must the AU do once notified by a county jail that a youth needs educational services?**

- Request education records, including records from the juvenile correctional facility if the youth was held in such a facility prior to being transferred to county jail;
- Determine, in a manner consistent with IDEA, what educational services are necessary to provide the student with FAPE;
- Provide the educational services required to ensure FAPE through a qualified employee or contractor for as long as the youth is detained and eligible for such services, unless an exception for safety applies or the student refuses services, and the services are not otherwise required by IDEA. *C.R.S. 22-32-141(2)(e)-(g)*

Financial Information
<i>AUs are eligible for reimbursement from the Colorado Department of Education for providing educational services to youth detained in county jails.</i> <a href="#"><u>C.R.S. 22-32-141.</u></a>

**NOTE:** Although county jails are required to notify the designated AU contact person when a youth who may be eligible for educational services is detained in their facility, the AU in which the jail is located has an independent obligation to identify and serve IDEA-eligible youth and must ensure FAPE absent a request from the county jail. *ECEA Rule 4.02(2)(c)(iv)*

### Where can I learn more?

- [Information about the educational rights of students with disabilities in correctional facilities under IDEA.](#)
- [Information about educational services for youth awaiting trial as adults under C.R.S. 22-32-141.](#)
- [County Jail Contact Information by AU](#)
- Questions? Email: [essugsm@cde.state.co.us](mailto:essugsm@cde.state.co.us)