

ODE-OEC MEMO #2016-1

To: Ohio Educational Agencies Serving Children with Disabilities
From: Sue Zake, Ph.D., Director of the Office for Exceptional Children
Date: February 3, 2016
Subject: *Serving Students with Disabilities in Community Corrections Facilities and Juvenile Detention Centers*

This memo provides guidance to school districts whose students with disabilities are, or may be, confined to:

- Community corrections facilities (CCFs), which serve as intermediate placement between state confinement and local probation in which the court requires juveniles to participate in programs and services for a set period of time.
- Juvenile detention centers (JDCs), which serve as a facility for the temporary care of individuals under the jurisdiction of the juvenile court, alleged to be delinquent, or who are pending court adjudication, or disposition or as a result of a juvenile sentence for a defined term.

Both federal and state laws require that every student with a disability receive a free and appropriate public education (FAPE). This includes students who are in community corrections facilities or juvenile detention centers. Generally, the school district of residence (defined as the school district in which the student's parents reside) maintains the ultimate responsibility to provide FAPE to the student. The school district of residence remains responsible for the student's access to appropriate special education and related services while the student is in a community corrections facility or juvenile detention center. Absent a specific exception, the school district of service (defined as the school district in which the facility is located) provides the special education and related services and charges the costs of those services to the district of residence. However, it remains the ultimate responsibility of the district of residence to ensure that students with disabilities are receiving the services to which they are entitled pursuant to their individualized education programs (IEPs). Students with disabilities who are in adult county jails must continue to receive FAPE during incarceration. There are exceptions related to security and safety.

Child Find and Evaluation

All districts must have child find policies and procedures in place to identify, locate and evaluate students in community corrections facilities and juvenile detention centers who may have a disability and may need special education and related services under the Individuals with Disabilities Education Act (IDEA). When there is suspicion that a student has a disability and is in need of special education and related services, the district of residence must evaluate that student. The evaluation must occur in a timely manner and comply with all state requirements. This is the district's

obligation, even if the student will not be in the facility long enough to complete the evaluation. See [Rule 3301-51-06](#) of the Ohio Administrative Code (OAC).

Provision of FAPE and Transfer of Student Records

Absent a specific exception, all individualized education program (IEP) requirements apply to students with disabilities in community corrections facilities and juvenile detention centers. School districts must have policies and procedures to transfer, as quickly as possible, relevant records of students with disabilities who transition to or from community corrections facilities or juvenile detention centers. Relevant records include copies of the IEP, the evaluation team report, and any other records related to the provision of special education and related services to the student. School districts should assign specific staff the responsibility to work with facility staff in the prompt transfer of records.

School districts must ensure that all students with disabilities, including students with disabilities in community corrections facilities and juvenile detention centers, have access to appropriate educational services. These students must receive to the greatest extent feasible services in the least restrictive environment. Personnel providing special education and related services to students with disabilities in community corrections facilities and juvenile detention centers must be appropriately and adequately trained and must meet state qualifications, as well as the requirements specified in IDEA. Regardless of the student's length of stay in these facilities, the student must receive all special education services as required by the student's IEP team. This includes the provision of related services. School districts must ensure that students with disabilities, including those in community corrections facilities and juvenile detention centers, are included appropriately in general state and districtwide assessments. Students must receive accommodations as outlined in their IEPs.

School districts should regularly review their special education policies and procedures to ensure that they provide FAPE in a timely and appropriate manner to all students with disabilities, including students in these facilities, and in accordance with the *Ohio Operating Standards for the Education of Children with Disabilities*. See [OAC 3301-51](#), et seq. For additional resources, tools and guidance regarding the education of students with disabilities in these facilities, [click here](#) or visit the Ohio Department of Education website, keyword search *education of students in correctional facilities*.