



PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION June St. Clair Atkinson, Ed.D., *State Superintendent*

STATE BOARD OF EDUCATION William C. Harrison, Ed.D., *Chairman*

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December 7, 2009

Memorandum

TO: Sheriffs
Superintendents
Directors, Charter School
Directors, Exceptional Children Program

FROM: Rebecca B. Garland, Chief Academic Officer *RBG*
Academic Services and Instructional Support

Mary N. Watson, Director *MW*
Exceptional Children Division

RE: Services for Children with Disabilities Incarcerated in Local Jails

The purpose of this memo is to clarify again the responsibility of the local education agency (LEA) and to provide guidance to county sheriffs' offices across the state on working cooperatively to provide educational services to students with disabilities incarcerated in local jails. The 2004 amendments to the Individuals with Disabilities Education Improvement Act mandate that special education and related services are provided to all eligible students including those who are incarcerated in local jails. In North Carolina, incarceration and law enforcement services are the jurisdiction of the local sheriffs in each of the one hundred counties. The responsibility for ensuring a free appropriate public education for children and youths with disabilities between the ages of 3-21 residing in the State, including those who have been suspended or expelled from school, belongs to the public education agency. This includes children and youths with disabilities who are eligible prior to incarceration in local jails (*Policies Governing Services for Children with Disabilities* – Section NC 1501-1.2, available on the Exceptional Children Division's website at www.ncpublicschools.org/ec/).

The Department of Public Instruction maintains interagency agreements with the Department of Juvenile Justice and Delinquency Prevention and the Department of Correction - Division of Prisons to provide special education programs and services to children and youth with disabilities detained in detention centers or incarcerated in prisons. These programs and services are subject to the State's compliance monitoring process.

Youths with disabilities enrolled in public schools at the time of their arrest and held in local or county jails as a condition of their arrest or sentence continue to be eligible for special education and related services. Generally, these students are ages 16-21. However, under very rare circumstances, such as when charged with violent felonies, these students may be as young as 13 years old. This means that when

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school personnel in the LEA where the student is enrolled at the time of the arrest have knowledge that the student is in jail, the LEA must confer with the sheriff or the designee to continue special education services in accordance with the student's individualized education program (IEP) while the student is in jail. In addition to providing services, there may be occasions when school personnel may need to conduct an IEP meeting with the student to review and revise the IEP.

For this to occur, school personnel must first make contact with the sheriff's office to establish the parameters for access to the student while in jail. Determinations regarding access and security are within the purview of the sheriff. There is a reasonable expectation security be maintained by law enforcement and a safe environment provided for school personnel who delivering the services.

Many LEAs and sheriffs across the state have worked cooperatively to provide these services through a variety of options. Some school systems assign the students to the caseload of an itinerant teacher (referred to as a homebound teacher). The itinerant teacher contacts the appropriate staff at the local jail to arrange the schedule of visits and a secure location. In some LEAs, educational services are continued for the students with disabilities and nondisabled students via computer assisted instructional programs. It is appropriate for the two agencies to develop and maintain an interagency agreement. Technical assistance for the development of this agreement is available through the Department of Public Instruction.

Through the Continuous Improvement Focused Monitoring System, the State will monitor the LEAs for compliance by tracking the number of students with disabilities incarcerated in local jails and the services they receive. Questions regarding this requirement should be directed to Ira Wolfe, Section Chief, at (919) 807-3976.

RBG/MNW/IBW:ibw

- c Edmond W. Caldwell, Jr., Executive Director, NC Sheriffs Association, Inc.
- Angela Quick, Deputy Chief Academic Officer
- Katie Cornetto, Staff Attorney, State Board of Education
- Laura Crumpler, Assistant Attorney General
- Regional Consultants
- Monitoring Consultants
- Dispute Resolution Consultants