

Instruction

SERVICES TO ADULT STUDENTS IN COUNTY JAIL FACILITIES

AR 6159.22

Free Appropriate Public Education (FAPE)

Every individual with exceptional needs who is eligible to receive special education instruction and related services under the Individuals with Disabilities Education Act (IDEA) and state special education laws shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A FAPE shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

Eligible Adults

Adults who are ages 18 through 22 years, who have not graduated with a high school diploma, who, at the time they turned 18 years, were identified as an individual with exceptional needs and had an individualized education program (IEP) under the IDEA, are also entitled to a FAPE (hereinafter, "eligible adults"). (See 20 U.S.C. § 1400 (d)(1)(A), (B), (C); 20 U.S.C. § 1412(a)(1)(A); Cal. Educ. Code, §§ 56000, 56026(c)(4).) This applies to adults incarcerated in California adult jails and prisons. However, an individual, aged 18 through 22 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as an individual with exceptional needs or did not have an IEP under the IDEA, is not entitled to a FAPE. (20 U.S.C. § 1412(a)(1)(B); Cal. Educ. Code, § 56040(b).)

District of Residence

For eligible adults who prior to reaching the age of majority resided within Pasadena Unified School District's (PUSD) geographic boundaries, the PUSD's Special Education Local Plan Area (SELPA) shall ensure that the student is provided a FAPE. If the parent relocates to a new district of residence, the new district of residence shall become the responsible Local Educational Agency (LEA). If the student is conserved, the residence of his or her conservator shall control. (Cal. Educ. Code, § 56041)

Individualized Education Program (IEP)

It is the responsibility of the incarcerated student to request a review of their special education services. Once the LEA is informed that one of its residents

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is an eligible adult incarcerated at the Los Angeles County Jail and the student has requested a review of their IEP, PUSD will arrange to review the individual's IEP as necessary, subject to the cooperation of the correctional facility where the student is located.

The LEA will determine within 30 days whether the qualified individual requires a FAPE and if so will ensure that the qualified individual is provided a FAPE pursuant to the IDEA and corresponding California special education law. To receive special education services while incarcerated, the student must consent to the receipt of such services such as but not limited to transition services, specialized academic instruction, and other services as determined by the IEP team. The student may revoke their consent for special education services at any time.

The PUSD SELPA has a Memorandum of Understanding (MOU) between the Los Angeles County Office of Education and the PUSD SELPA to provide services to those adults eighteen to twenty-one years of age who had been identified as a child with a disability and had received services in accordance with their IEP.

Adults eighteen to twenty-two years of age who have been identified as a child with a disability and had received services in accordance with their IEP, whose parents live within the boundaries of PUSD but are incarcerated in a county jail outside of Los Angeles County, PUSD will contract with service providers to provide the services in accordance with their IEP.

Limitations

The following special education requirements do not apply to eligible individuals who are convicted as adults under State law and incarcerated in adult prisons:

1. The requirements set out in 20 U.S.C. § 1412(a)(16) and 20 U.S.C. § 1414(d)(1)(A)(i)(VI) (relating to participation in general assessments) do not apply. Eligible individuals convicted as adults under State law and incarcerated in adult prisons are exempted from participation in State and district-wide assessment programs under the IDEA.

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2. The requirements of items (aa) and (bb) of 20 U.S.C. § 1414(d)(1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such individuals whose eligibility under the IDEA will end, because of their age, before such individuals will be released from county jail.
3. If an individual with a disability is convicted as an adult under State law and incarcerated in an adult county jail, the individual's IEP team may modify the individual's IEP or placement notwithstanding the least restrictive environment (LRE) requirements of 20 U.S.C. § 1412(a)(5)(A) and the IEP contents requirements of 20 U.S.C. § 1414(d)(1)(A) if there is a bona fide security or compelling penological interest that cannot otherwise be accommodated.

Legal Reference:

20 U.S.C. § 1414(d)(7)

34 C.F.R. §§ 300.102, 300.324(d)

Cal. Educ. Code, §§ 56040-56041

Cal. Gov. Code, § 7579(d)

Letter to Yudien, 39 IDELR 270, 103 LRP 37913 (OSEP 2003)

Regulation

Approved: April 9, 2020

PASADENA UNIFIED SCHOOL DISTRICT

Pasadena, California