

The proposed *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* include language to address the requirements of IDEA 1997. These provisions include the following:

Responsibilities of Local School Divisions and State Operated Programs

- "Each local school division shall ensure that all children with disabilities, aged two through 21, inclusive, residing in that school division have a right to a free appropriate public education including children with disabilities who are incarcerated in a regional or local jail"(8 VAC 20-80-40 Section B,6).

Free Appropriate Education

- "This includes students with disabilities, who are incarcerated in a regional or local jail who have been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration or did not have an IEP in their last educational setting but who had actually been identified as a child with a disability under this chapter"(8 VAC 20-80-60 Section 2,b).
- "The obligation to make a free appropriate public education to all children with disabilities does not apply to students aged 18 through 21 who, in their last educational placement, prior to their incarceration in an adult correctional facility, were not identified as being a student with a disability and did not have an IEP"(8 VAC 20-80-60,Section 2-b).

Local Educational Agency Administration and Governance

- "Each local school division with a regional or local jail in its jurisdiction shall be responsible for the provision of special education and related services to all eligible children with disabilities"(8 VAC 20-80-90,Subsection H-1).
- "Each local educational agency with a regional or local jail in its jurisdiction shall establish an interagency agreement with the sheriff or jail administrator

responsible for the regional or local jail. The interagency agreement shall address staffing and security issues associated with the provision of special education and related services in the jail"(8 VAC 20-80-90,Subsection H-2).

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Evaluation

- "Each local educational agency shall ensure that all children, ages two to 21, inclusive, residing within its jurisdiction, who may have disabilities, and who may need special education and related services, are evaluated, including children who are under 18, who are suspected of being a child with a disability and in need of special education and related services, and who are incarcerated in a regional or local jail in that jurisdiction for 10 or more days"(8 VAC 20-80-54,Section A,4).

Child Find

- "Each local school division shall maintain an active and continuing child find program designed to identify, locate and evaluate those children residing in the jurisdiction who are birth to age 21, inclusive, who are in need of special education and related services; including children who are under age 18 who are suspected of having a disability and who need special education and related services and are incarcerated in a regional or local jail in that jurisdiction for 10 or more days"(8 VAC 20-80-50 Section A1,d).

Individualized Education Program (IEP)

- "All requirements in this IEP section apply to students with disabilities in state, regional or local adult or juvenile correctional facilities with the exception that the IEP team of a student with disabilities who is convicted as an adult under state law may modify the student's IEP or placement if the state has demonstrated, to the IEP team, a bona fide security or compelling penological interest that cannot be otherwise accommodated.
 - a. All requirements regarding IEP revision in this section shall apply.
 - b. If such modifications are made by the IEP team, the requirements related to least

restrictive environment in 8 VAC 20-80-64 do not apply.

- c. IEP requirements regarding participation in state assessment systems, including alternate assessment systems, do not apply. Assessment requirements to graduate with a standard or advanced studies diploma shall apply.
- d. IEP requirements regarding transition planning and transition service do not apply to students whose eligibility for special education and related services will end

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because of their age before they will be eligible for release based on consideration of their sentence and their eligibility for early release "(8 VAC 20-80-62, Section I).

Transfer of Rights to Students Who Reach the Age of Majority

- "All rights accorded to the parent or parents under the Individuals with Disabilities Education Act (20 USC §1400 et seq.) transfer to children upon the age of majority (age 18), including those students who are incarcerated in an adult or juvenile federal, state, regional, or local correctional institution"(8 VAC-20-80-72,Section A).

Special Education Staffing Requirements

- "Persons with any special education endorsement, except early childhood special education and speech-language impairment, may provide instructional services to eligible students with disabilities incarcerated in a regional or local jail"(8 VAC20-80-45, Section C).

State Funds For Local School Divisions

- "State funds will be available to local school divisions for reimbursement. Local school divisions will be reimbursed for the instructional costs of providing special education and related services to children and youth with disabilities in regional or local jails"(8 VAC 20-80-110,Section D).