

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

T.H.
as next friend
T.B., et al.,

Plaintiffs,

v.

DEKALB COUNTY SCHOOL
DISTRICT, et al.,

Defendants.

CIVIL ACTION FILE
NO. 1:19-CV-3268-TWT

PERMANENT INJUNCTION AND REMEDIAL ORDER

This is a civil rights action. Pursuant to the Court's Opinion and Order granting in part and denying in part Plaintiff's Motion for a Remedial Order [Doc. 237], simultaneously filed herewith, the Court ORDERS the following remedial relief:

1. Scope

- (a) Nothing in this order reduces or expands the Sheriff's obligations for incarcerated youth as set forth under the IDEA and its implementing regulations.
- (b) Nothing in this order reduces or expands eligible inmates' rights under the IDEA and its implementing regulations.

2. Identification of Eligible Youth

- (a) Notice of Rights: No later than 30 days after the Sheriff receives a notice for incarcerated youth from DCSD outlining Class members' rights under the IDEA, the Sheriff shall (1) add the notice to the Jail's inmate handbook, (2) post the notice in public

spaces in the Jail and in each pod, and (3) post the notice in the intake area.

- (b) Ability to Request Education: The Sheriff shall provide incarcerated youth aged 21 and younger with reasonable means to request special education and related services and to confidentially notify the Sheriff and DCSD of a lack of access to special education or related services.
- (c) Jail Population Updates: The Sheriff shall provide DCSD with weekly reports that:
 - (1) Identify incarcerated youth aged 21 and younger who were detained at the Jail during the preceding week.
 - (2) Identify released inmates aged 21 and younger.
 - (3) Identify all incarcerated youth aged 21 and younger that have requested education or special education services.
- (d) Timely Evaluations and IEP Meetings: The Sheriff shall provide Class members with access to timely evaluations and IEP Team meetings conducted by DCSD as required under 20 U.S.C. § 1414(a); Ga Comp. R. & Regs. 160-4-7-.04(1), (3). Providing access to timely evaluations and IEP Team meetings includes:
 - (1) Providing adequate space and access for evaluations and IEP meetings, virtually or otherwise;
 - (2) Providing for the presence of the incarcerated youth at evaluations and IEP Team meetings that concern them, virtually or otherwise;
 - (3) Providing for the presence of DCSD staff, evaluators, parents, guardians, legal representatives, IEP Team members, and others as required under the IDEA and implementing regulations at evaluations and IEP Team meetings, virtually or otherwise; and
 - (4) Allowing DCSD to bring necessary equipment and materials into the Jail for the purpose of conducting special education evaluations and IEP Team meetings.

3. Access to Special Education:

(a) The Sheriff shall provide Class members with the following access to special education and related services provided by DCSD sufficient to meet the requirements of Class members' IEPs. Under this provision, the Sheriff shall:

- (1) Make Class members aware of any scheduled special education and related services within the Jail so that they may attend;
- (2) Provide Class members with access to necessary educational materials such as soft-cover books, writing implements, and paper so that Class members can work on and complete assignments; and
- (3) Provide adequate access, virtually or otherwise, to DCSD personnel to provide special education and related services that meets the needs of Class members' IEPs.

(b) Manifestation Determination Reviews: The Sheriff shall also provide Class members with access to manifestation determination reviews conducted, virtually or otherwise, by DCSD as required under the IDEA. 20 U.S.C. §§ 1415(k)(1)(E),(F); 34 C.F.R. § 300.530(e). Providing access to conduct manifestation determination reviews includes:

- (1) Providing adequate meeting space, virtually or otherwise, for DCSD to conduct the manifestation determination review and any needed functional behavioral assessment;
- (2) If the review is conducted at the Jail, allowing DCSD to bring in necessary materials and equipment; and
- (3) Providing for the attendance, virtually or otherwise, of all necessary members of the IEP Team at the manifestation determination review.

4. Continuing Jurisdiction: The Court retains jurisdiction over this litigation to ensure compliance with the terms of this Order and to resolve any claims regarding attorney's fees and costs.

5. Definitions: Within this Order, the following definitions apply.

- (a) “IDEA Class” means the IDEA Class certified in this action. *See* Doc. 162 (Op. and Ord. Granting Class Certification).
- (b) “IDEA” means the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq.*
- (c) “IEP” means Individualized Education Program as that term is defined under 20 U.S.C. § 1401(14) and 34 C.F.R. § 300.22.
- (d) “IEP Team” means Individualized Education Program Team as that term is defined under 34 C.F.R. § 300.23.
- (e) “Jail” means the DeKalb County Jail and its personnel.
- (f) “DCSD” means the DeKalb County School District and its personnel.
- (g) “Sheriff” means the Sheriff of DeKalb County in his or her official capacity.

Accordingly, the Sheriff is ordered to comply with her IDEA obligations consistent with this Order. Nonetheless, nothing in this Order prevents the Sheriff from providing expanded access, additional classroom space, or increased special education services beyond the requirements set forth herein, in accordance with the IDEA.

SO ORDERED, this 29th day of April, 2022.



THOMAS W. THRASH, JR.
United States District Judge