

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 09/14/2020	NUMBER 05.02.115
SUBJECT SPECIAL EDUCATION - PROCEDURAL SAFEGUARDS	SUPERSEDES 05.02.115 (12/30/1997) and 05.02.114 (04/20/1998)	
	AUTHORITY MCL 791.203; Agreement with U.S. Department of Education; Complaint No. 15-90-4011 (12/22/93); Individuals with Disabilities Education Act (2004); 34 CFR § 300.519 – Surrogate Parents	
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POLICY STATEMENT:

To ensure that appropriate special education services are provided to eligible prisoners as defined by and in accordance with the Michigan Department of Corrections (MDOC) Special Education Plan and the Individuals with Disabilities Education Act (IDEA).

POLICY:

DEFINITIONS

- A. Child Find - A requirement set forth by IDEA by which the State must have in effect policies and procedures to ensure that prisoners in need of special education and related services are located, identified, and evaluated.
- B. Parent – Defined as: (1) A biological or adoptive parent of a prisoner: (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent: (3) A guardian generally authorized to act as the prisoner’s parent or authorized to make educational decisions for the prisoner (but not the State if the prisoner is a ward of the State): (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the prisoner lived, or an individual who is legally responsible for the prisoner’s welfare: or (5) A surrogate parent who has been appointed by the Education Manager in cases where no parent can be identified or located, or the prisoner is a ward of the State in accordance with IDEA.
- C. Individualized Education Program (IEP) - A written plan that is developed, reviewed, and revised in a meeting and must include:
 - 1. A statement of the prisoner’s present levels of academic achievement and functional performance;
 - 2. A statement of measurable annual goals, including academic and/or functional goals;
 - 3. A description of how the prisoner’s progress toward meeting the annual goals will be measured at quarterly progress reporting.
 - 4. A statement of the special education and related services and supplementary aids and services that should be made available as soon as possible after the IEP, and should include the anticipated frequency, location, and duration.
 - 5. Transition services; beginning not later than the first IEP to be in effect when the prisoner turns 16, or younger if determined appropriate by the IEP team, and updated annually, thereafter. The IEP shall include; appropriate measurable postsecondary goals based upon age, appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and the transition services (including courses of study) needed to assist the prisoner in reaching those goals.
- D. Individualized Education Program (IEP) Team - A group of individuals that is responsible for developing, reviewing, or revising an IEP for a prisoner with a disability. The IEP team consists of the MDOC School Principal, MDOC Special Education Teacher, MDOC General Education Teacher, and the prisoner

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(unless excused by the Education Manager for writ or medical prior to the meeting). The team may also include: the prisoner's parent (if the prisoner is under the age of 18), MDOC Vocational Instructor, School Psychologist, School Social Worker, a community agency representative, and/or another individual who has knowledge and/or expertise regarding the prisoner.

- E. Multidisciplinary Evaluation Team (MET) - Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the prisoner (if under the age of 18) who make a recommendation to the IEP Team regarding prisoner eligibility. Qualified professionals include: the Special Education Teacher, the School Principal, the School Psychologist/Social Worker, and others with professional knowledge involving the prisoner.
- F. School Day - Any day, including a partial day, that prisoners are in attendance at school for instructional purposes.
- G. Special Education - Instructional program designed, at no cost to the prisoner, to meet the unique needs of the prisoner as outlined in IDEA.

GENERAL INFORMATION

- H. A prisoner may receive special education and related services if they have an intellectual disability, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional impairment, orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, or multiple disabilities, as determined by certified professionals.
- I. Special education services are available to eligible prisoners under the age of 22.
- J. Beginning not later than one year before the prisoner reaches the age of 18, the IEP shall include a statement that the prisoner has been informed of their rights that will transfer to them on reaching the age of 18.
- K. The IEP team and other qualified professionals, as appropriate, shall review existing evaluation data (REED) on the prisoner to identify what additional data, if any, is needed to determine whether the prisoner has a disability and the educational needs of the prisoner. The IEP team shall determine whether the prisoner continues to have such a disability, the educational needs of the prisoner, the present levels of academic achievement, and related developmental needs of the prisoner. The IEP team also determines if any additions or modifications to the special education and related services are needed to enable the prisoner to meet the measurable annual goals set out in the IEP. The prisoner's participation, as appropriate, in the general education curriculum shall be determined by the IEP team.
- L. To the maximum extent appropriate, prisoners with disabilities are to be educated with prisoners who are not disabled.
- M. In order for an evaluation to be conducted, a prisoner who is 18 to 21 years of age must consent for the evaluation and services. If a prisoner is under age 18, their parent must consent for the evaluation and services.

EVALUATION PROCESS

- N. A staff member, parent, or the student (over age 18) may request a special education evaluation. The request shall be submitted to the School Principal or Special Education Teacher.
- O. Within 10 school days of receipt of the request for an evaluation, and prior to a formal evaluation, the School Principal shall contact the Assistant Education Manager to schedule the psychologist or designee to complete the REED and receive, in writing, the prisoner's consent or parent's consent (for prisoner's under the age of 18) to conduct an initial evaluation.
- P. Upon receipt of the initial evaluation consent, the MET shall complete a diagnostic evaluation and make a recommendation of eligibility. A MET report shall be presented to the IEP Team.

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- Q. If a prisoner has a verified history of special education services, a review of the previous evaluation data shall be conducted by qualified personnel to determine ongoing eligibility. Assessments and evaluations shall be conducted as necessary if further information is needed.

DEVELOPMENT OF IEP

- R. Upon receipt of the initial REED and/or MET report (as applicable), an IEP Team Meeting shall be scheduled to determine the prisoner's eligibility. The timeline from the request for evaluation to the determination of eligibility status should be no longer than 60 calendar days.
- S. After the determination is made, an IEP shall be developed within 30 school days. Notification by invitation of the date and location of the IEP meeting shall be provided to the IEP Team at least seven calendar days prior to the meeting. All IEP attendees shall meet the requirements set forth in PD 04.01.110 "Access to Correctional Facilities" to enter a correctional facility. An initial IEP may not be implemented until consent is received for programs and services to be provided.
- T. If the prisoner or parent (for prisoners under the age of 18) disagrees with the evaluation recommendation, they must submit a written request to the School Principal for an additional educational evaluation.
- U. The IEP shall be reviewed and updated by the IEP Team at least annually or as appropriate to address:
1. Any lack of progress towards the annual goals and in the general education curriculum.
 2. The results of any reevaluation.
 3. Information about the prisoner provided to or by the parent.
 4. The prisoner's anticipated need.
 5. Any other relevant matter.

A copy of the updated procedural safeguards shall be given to the prisoner (or parent if under the age of 18) annually. If the need arises to make allowable minor changes prior to the annual review date, the IEP Team shall amend the IEP and notify the IEP team of the changes. These changes may be made without convening if all parties agree not to convene and instead develop a written document to amend the IEP. Upon request, a parent of a prisoner under the age of 18 shall be provided with a revised copy of the IEP with the amendments incorporated.

- V. A re-evaluation shall be completed at least every three years to review existing data regarding eligibility or to assess for additional eligibility criteria. Each decision shall be documented on the MET report.

REVOCACTION PROCESS

- W. If an eligible prisoner or parent (if the prisoner is under the age of 18) wants to revoke special education programs and related services, a Revocation of Consent form shall be signed. The special education programs and related services shall be discontinued.
- X. After signing of the revocation form, the prisoner or parent (if the prisoner is under the age of 18) shall be given a notice of Cessation of Special Education Programs and Related Services form for signature. A copy of the signed form with exact date programs and services will end shall be provided.
- Y. For special education programs and related services to resume, the prisoner or parent (if the prisoner is under the age of 18) shall request an initial evaluation in writing. The MDOC may review existing evaluation data on the prisoner and identify what additional data may be needed to determine eligibility through the child find process.

SPECIAL EDUCATION HEARINGS

- Z. Prisoners shall utilize the grievance process as outlined in PD 03.02.130 "Prisoner/Parolee Grievances"

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as a method of seeking redress when other remedies are exhausted.

- AA. A prisoner, parent (if the prisoner is under the age of 18), or public agency may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties of a dispute, including matters arising prior to the filing of a due process complaint. Mediation services are offered at no cost to the complainant or agency and participation is voluntary. Mediation does not deny a prisoner or parent (if the prisoner is under the age of 18) right to a due process complaint. In instances where mediation is necessary, the School Principal shall contact the Education Manager in writing who shall ensure that an impartial qualified mediator is contracted and a session scheduled in a timely manner.
- BB. A prisoner or parent (if the prisoner is under the age of 18) may initiate a hearing by filing a written due process complaint with the Department of Education Office of Special Education (OSE). A hearing may be initiated on matters related to:
1. Identification;
 2. Evaluation;
 3. Educational placement;
 4. Provision of a free appropriate public education.
- CC. In addition to mediation and due process complaints, a State complaint may also be filed. A State complaint is a written, dated, and signed statement alleging that the Department has violated a requirement of State or Federal special education law. A State complaint may be about either an individual prisoner(s) or a Department-wide systemic problem. Any person or organization may file a State complaint.

OPERATING PROCEDURES

- DD. If necessary, to implement the requirements set forth in this policy directive, the Education Manager shall ensure an operating procedure is developed or updated.

AUDIT ELEMENTS

- EE. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 08/03/2020

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ATTACHMENT A

INSTITUTIONS OFFERING SPECIAL EDUCATION SERVICES

1. Bellamy Creek Correctional Facility (IBC)
2. Cooper Street Correctional Facility (JCS) (Special Education Services are only offered to offenders in the Special Alternative Incarceration Program (SAI) at JCS)
3. G. Robert Cotton Correctional Facility (JCF)
4. Ionia Maximum Correctional Facility (ICF)
5. Macomb Correctional Facility (MRF)
6. Marquette Branch Prison (MBP)
7. Michigan Reformatory (RMI)
8. Parnall Correctional Facility (SMT)
9. Richard A. Handlon Correctional Facility (MTU)
10. Saginaw Correctional Facility (SRF)
11. St. Louis Correctional Facility (SLF)
12. Thumb Correctional Facility (TCF)
13. Women's Huron Valley Correctional Facility (WHV)
14. Woodland Center Correctional Facility (WCC)

**ATTACHMENT B
SPECIAL EDUCATION PROCEDURAL SAFEGUARDS**

Procedural Time Lines:

STEP	ACTIVITY	PROCESS	TIME LINE
1	Initial Referral by Prisoner or Staff: _____	Consent from eligible prisoner or parent/guardian/surrogate is received in writing for evaluation. Request is made to Assistant Education Manager to schedule the School Psychologist and Social Worker if necessary.	Within 10 school days of referral
2.	MET Observations/ Documentation Compiled	Written observations, interventions and conclusions submitted for recommendations of eligibility on the MET Report.	Within 30 calendar days of referral
3.	Evaluation by School Psychologist/Social Worker	Prisoner evaluated by School Psychologist and/or School Social Worker if applicable.	No more than 30 calendar days after observation period
4	MET Meeting	Recommendation for eligibility is submitted on the MET Report.	No more than 60 calendar days from the date of referral
5	IEP Meeting Invitation	IEP Team is invited to attend IEP Meeting.	Seven calendar days prior to IEP meeting
6	IEP Meeting	IEP Team meets with prisoner and implements the plan if agreed upon.	Within 30 school days of MET meeting
7	Annual Review IEP Meeting	Reviews prisoner's progress on stated goals and objectives and appropriate placement in programs.	Within 11 months of IEP meeting
8	Three Year Reevaluation IEP Meeting	REED form completed and new IEP scheduled within 30 days.	Within three calendar years of last REED
9	IEP Termination of Special Education Services Due to Age	Summary of prisoner performance completed.	No later than 7 calendar days after prisoner's 22 birthday. Services cease on prisoner's 22 birthday