

**CHAPTER: 900**

**Inmate Programs and Services**

**DEPARTMENT ORDER:**

**920 – Inmate Exceptional Student Services**

**OFFICE OF PRIMARY  
RESPONSIBILITY:**

**IP&R**

**Effective Date:**

**April 12, 2021**

**Amendment:**

**N/A**

**Supersedes:**

**DO 920 (9/18/15)**

**Scheduled Review Date:**

**October 1, 2023**

**ACCESS**

**Contains Restricted Section(s)**

**Arizona  
Department  
of  
Corrections  
Rehabilitation  
and Reentry**



**Department Order Manual**

A handwritten signature in black ink, appearing to read "David Shinn", is written over a horizontal line.

**David Shinn, Director**

## TABLE OF CONTENTS

<b>EXPECTED PRACTICES.....</b>	<b>1</b>
<b>PURPOSE.....</b>	<b>1</b>
<b>APPLICABILITY .....</b>	<b>1</b>
<b>RESPONSIBILITY .....</b>	<b>1</b>
<b>PROCEDURES .....</b>	<b>1</b>
<b>1.0 CHILD FIND.....</b>	<b>1</b>
<b>2.0 EVALUATION AND ELIGIBILITY DETERMINATION .....</b>	<b>2</b>
<b>3.0 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE) .....</b>	<b>2</b>
<b>4.0 LEAST RESTRICTIVE ENVIRONMENT (LRE).....</b>	<b>3</b>
<b>5.0 INDIVIDUALIZED EDUCATION PROGRAMS (IEP).....</b>	<b>3</b>
<b>6.0 PROCEDURAL SAFEGUARDS.....</b>	<b>4</b>
<b>7.0 DISCIPLINE.....</b>	<b>5</b>
<b>8.0 CONFIDENTIALITY OF INFORMATION .....</b>	<b>5</b>
<b>9.0 GRADUATION.....</b>	<b>6</b>
<b>10.0 EXTENDED SCHOOL YEAR SERVICES.....</b>	<b>6</b>
<b>IMPLEMENTATION .....</b>	<b>6</b>
<b>DEFINITIONS/GLOSSARY.....</b>	<b>6</b>
<b>FORMS LIST .....</b>	<b>6</b>
<b>AUTHORITY.....</b>	<b>6</b>

## **EXPECTED PRACTICES**

American Correctional Association (ACA) Expected Practices: 5-ACI-7B-01, 5-ACI-7B-05, and 5-ACI-7B-10

## **PURPOSE**

This Department Order establishes the procedures the Department will use to take appropriate steps to ensure compliance with state and federal special education laws. However, nothing contained in this Department Order is intended to or will limit the authority of the Department from its primary responsibility of secure care, custody, and control of inmates.

The delivery of special education services to eligible inmates including placement, Individualized Education Programs (IEPs) and Least Restrictive Environments (LRE) may be modified if the Department demonstrates a bona fide security or compelling penological interest, which cannot otherwise be accommodated.

## **APPLICABILITY**

This Department Order applies to all inmates eligible for special education services and education staff in Department operated institutions and private prisons.

## **RESPONSIBILITY**

The Education Administrator shall: {5-ACI-7B-01}

- Establish and maintain a written, formal plan of operation for the special education services available to inmates.
- Ensure state and federal special education guidelines are followed at all times.
- Ensure correct placement codes are entered into the Arizona Correctional Information System (ACIS).

## **PROCEDURES**

### **1.0 CHILD FIND {5-ACI-7B-01}**

1.1 The Department shall ensure that all inmates with disabilities through the age of 21 years, within the jurisdiction of the Department, regardless of severity of their disability, and who are in need of special education and related services are identified, located, and evaluated.

1.1.1 The Department shall identify, locate, enroll, and evaluate all inmates under the age of 22 in accordance with the Federal Child Find requirements.

1.1.2 The Department's responsibilities under Child Find shall be applicable to:

1.1.2.1 Highly mobile inmates with a disability under 34 Code of Federal Regulations (CFR) §300.8, Child with a Disability.

1.1.2.2 Inmates advancing from grade to grade perceived to have a disability in need of special education.

**2.0 EVALUATION AND ELIGIBILITY DETERMINATION** – Inmates with a disability shall be evaluated to determine their eligibility and specific educational needs prior to receiving special education and related services. {5-ACI-7B-10}

2.1 A full and individual evaluation shall be conducted by the Department before the initial provision of special education and related services to a minor with a disability in accordance with 34 CFR §300.300 – §300.3111 of the Individuals with Disabilities Education Act (IDEA) regulations. A reevaluation of each minor with a disability shall be conducted by the Department in accordance with §300.300 – §300.3111 of the IDEA regulations.

2.1.1 Proper procedures for conducting evaluations shall be maintained in accordance with state and federal requirements.

2.1.2 An inmate’s Multidisciplinary Evaluation Team/Individual Education Program (MET/IEP) Team and other qualified professionals shall review existing evaluation data and collect additional data, if necessary, to determine an inmate’s eligibility category and special education and related services requirements.

2.1.3 An eligible inmate shall be reevaluated at least every three years when the MET/IEP Team determines the educational or related services needs of the inmate warrant a reevaluation; or the inmate's parent/guardian or teacher requests a reevaluation, unless the parent/guardian and the public education agency agree a reevaluation is unnecessary.

**3.0 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE) {5-ACI-7B-01}**

3.1 A Free Appropriate Public Education (FAPE) shall be available to all eligible inmates with disabilities through the age of 21 years, within the Department’s jurisdiction, including inmates advancing from grade to grade, those who have been suspended or expelled from school in accordance with the applicable IDEA rules and regulations. The Department may refer to and contract with approved public or private agencies as necessary to ensure the provision of FAPE for minors with disabilities. FAPE for an eligible inmate with a disability will extend through the conclusion of the instructional year during which the inmate attains the age of 22.

3.1.1 The Department shall, in accordance with the federal IDEA, provide eligible inmates a FAPE, including general or individualized special education and related services designed to meet inmates’ unique needs to progress in the general curriculum. {5-ACI-7B-05}

3.1.2 Inmates shall remain eligible for special education and related services until one of the following:

3.1.2.1 Graduation from secondary school with a high school diploma - A High School Equivalency (HSE) shall not be considered a regular high school diploma.

3.1.2.2 The inmate receiving special education turns 22 years old.

3.1.3 Inmates with 8th grade literacy standard exemptions in accordance with Department Order #910, Inmate Education, shall not be exempt from participation in FAPE.

- 3.1.4 The Correctional Education Program Teacher (CEPT) shall screen all inmates qualified for FAPE within 45 calendar days of their enrollment in any adult education program utilizing the Child Find Screening/Primary or Home Language Other Than English (PHLOTE) Report, Form 920-1. Further screening shall only be required if inmates self-identify on a voluntary basis a physical or mental impairment which substantially limits their learning.
- 3.1.5 The Registrar or designee shall, when inmates transfer from another school district and enroll in special education, request their education records as outlined in Department Order #910, Inmate Education, pursuant to Arizona Revised Statute (A.R.S.) §15-828.

#### **4.0 LEAST RESTRICTIVE ENVIRONMENT (LRE)**

- 4.1 To the maximum extent appropriate, opportunities for the least restrictive environment, inclusion in educational exercises with regular program inmates, and interaction with the total school environment shall be provided to exceptional student inmates in accordance with 34 CFR §300.114 – §300.117 of the IDEA regulations.
  - 4.1.1 In accordance with the United States (U.S.) Department of Education’s 2005a regulations IDEA, the Department shall ensure, to the maximum extent appropriate, that eligible inmates with a disability are educated in the LRE with inmates not considered disabled. Changes to an inmate’s LRE may occur due to a bona fide security or compelling penological interest. The IEP Team shall review placement and document any changes.
  - 4.1.2 Special classes, separate schooling, or other removals of inmates with a disability from the regular educational environment may only occur when the nature or severity of the disability is such that education in the regular educational environment cannot be achieved satisfactorily using supplementary aids and services.
  - 4.1.3 Custody level shall be part of determining an inmate’s LRE.

#### **5.0 INDIVIDUALIZED EDUCATION PROGRAMS (IEP)**

- 5.1 The Department shall ensure that an Individualized Education Program (IEP) is developed and implemented for each eligible inmate served by the Department in accordance with 34 CFR §300.320 – §300.325 of the IDEA regulations. An IEP or an Individualized Family Service Plan (IFSP) shall be in place for each inmate with a disability prior to the provision of FAPE.
  - 5.1.1 Meetings shall be initiated and conducted to develop, review and revise the IEP of each eligible inmate with a disability in need of special education and related services.
    - 5.1.1.1 Evaluation data shall be utilized for the development, review and revision of each individualized IEP.
    - 5.1.1.2 IEPs shall be in effect for each eligible inmate at the beginning of each school year.
    - 5.1.1.3 The IEP Team shall review the inmate’s IEP periodically, but not less than annually.

- 5.1.2 Eligible adult inmates with a disability and parents/guardians of minor inmates may attend IEP meetings and participate in IEP development.
- 5.1.3 An IEP may be modified by the IEP Team if the Department demonstrates a bona fide security or compelling interest which otherwise cannot be accommodated. Any modifications shall be documented on the inmate's IEP.

## 6.0 PROCEDURAL SAFEGUARDS

- 6.1 The Department shall establish, maintain, and implement procedural safeguards that meet the requirements of 34 CFR §300.300 – §300.311 of the IDEA regulations. The parents or the adult inmate shall be provided with notices of procedural safeguards in each specified instance, and all due process conditions will be satisfied with respect to the provision of a FAPE.
  - 6.1.1 The Department shall ensure inmates with a disability are guaranteed procedural safeguards with respect to the provision of FAPE.
  - 6.1.2 Adult inmates with a disability may inspect and review their educational records with respect to the identification, evaluation, educational placement, provision of FAPE, and have the right to amend records if requested.
    - 6.1.2.1 Parents/guardians of minor inmates with a disability may inspect and review their child's educational records with respect to the identification, evaluation, educational placement, provision of FAPE, and the right to amend records if requested.
  - 6.1.3 The Department shall ensure adult inmates with a disability and the parents/guardians of minor inmates with a disability are invited to participate as members of any group making educational placement decisions.
  - 6.1.4 Adult inmates with a disability and the parents/guardians of minor inmates with a disability shall have the right to obtain independent educational evaluations.
  - 6.1.5 The Education Unit shall provide the Procedural Safeguards Notice for the State of Arizona, available in English and Spanish on the Arizona Department of Education (ADOE) website [www.azed.gov](http://www.azed.gov), to adult inmates with a disability and the parents/guardians of minor inmates with a disability:
    - 6.1.5.1 At least once per year
    - 6.1.5.2 Upon initial evaluation referral
    - 6.1.5.3 Upon evaluation request
    - 6.1.5.4 Upon receipt of a due process request in accordance with 34 CFR §300.507
    - 6.1.5.5 In accordance with discipline procedures resulting in a placement change in accordance with 34 CFR §300.530(h)
    - 6.1.5.6 Upon request

- 6.1.6 Adult inmates and parents/guardians of minor inmates shall provide written consent when it is determined additional data is needed for an initial evaluation, reevaluation or prior to beginning the provisions of special education and related services.
- 6.1.7 Adult inmates, parents/guardians of minor inmates, or the Department may initiate a Due Process Hearing on any matters described in 34 CFR §300.503(a)(1) and relating to the identification, evaluation, educational placement of an inmate with a disability, and provision of FAPE.

## 7.0 DISCIPLINE

- 7.1 An inmate with a disability may be disciplined for a violation of Department Order #803, Inmate Disciplinary Procedure, and may include removal from his or her current placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion in accordance with 34 CFR §300.530 – §300.536 of the IDEA regulations.
  - 7.1.1 When inmates with a disability have an educational placement change resulting from disciplinary removal, the Department shall provide services to the extent necessary to enable them to appropriately progress in the general curriculum and appropriately advance toward achieving their IEP goals.
  - 7.1.2 Though guaranteed certain protections under IDEA, inmates with a disability shall be subject to the same consequences or punishments as non-disabled inmates.
  - 7.1.3 When inmates with a disability are removed from their current educational placement, a change of placement may occur if:
    - 7.1.3.1 The removal is for longer than 10 consecutive school days; or
    - 7.1.3.2 The series of removals constitute a pattern if they cumulate to more than 10 school days in a school year.
  - 7.1.4 When the removal of an inmate with a disability constitutes a change of placement, a review of the placement shall be conducted regarding the relationship between the inmate’s disability and the disciplined behavior.
  - 7.1.5 A non-qualifying inmate suspected of having a qualifying disability who engages in behavior that violates any rules or code of conduct may assert any of the protections of an inmate with a disability in accordance with 34 CFR §300.534(a).

## 8.0 CONFIDENTIALITY OF INFORMATION – The inspection and review of educational records collected, maintained or used by the Department shall be in accordance with Department Order #910, Inmate Education, IDEA, and the Family Educational Rights and Privacy Act.

- 8.1 To access public benefits information, the Department shall ensure adult inmates with a disability or parents/guardians of minor inmates with a disability are informed of all legal protections when a public agency seeks access to their public benefits or insurance to pay for services. This is a onetime consent that indicates understanding that the public agency may access their public benefits or insurance to pay for services under IDEA.

**9.0 GRADUATION** - Criteria for the graduation of exceptional students, including accomplishment in reading, writing, and mathematics, shall be as specified in the Technical Manual. Such standards shall be equivalent to or greater than those established by the State Board of Education.

**10.0 EXTENDED SCHOOL YEAR SERVICES** – Though the Department provides educational services year round, as outlined in Department Order #910, Inmate Education, Extended School Year services shall be determined on an individualized basis.

## **IMPLEMENTATION**

Within 90 days of the effective date of this Department Order, the Assistant Director for Inmate Programs and Reentry shall update and maintain the Department Order #920, Inmate Exceptional Student Services Technical Manual.

## **DEFINITIONS/GLOSSARY**

Refer to the Glossary of Terms for the following:

- Child
- Education Administrator
- Eight (8<sup>th</sup>) Grade Literacy Standard
- Exceptional Student Services (ESS)
- Functional Literacy Program
- High School Equivalency (HSE) Preparation Program
- Individual Education Program (IEP)
- Individuals With Disabilities Education Act (EDEA)
- Least Restrictive Environment (LRE)
- Multi-Disciplinary Evaluation Team
- Parent/Guardian

## **FORMS LIST**

920-1, Child Find Screening / Primary or Home Language Other Than English (PHLOTE)

## **AUTHORITY**

A.R.S. §15-701.01, High School; Graduation; Requirements; Community College or University Courses; Transfer from Private Schools; Academic Credit

A.R.S. §15-761, Definitions

A.R.S. §15-764, Power and Duties of the School District Governing Board or County School Superintendent

A.R.S. §15-766, Evaluation of Child for Placement in Special Education Program; Due Process Hearing Procedures

A.R.S. §15-828, Birth Certificate; School Records; Exception

A.R.S. §15-1372, Equalization Assistance for State Educational System for Persons in the State Department of Corrections; Fund

A.R.S. §31-229, Functional Literacy Program; Evaluation; Certificate; Exemptions; Wages; Definition

A.R.S. §31-240, Prisoner Education Services Budget; Prohibitions

A.R.S. §41-1604.07, Earned Release Credits, Forfeiture; Restoration; Released Prison Health Care

A.A.C. R7-2-401, Special Education Standards for Public Agencies Providing Educational Services

34 CFR §300.8, Child with a Disability



34 CFR §300.42, Supplementary Aids and Services  
34 CFR §300.101, Free Appropriate Public Education (FAPE)  
34 CFR §300.102, Limitation – Exception to FAPE for Certain Ages  
34 CFR §300.106, Extended School Year Services  
34 CFR §300.111, Child Find  
34 CFR §300.114, LRE Requirements  
34 CFR §300.115, Continuum of Alternative Placements  
34 CFR §300.116, Placements  
34 CFR §300.117, Nonacademic Settings  
34 CFR §300.121, Procedural Safeguards  
34 CFR §300.300, Parental Consent  
34 CFR §300.301, Initial Evaluations  
34 CFR §300.302, Screening for Instructional Purposes Is Not Evaluation  
34 CFR §300.303, Reevaluations  
34 CFR §300.304, Evaluation Procedures  
34 CFR §300.305, Additional Requirements for Evaluations and Reevaluations  
34 CFR §300.306, Determination of Eligibility  
34 CFR §300.307, Specific Learning Disabilities  
34 CFR §300.308, Additional Group Members  
34 CFR §300.309, Determining the Existence of a Specific Learning Disability  
34 CFR §300.310, Observation  
34 CFR §300.311, Specific Documentation for Eligibility Determination  
34 CFR §300.320, Definition of Individualized Education Program  
34 CFR §300.321, IEP Team  
34 CFR §300.322, Parent Participation  
34 CFR §300.323, When IEPs Must Be in Effect  
34 CFR §300.324, Development, Review, and Revision of IEP  
34 CFR §300.328, Alternative Means of Meeting Participation  
34 CFR §300 Subpart E—500-520 Procedural Safeguards Due Process Procedures For Parents and Children  
34 CFR §300.530, Authority of School Personnel  
34 CFR §300.531, Determination of Setting  
34 CFR §300.532, Appeal  
34 CFR §300.533, Placement During Appeals  
34 CFR §300.534, Protections for Children Not Determined Eligible for Special Education and Related Services  
34 CFR §300.535, Referral to and Action by Law Enforcement and Judicial Authorities  
34 CFR §300.536, Change in Placement Because of Disciplinary Removals  
34 CFR §300.610, Confidentiality  
34 CFR §300.613, Access Rights  
34 CFR §300.618, Amendment of Records at Parent’s Request  
Individuals with Disabilities Education Act (IDEA), PL. 108-446 (or most current Public Law)  
Family Educational Rights and Privacy Act