

CHAPTER: 900
Inmate Programs and Services

DEPARTMENT ORDER:
920 – Inmate Special Education Services

OFFICE OF PRIMARY
RESPONSIBILITY:
IP&R

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Arizona Department of Corrections

Department Order Manual





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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:

- 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 Adult Information Management System (AIMS).

PROCEDURES

1.0 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

- 1.1 The Department shall, in accordance with the federal Individuals with the Disabilities Education Act (IDEA), provide eligible inmates a free and appropriate public education (FAPE), including general or individualized Special Education and related services designed to meet inmates' unique needs to progress in the general curriculum.
- 1.2 Inmates shall remain eligible for Special Education and related services until one of the following:
 - 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.
 - 1.2.2 The inmate receiving Special Education turns 22 years old.
- 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.
- 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 Student Screening 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.

- 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.

2.0 CHILD FIND

- 2.1 The Department shall identify, locate, enroll, and evaluate all inmates under the age of 22 in accordance with the federal Child Find requirements.
- 2.2 The Department's responsibilities under Child Find shall be applicable to:
 - 2.2.1 Highly mobile inmates with a disability under 34 Code of Federal Regulations (CFR) 300.8, Child with a Disability.
 - 2.2.2 Inmates advancing from grade to grade perceived to have a disability in need of Special Education.

3.0 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.

- 3.1 Proper procedures for conducting evaluations shall be maintained in accordance with state and federal requirements.
- 3.2 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.
- 3.3 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.

4.0 INDIVIDUALIZED EDUCATION PROGRAMS (IEP)

- 4.1 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.
 - 4.1.1 Evaluation data shall be utilized for the development, review and revision of each individualized IEP.
 - 4.1.2 IEPs shall be in effect for each eligible inmate at the beginning of each school year.
 - 4.1.3 The IEP Team shall review the inmate's IEP periodically, but not less than annually.
- 4.2 Eligible adult inmates with a disability and parents/guardians of minor inmates may attend IEP meetings and participate in IEP development.
- 4.3 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.

5.0 LEAST RESTRICTIVE ENVIRONMENT (LRE)

- 5.1 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.
- 5.2 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.
- 5.3 Custody level shall be part of determining an inmate’s LRE.

6.0 PROCEDURAL SAFEGUARDS

- 6.1 The Department shall ensure inmates with a disability are guaranteed procedural safeguards with respect to the provision of FAPE.
- 6.2 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.
 - 6.2.1 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.
- 6.3 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.
- 6.4 Adult inmates with a disability and the parents/guardians of minor inmates with a disability shall have the right to obtain independent educational evaluations.
- 6.5 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, to adult inmates with a disability and the parents/guardians of minor inmates with a disability:
 - 6.5.1 At least once per year
 - 6.5.2 Upon initial evaluation referral
 - 6.5.3 Upon evaluation request
 - 6.5.4 Upon receipt of a due process request in accordance with 34 CFR 300.507
 - 6.5.5 In accordance with discipline procedures resulting in a placement change in accordance with 34 CFR 300.530(h)
 - 6.5.6 Upon request

6.6 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.

6.7 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 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.

7.1 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.

8.0 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.

9.0 DISCIPLINE

9.1 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.

9.2 Though guaranteed certain protections under IDEA, inmates with a disability shall be subject to the same consequences or punishments as non-disabled inmates.

9.3 When inmates with a disability are removed from their current educational placement, a change of placement may occur if:

9.3.1 The removal is for longer than ten consecutive school days; or

9.3.2 The series of removals constitute a pattern if they cumulate to more than ten school days in a school year.

9.4 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.

9.5 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).

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms

FORMS LIST

920-1, Student Screening Report

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