


STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

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|  DIVISION OF CORRECTION DIRECTIVE | PROGRAM: | EDUCATION AND OCCUPATIONAL SERVICES | |
| | DCD #: | 135-3 | |
| | TITLE: | Special Education Services | |
| | ISSUED: | September 7, 2004 | |
| | AUTHORITY: | <i>Patricia Allen</i> | ASSISTANT COMMISSIONER |
| | APPROVED: | <i>J.C. Sign</i> | COMMISSIONER |

I. References:

- A. Public Law 105-17, Individuals With Disabilities Education Act Amendments of 1997 (IDEA '97)
- B. COMAR 13A.05.01, Provision of a Free Appropriate Public Education;
COMAR 13A.05.02, Administration of Services for Students With Disabilities
- C. Education Article, §8-401, et seq., ACM
- D. ACA Standard 4-4464
- E. 34 CFR, §300, et. seq.
- F. DCD 100-101

II. Applicable to: All Division of Correction Institutions

III. Purpose: To establish procedures with regard to interactions between the Division of Correction (DOC) and the Maryland State Department of Education (MSDE) to ensure the delivery of special education and related services to disabled inmates under age 21 in accordance with state and federal law.

IV. Definitions:

- A. Assessment: A variety of assessment tools and strategies used to evaluate all individuals who have been identified through screening as potentially in need of special education services in accordance with COMAR 13A.05.01.
- B. Assistive Technology Device: Any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain or improve the functional capabilities of a student with a disability. Correctional Education staff shall ensure that assistive technology devices and/or assistive technology services, as these terms are defined, are made available to a student with a disability if required as a part of the inmate's individualized educational program (IEP).
- C. Assistive Technology Service: Any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device.
- D. Correctional Education Special Education Handbook: MSDE Correctional Education special education policies and procedures handbook.

- E. Free Appropriate Public Education (FAPE): The right of special education students to receive appropriate education at public expense.
- F. Individualized Education Plan (IEP): A written description of the special education and related services to be provided to meet the unique needs of the student with a disability. The goals, objectives, activities and materials shall be adapted to the needs, interests and abilities of each inmate.
- G. Identification Evaluational Placement Team: A group of individuals knowledgeable of the inmate and special expertise responsible for identifying academic strengths and weaknesses, developing an IEP, and placement of a student with a disability in the least restrictive environment. Case management input is required at IEP team meetings either in person for initial, annual or special meetings, or by written report for eligibility, IEP development or exit/dismissal meetings.
- H. Parent Surrogate: A person appointed to represent the student as his/her legal representative in the educational decision-making process when the inmate's parents are unknown or unavailable.
- I. Prior Notice: The parent(s) or surrogate shall be fully informed regarding the activity for which consent is sought. The notice shall be provided in his/her native language or other mode of communication.
- J. Related Services: Transportation and developmental, corrective and other supportive services as may be required to assist an inmate with a disability to benefit from special education which includes speech-language pathology and audiology services, psychological services, physical and occupational therapy including therapeutic recreation, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes.
- K. Special Education: Instruction which is specifically designed to address the unique needs of students with disabilities.
- L. Student Find: Initial procedures for identifying inmates who may have indications of a need for special education.
- M. Student With a Disability: An inmate who has been identified as a student with a disability through appropriate assessment components and the IEP team process as having special education needs.
- N. Transition: A coordinated set of activities for students with disabilities, designed within an outcome-oriented process which will facilitate re-entry into the community.

- V. Policy: It is the policy of DOC and MSDE to provide special education and related services to eligible inmates in accordance with requirements of applicable federal and state law.

VI. Procedures:

The following steps are to be taken to ensure that eligible incarcerated students with disabilities will be provided access to educational programs which offer students FAPE.

- A. Males – Upon entrance to the Maryland Reception, Diagnostic and Classification Center, case management staff shall complete Intake Data Form A-1, which is an abbreviated version of Intake Data Form A (see Appendix 1). The completed form is to be placed in the inmate's base file. Health care providers shall complete medical information on Intake Data Form B-1 (see Appendix 2). Inmates are then processed in accordance with DCD 100-101.

The medical forms are to be forwarded to MSDE headquarters and submitted to the associate for Correctional Special Education, 200 W. Baltimore Street, 7th floor, Baltimore, Maryland. The forms will then be dispatched to the appropriate maintaining institution. A copy of the medical form is to be placed in the inmate's confidential educational record.

- B. Females – Upon entrance to the Maryland Correctional Institution for Women, case management staff shall complete Intake Data Form A-1. The completed form is to be placed in the inmate's base file. Case management staff will then initiate a referral to the education department for testing. Health care providers shall complete medical information on Intake Data Form B-1. Inmates are then processed in accordance with DCD 100-101.

- C. The Department of Public Safety and Correctional Services (DPSCS) will provide Correctional Education headquarters with a monthly list of all inmates who have not reached their 21st birthday in order to facilitate the identification of special education eligible inmates. Upon receipt of the monthly list, which is distributed electronically from Correctional Education headquarters, an inmate is screened by a teacher at the maintaining institution (using Intake Data Form A) for consideration for special education services.

1. Absent extraordinary circumstances, student find at the maintaining institution shall occur within 30 days of the inmate's entry. Extraordinary circumstances that prohibit the student find from occurring within 30 days shall be documented on the appropriate protocol.
2. Intake protocols (Intake Data Forms A and B-1) shall remain at the institution where the inmate was screened as part of the inmate's confidential education file.

3. The special education file (confidential record) shall remain at the institution where the inmate was screened until a formal request is made from any of the following or until transfer:
 - a. Correctional Education staff,
 - b. community public schools,
 - c. public agencies, etc.
4. Upon transfer, all appropriate base files shall be marked "Special Education Consideration - Notify School Before Transfer" on the outside front cover.

NOTE: The above procedures do not address the actual provision of FAPE to eligible inmates, which shall be provided in accordance with the detailed requirements of 34 CFR, §300, et seq., and COMAR 13A.05.01 and .02.

- D. Case management staff shall immediately notify the principal of new inmates who are under 21 years of age.
 1. In those cases where prior special education services are reported and there is no indication of a formal exit from special education, the maintaining institution's special education staff shall request the inmate's prior education records within five working days (all completed within the 21 school days).
 2. Special education staff shall forward the appropriate form to MSDE headquarters, to the attention of the special education associate staff, if records have not been received after two requests have been made to the inmate's previous schools.
 3. When Correctional Education staff at MSDE headquarters obtains the school records, they shall forward copies of the prior special education records to the inmate's maintaining institution using the DPSCS monthly list.
 4. A log indicating the request for records and receipt thereof shall be maintained by the special education staff (receiving institution).
- E. An inmate determined to have an IEP developed by a school, local education agency or other qualified agency within one year of the inmate's most recent incarceration shall be placed in a comparable special education program within 10 school days of knowledge of the inmate's prior IEP.
- F. An inmate determined to have been previously placed in a special education program but who does not have an active IEP shall be placed in an appropriate

regular education program within 21 school days of transfer to a maintaining institution. The IEP team shall consider an interim IEP and/or full evaluation within 21 school days.

- G. An inmate identified as potentially eligible for special education shall be reviewed initially by an institutional screening committee (special education teacher, general education teacher, administrator) for possible referral to the IEP team.
- H. An inmate identified by the IEP team as eligible for special education services shall, barring extraordinary circumstances, have an IEP developed within 30 school days of eligibility.
- I. Parental or guardian approval shall be obtained for initial assessment and testing. Parents or guardians shall be notified of all steps in the IEP team process. In those cases where a parent or guardian cannot be located, a parent surrogate shall be appointed as specified in the Correctional Education Special Education Handbook.
- J. The public agency (school) shall ensure that the IEP team for each student with a disability includes, at the discretion of the parent or the agency (school), other individuals who have knowledge or special expertise regarding the inmate, related services including assistive technology devices or services as appropriate.
- K. An inmate determined to be eligible for special education and related services and who is housed in a mental health, medical, protective custody or segregation unit shall continue to receive special education services as specified in the Correctional Education Special Education Handbook. An inmate may spend up to 10 days in segregation, protective custody or hospital/mental health placement without receiving any special education related services.

1. Segregation

- a. An inmate in segregation for more than 10 days and up to 30 days will receive modified special education services consisting of at least two hours per week of direct instructional time.
- b. If an inmate is expected to remain in segregation for more than 30 days, an IEP team meeting shall be scheduled and held no later than 45 days after the date segregation began (as indicated at the top of the special education log).
- c. MSDE will not impose any generalized maximum limit on the quantity of services provided to inmates who are in segregation for more than 30 days. Security and other issues associated with disciplinary segregation will be considered by the IEP team as

factors in determining the quantity and type of services provided to an inmate in segregation for more than 30 days.

- d. The IEP team meeting shall be held if the inmate is in segregation for 31 days or more, even if the inmate is removed from the placement prior to the scheduled IEP team meeting. The purpose is to determine the appropriate services to be provided to the inmate while in segregation and to identify any needed modifications after segregation is completed.
- e. Inmates with a history of special education who are released from segregation will have the 90 days waiting period waived, in order to begin the school observation period immediately. An IEP team shall convene within 45 days to determine if the IEP is still appropriate.
- f. DOC security personnel shall inform the principal, in writing, if any student under 21 years of age in segregated housing cannot be seen by appropriate special education staff because of behavioral or other penological concerns.

2. Protective Custody

MSDE will not impose any generalized maximum limit on the quantity of services provided to inmates who are in protective custody for more than 30 days. Security and other issues associated with protective custody will be considered by the IEP team as determining factors for the adjustment of the quantity and types of services provided to an inmate in protective custody for more than 30 days.

3. Hospital or Mental Health Placement

- a. Inmates eligible for special education and related services who are housed in a medical or mental health unit shall be provided adjusted services to accommodate their particular situation and condition. The actual number of service hours per week shall be determined by the IEP team on a case-by-case basis.
- b. An inmate placed in one of these special units need not receive special education and related services if he/she is not expected to remain in the unit for more than 10 days.
- c. If the inmate is expected to remain in the special unit for more than 10 days, the education staff will consult with a physician or other appropriate health care professional to initiate the delivery of educational services.

- d. An inmate housed in one of these special units shall receive special education services. Security and other issues associated with hospitalization or mental health placement will be considered by the IEP team as factors in determining the quantity and type of services provided.
- e. If an inmate is expected to remain in the special unit for more than 60 days, the IEP team shall meet to review the services provided no later than the 60 days of the inmate's assignment to the special unit.
- f. The medical provider shall inform the principal, in writing, of any student under 21 in special housing, whose medical circumstances prevent educational service delivery.

NOTE: The IEP may be modified by the IEP team if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated (Federal: 34 CFR 300.342(b)(1), 34 CFR 30, Appendix A, 14. State: 13A.05.01.I.10C.).

- L. Special education services shall be available at selected institutions within each security level. Absent extraordinary circumstances, if an inmate who is being transferred has an active IEP or was in the process of a full evaluation for special education eligibility, the inmate shall be transferred to a maintaining institution with the same security level and provisions for special education and related services.
- M. Parents, guardians or parent surrogates of inmates referred for special education services shall be informed of proposals to initiate changes (prior written notice) in the identification, evaluation or educational placement of their son/daughter. Inmates and parents are to be informed of their rights in their native language unless it is clearly not feasible to do so due to unusual circumstances.
- N. When an inmate or parent of the inmate requests a waiver of special education services, prior written notice is provided to both the parent and the inmate regarding the request. The prior written notice indicates the date for an IEP team meeting, the purpose of the meeting, and an invitation for the parent and student to attend an exit meeting. Parental permission is required for a student to waive special education services.
- O. Special education services and legal rights shall be included in the Division of Correction inmate handbook.
- P. Transition services are provided by MSDE staff according to student preferences and appropriateness when the student is under 21 years of age at release. The anticipated services are addressed based on the following:

1. The projected date of exit from institutional education,
2. The category of exit, and
3. Anticipated service(s) needed.

VII. Attachments:

- A. Appendix 1 - MSDE Correctional Education Intake Data Form A-1, Special Education Student Find Interview
- B. Appendix 2 - MSDE Correctional Education/DPSCS Intake Data Form B-1, Student Information for Inmates Under 21 Years of Age

VIII. Rescission: DCD 135-3, dated June 30, 2002

Distribution:

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MARYLAND STATE DEPARTMENT OF EDUCATION
CORRECTIONAL EDUCATION
INTAKE DATA FORM A-1
SPECIAL EDUCATION STUDENT FIND INTERVIEW

Arrest Date _____ Priority Placement _____

Directions: Complete for all incoming inmates under twenty-one years of age. This information is confidential and for professional use only.

PART I – IDENTIFYING INFORMATION SS# _____ Sentence length _____

NAME _____ DOC# _____
Last First Middle

DOB _____ Entry date _____ Interview date _____
Interviewer _____ DOC Case Manager _____

PART II – READ TO INMATE

Special education is available to all eligible inmates under twenty-one years of age who do not have a high school diploma or GED. The following questions about you and your school history will help us determine if you should be referred for further screening.

1. Do you have a high school diploma? Yes _____ No _____
If yes, year received _____ Name and address of school _____

2. Do you have a GED? Yes _____ No _____ If yes, year received? _____ State _____

NOTE: A social security number is needed to verify GED. Name and address of school are needed to verify high school diploma. IF THE ANSWER TO QUESTIONS 1 OR 2 IS YES, DO NOT CONTINUE THIS INTERVIEW. CHECK “NO” AND GO TO PART III.

3. (A) Have you ever attended school at a county detention center or the city detention center?
Yes _____ No _____ If yes, Where _____ When _____

(B) Did you receive special education services to help you in your academic subjects?

Yes _____ No _____ Comments _____

4. When did you last attend school on the street? Year _____ Age _____
Highest grade completed? _____

5. Have you ever been in special education classes? Yes _____ No _____
If yes, what grade(s)? _____ Age(s) _____
Name(s) and location(s) of school(s) and/or institution(s) _____

6. Have you ever received:
(A) Speech/Language Therapy? Yes _____ No _____ When _____
(B) Psychological Counseling? Yes _____ No _____ When _____
(C) Physical Therapy? Yes _____ No _____ When _____

PART III – REFERRAL/RECOMMENDATIONS

Refer to the Education Department of assigned institution for further screening: Yes _____ No _____
Comments: _____

**MARYLAND STATE DEPARTMENT OF EDUCATION
CORRECTIONAL EDUCATION/DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
STUDENT INFORMATION FOR INMATES UNDER 21 YEARS OF AGE**

INTAKE DATA FORM B-1

Medical Personnel: Please complete for all inmates under 21 years of age

Inmate's Name _____ DOC# _____

Date of Birth _____ Entry Date _____

Medical

- ☐ Vision Impaired
- ☐ Hearing Impaired
- ☐ Orthopedically Impaired
- ☐ History of Seizure Disorder
or Medication
- ☐ No Disability Suspected

Mental Health

- ☐ Previous Diagnosis of Mental
Disorders: (nature of above:) _____
- ☐ History of Psychiatric Commitment
- ☐ History of Suicide Attempt(s)
- ☐ No Disability Suspected

Signature of Medical Personnel: _____

Title: _____ Date: _____