

Procedures and Guidelines for the Assessment and Delivery of Special Education Services to Incarcerated Individuals in Iowa's Adult Correctional Facilities

November 2009

**Iowa Department of Education
Iowa Department of Corrections
Area Education Agencies**

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**Mission
Statements**

Iowa Department of Education:
Our mission is to champion excellence for all Iowa Students through
leadership and service.

Iowa Department of Corrections:
To advance successful offender reentry to protect the public, staff and the
offenders from victimization.

Iowa Department of Correction, Division of Offender Services:
The Department of Corrections’ Education Program exists to provide
incarcerated individuals with educational opportunities and skills necessary to
function successfully and responsibly in society upon their release.

**Who are
Eligible
Incarcerated
Individuals?**

According to Iowa Administrative Code [IAC] 281—41.2(1)*d* –“ The
provisions of this chapter [Chapter 41 of the Iowa Special Education Rules]
apply to all political subdivisions of the state that are involved in the
education of children with disabilities, including state and local juvenile and
adult correctional facilities.”

Incarcerated individuals at any of Iowa’s adult correctional facilities, who:

- are less that twenty-one years old or turn twenty-one during the school
year; and
- who have not earned a high school diploma or GED
- may have individual educational needs that would make them eligible

for special education and related services.

This would include, but not be limited to incarcerated individuals who were identified as eligible individuals with IEPs in their last educational placement.

Funding for Special Education Services provided to Eligible Incarcerated Individuals

Funding for the eligible incarcerated individual's special education instructional services is provided by the incarcerated individual's district of residence.

Incarcerated individuals who are eligible for special education and related services will be included in the special education student count (last Friday in October of each year.)

These eligible incarcerated individuals are **not** recorded on the general enrollment count in September since the incarcerated individual's district of residence does not fund the general education services provided by the Department of Corrections.

If an Iowa district of residence cannot be determined for the incarcerated individual, then the Director of the Department of Education will assign a district of residence.

Statement of Philosophy

The Iowa Department of Education, the Department of Corrections and the Area Education Agencies provide special education services, within the parameters of security and public safety, to eligible individuals incarcerated in Iowa adult correctional facilities.

Incarcerated individuals in need of special education and related services are screened, assessed and served by implementing all standards of state and federal education laws and regulations.

The eligible incarcerated individual's special education services are based on his or her individual education needs and are outlined on an individualized education program (IEP) developed by the IEP team.

The following statement by former Secretary of Education Terrell H. Bell expresses the philosophy behind the delivery of special education and related services within adult correctional facilities in the State of Iowa;

“[We] believe that education is neither a frill nor a privilege reserved for the few or the truly deserving. We must ensure that those who wish to improve their education and prepare for a life of honest work have the opportunity to do so. Education must not stop at the prison gates; for some, that may even be where it can begin. We must build

on the assumption that, not even in prison, have we exhausted the resources that might work, that might make a change.”

**Special
Education
Service
Agreement
between the
Departments of
Education and
Corrections**

An agreement between the Iowa Department of Education and the Iowa Department of Corrections related to the identification, evaluation and provision of special education support and related services for student inmates with disabilities who require special education includes the following:

The Department of Corrections will be responsible for the provision of an appropriate program of Special Education Instructional and Related or Support Services to identified student inmates. Such services may be provided directly or in a contractual agreement.

The Department of Corrections will provide such information as is necessary to allow the student inmate to be counted in child counts for the purpose of generating Special Education funding. These counts may include but will not be limited to Iowa’s Special Education weighted enrollment and the State Operated Programs for all individuals with disabilities that would fall under the Individuals with Disabilities Education Act (IDEA). Such counts shall be submitted to the Department of Education. The Department of Corrections will provide such information as is necessary to fulfill federal reporting requirements under the IDEA.

Funding:

The Special Education Support and Related Services which include the identification, evaluation, and ongoing provision of such services shall be supported from formula flow through funds available under IDEA Part B through the Department of Education. These funds will be available on or about the first of July following the student-inmates being counted on the October special education child count.

It will be necessary at the appropriate time for the Department of Corrections to prepare and submit a consolidated application for the IDEA Part B flow through funds. Application forms will be provided by the Department of Education.

The Department of Corrections shall forward an itemized invoice to the Department of Education for actual cost of Support/Related Services provided for student-inmates. Such billings will be quarterly and will be accompanied by a “Claim Voucher for Internal Services” with the “Sellers Account Distribution” information completed.

**Screening and
Assessment**

Currently every incarcerated individual in Iowa goes through an intake

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procedure at the Iowa Medical and Classification Center (IMCC) prior to placement at one of Iowa’s nine adult correctional facilities.

Screening and assessment procedures for incarcerated individuals potentially requiring special education services are part of this intake procedure. The authority for this student identification, evaluation and placement is found in IAC281—41.122:

“Children with disabilities must be evaluated in accordance with rules 41.300 [Division V of Iowa Special Education Rules], and each AEA shall develop and use procedures to implement those rules.”

**Screening
Procedures**

The following screening procedure is used at IMCC. It is intended as an example of appropriate procedures and practices. Screening procedures consistent with approved AEA procedures are in place at all adult correctional facilities.

The initial screening of incarcerated individuals determines a population of possible eligible individuals that should be assessed for potential special education needs.

This pool of incarcerated individuals who may be eligible for special education services are identified through the following screening procedure:

1. All incarcerated individuals who turn twenty-one during the school year or are less than twenty-one years of age will be identified.
2. All incarcerated individuals with GEDs or high school diplomas will be excluded from the individuals in step 1.
3. A record review of previous education files will be conducted to determine the incarcerated individual’s current educational placement. Education information will be collected through an interview by the special education staff of the incarcerated individual.

**Assessment
Procedures**

The pool of incarcerated individuals identified in the screening procedure outlined above may be assessed by the Grant Wood AEA special education staff at the IMCC, with assistance as needed from the education staff of the Kirkwood Community College housed at IMCC, using a combination of:

- standardized individual assessment tests;
- curriculum based assessments;
- classroom observations; and/or
- record reviews.

A special education staff member has been assigned to the IMCC from the Grant Wood Area Education Agency to:

- facilitate the record reviews, and
- act as a resource to the correctional education staff in the determination of need for special education services for eligible individuals.

A similar system is in place at all adult correctional facilities when there is a need to assess incarcerated individuals to determine the need for special education and related services.

**Initial
Assessment of
Incarcerated
Individuals**

The initial assessment of the incarcerated individuals' educational needs can take place during an extended intake period of up to 30 days at IMCC.

The assessment procedure includes the following activities and processes for staff and incarcerated individuals and should be followed by all adult correctional facilities.

1. Incarcerated individuals who are determined to have individualized needs that may require special education services will be referred by a multi-disciplinary team consisting of:
 - correctional education staff;
 - correctional counselor;
 - AEA support staff assigned to the adult correctional facility;
 - incarcerated individual's parents; and
 - a representative of the incarcerated individual's district of residence.
2. The multi-disciplinary team will determine if the incarcerated individual can be served in:
 - regular education;
 - regular education with accommodations; or
 - a special education program within the correctional education program.
3. If the incarcerated individual is determined to be in need of special education, the IEP team will develop an individualized education program (IEP) for the eligible individual based on his or her individualized needs in compliance with IAC281— 41.320 & 41.324.
4. The GED curriculum is the general education curriculum for the education programs at Iowa's adult correctional facilities. This helps the assessment team determine if the incarcerated individual's educational needs can be met with general education services or general education services with accommodations.

Screening and Assessment Process at IMCC

Screenings will be conducted at IMCC approximately every two weeks to determine the pool of incarcerated individuals who may be eligible for special education services.

The Iowa Special Education Rules pertaining to screening, assessment and placement of individuals who may require special education services shall be followed when working with the inmate population.

Each screening will determine if the incarcerated individual is eligible or ineligible for special education services.

1. An incarcerated individual is deemed to be ineligible for special education services if he or she:
 - is capable of making appropriate educational progress without special education services;
 - is older than twenty-one years of age before the start of the current school year; or
 - has already earned a high school diploma or GED.
 2. An incarcerated individual is deemed eligible for special education services if none of the conditions listed above in number 1 are met.
 3. An incarcerated individual who was identified as an eligible individual with an IEP in their last educational placement may be deemed eligible as long as he or she does not meet the conditions listed above in number 1.
-

Collect General Information

Collect general information from corrections staff:

- length of sentence;
 - transfer destination of incarcerated individual after intake is complete;
 - security designation
 - incarcerated individual's date of birth;
 - any concerns of correctional officers and counselors on behaviors of incarcerated individual, if applicable.
-

Interview with Incarcerated Individual

Conduct an interview with the incarcerated individual:

- discuss educational history;
- discuss the incarcerated individual's perception of behaviors, if applicable;
- explain special education services and how this supports GED/diploma completion;
- obtain Exchange of Confidential Information and Medical Release;
- confirm the incarcerated individual's date of birth;

- confirm the incarcerated individual's home address and school district of residence.
-

Prep for IEP meeting

Contact AEA and resident district to obtain educational records.

Complete educational and behavioral assessments as necessary using combination of standardized individual assessment tests, curriculum based assessment, classroom observations, and record reviews.

Obtain health, vision, and hearing information.

Prepare summary for IEP meeting.

Prepare a rough draft of the IEP with the incarcerated individual.

Send meeting notification to incarcerated individual's parents.

Send invitation to the meeting to district of residence offering the option of participating via a phone conference or having a designee from the AEA represent the district..

Notify Corrections Counselor and education department of the meeting.

Notify corrections staff of meeting

IEP meeting

Discuss and determine incarcerated individual's educational needs.

Discuss and determine the incarcerated individual's need for special education.

The eligible incarcerated individual's IEP team will determine special education services. Review rough draft (if applicable) or develop IEP if the incarcerated individual has a need for special education services.

Provide incarcerated individual a copy of the completed IEP.

Make the IEP accessible to each general education teacher, special education teacher, support service provider, and other service providers who are responsible for its implementation.

Each teacher and provider must be informed of the teacher or provider's specific responsibilities related to implementing the eligible incarcerated individual's IEP and the specific accommodations, modifications, and

supports that must be provided for the eligible incarcerated individual in accordance with the IEP as required in IAC281— 41.323.

Mail IEP to resident district and AEA for review and parent, if appropriate, if they did not attend.

Immediately notify the Correctional Treatment Director or designee of any change in education status.

Any time in this process that an incarcerated individual becomes ineligible, notify the Correctional Treatment Director, resident district and AEA and parent immediately.

**Other Adult
Correctional
Facilities**

These procedures should also be followed at any of the adult correctional facilities when a referral for appropriate evaluation is filed on any incarcerated individual who may require special education services.

**Special
Education
Programs**

The Iowa Department of Corrections, Department of Education and Area Education Agencies 8, 10, 11, 13, and 15 have formed cooperative agreement to ensure the delivery of special education and related services to qualified individuals incarcerated in Iowa's adult correctional facilities.

**Graduation and
/or Program
Completion**

Graduation requirements for the incarcerated individual requiring special education must be in accord with the prescribed course of study as described in his or her IEP. Prior to the eligible individual's graduation, the IEP team will determine that graduation or program completion requirements have been met.

The authority for setting graduation requirements for students requiring special education is included within Iowa Code sections 256.11, 256.11A, and 280.14, as well as IAC 281—41.404(1)*e* and 41.404(2)*c*

**Transition
Services**

Determination of transition services for eligible individuals who are convicted as adults and incarcerated in adult prisons will be provided as per IAC281— 41.324(4)*a*(2) and IAC281— 41.43.

The IEP for each eligible individual, beginning at age 14 must include a statement of needed transition services.

Transition services shall include a coordinated set of activities for the incarcerated individual that promotes movement from school to post-school activities such as post-secondary education, vocational training, integrated

employment, continuing and adult education, adult services, independent living or community participation.

The statement of needed transition services shall include, if appropriate, a statement of each public agency and participating agency's responsibilities before the incarcerated individual leaves the school setting.

Note: §41.324(4)a(2) *Requirements that do not apply.* The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

a. The ... paragraph 41.67(1)"e."

b. The requirements in subrule 41.320(2) relating to transition planning and transition services do not apply with respect to the children whose eligibility under Part B of the Act will end because of their age before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

Support Services

Each incarcerated individual's IEP must contain a statement of specific special education and related services to be provided to the eligible individual. A description of the eligible individual's present level of educational performance, measurable annual goals, including milestones or short term objectives must be developed for each specific special education and related service provided to the incarcerated individual.

Authority for the delivery of special education and related services to students requiring special education services is described in IAC281— 41.402.

Security

Qualified individuals receiving special education services are subject to all of the institutional rules applying to all other incarcerated individuals. While security will remain the primary focus of correctional staff, it must be recognized that incarcerated individuals placed in special education programs will need to receive special education services on a consistent basis.

When special education students are placed in a disciplinary status, the provision of special education services will require cooperation from the security staff of the correctional facility. The IEP team may at this time develop alternative interventions and delivery methods to meet the incarcerated individual's need for special education services. As per IAC281— 41.324(4)b(1), modifications to IEP or services may be determined by the IEP team.

If the eligible individual refuses to attend special education services, the incarcerated individual's non-attendance of special education classes does not count as suspension or expulsion from special education programming. The

eligible individual should be aware of the continued availability of the special education services and encouraged to attend those services in the future.

Contractual Agreements

The Department of Corrections shall contract with the AEA in which the adult correctional facility is located to provide or facilitate special educational instructional and support services. Iowa's adult correctional facilities and their corresponding AEAs as follows:

Facility	AEA
North Central Correctional Facility (Rockwell City, NCCF)	8
Fort Dodge Correctional Facility (Fort Dodge, FDCF)	8
Iowa Medical and Classification Center (Oakdale, IMCC)	10
Anamosa State Penitentiary (Anamosa, ASP)	10
Iowa Correctional Institution for Women (Mitchellville, ICIW)	11
Newton Correctional Facility (Newton, NCF)	11
Clarinda Correctional Facility (Clarinda, CCF)	13
Iowa State Penitentiary (Fort Madison, ISP)	15
Mt. Pleasant Correctional Facility (Mt. Pleasant, MPCF)	15

Cost of Special Education Instructional Services

The cost for providing special education instructional services within Iowa's adult correctional facilities shall be billed to the district of residence of the incarcerated individual requiring special education services. (Consult the section entitled "Funding for Special Education Services provided to Eligible Incarcerated Individuals" on page 3 for information regarding student counts.)

For the purpose of this document, "district of residence" means the school district in which the parent or legal guardian of the incarcerated individual resides (for additional information see the section entitled, "District of Residence" on page 12.) District of residence is further defined as the district in which the eligible individual made his or her home for the purpose of establishing a residence before being arrested and incarcerated in an adult correctional facility.

Federal funding (IDEA, Part B) will be requested through the Iowa Department of Education by the Department of Corrections based on the number of incarcerated individuals identified as being in need of special education services and programs for the provision of special education support services.

Tuition Billing

Tuition billings to the district of residence for qualified individuals requiring special education shall reflect the actual costs of providing a special education instructional program.

These actual costs shall include the salaries and benefits for a special education teacher as well as additional costs attributable to the provision of the special education instructional program.

Tuition billings will reflect the number of days the qualified individual was served in the special education program at the adult correctional facility during an academic year of 180 days unless otherwise agreed to by the resident district or if the student was determined to be eligible for Extended School Year services according to IAC281— 41.106.

**Services for
Students Age
Twenty-one**

Authority regarding the delivery of special education services to students age twenty-one is found within IAC281— 41.2(3) which states:

“*Age.* This chapter applies to all children requiring special education between birth and the twenty-first birthday and to a maximum allowable age in accord with Iowa Code section 256B.8.”

The intent of these sections is to guarantee special education services for students through the age of twenty-one or who turn twenty-one during the school year, who have not graduated or earned a GED. If an eligible individual turns twenty-one during the course of a school year, special education services will be provided to that eligible individual until the completion of that school year.

**District of
Residence**

The cost of providing special education service to an incarcerated individual requiring special education services is the responsibility of the district of residence in which the incarcerated individual’s parent resides or where the incarcerated individual resided for the purpose of making a home before they were incarcerated (see previous section on funding). The incarcerated individual’s district of residence must be notified of all IEP meetings.

The district of residence for the incarcerated individual should include that eligible individual on the special education count. If a district of residence cannot be determined for an incarcerated individual, then a letter must be sent to the Director of the Iowa Department of Education asking that office to determine a district of residence for the incarcerated individual. If the Iowa Department of Education cannot determine a district of residence for the incarcerated individual the district in which the prison is located will be instructed on how to claim the costs for that student.

**Iowa Special
Education
Rules, 2007**

All of the Iowa Special Education Rules must be followed in the delivery of special education services in adult correctional facilities.

If the Department of Education determines that the standards of the correctional rules and procedures exceed the standards of the IARSE, the correctional rules and procedures will be accepted as in compliance with education standards.

**Extended
School Year
Services
(ESYS)**

The IEP team must determine when the eligible incarcerated individual is in need of ESYS. The determination for and provision of ESYS should follow all rules and procedures as found in IAC281— 41.106.

**Educational
Duties and
Responsibilities
of Staff**

AEA Supervisor of Special Education Services or his or her designee may, if agreed to by the student's district of residence, fulfill the responsibility of the required participation at an IEP meeting of a representative of the agency, other than the pupil's teacher, who is qualified to provide or supervise the provision of special education (see IAC281— 41.62).

Special Education Teachers employed to provide special education services to eligible individuals shall be licensed by the Board of Educational Examiners as certified to teach special education at a secondary level. Teacher certification must correspond to the disability placements of the special education eligible individuals in the program. It is recommended that special education teachers in adult correctional facilities be licensed in the areas of behavioral disorders or multi-categorical.

Teachers must also satisfactorily pass the Department of Corrections correctional security check.

**Transfer of
Eligible
Incarcerated
Individual**

Special education staff at both the incarcerated individual's previous and new correctional facilities must be aware of his or her transfer to coordinate the continuation of special education services.

Special education teachers and/or AEA administrative staff are instructed to follow up with appropriate correctional facility personnel and general education personnel whenever an eligible individual for special education services does not attend scheduled special education class.

If a determination is made at that time that the incarcerated individual in question has been transferred to another facility, then the special education staff of the student's previous placement shall contact the special education staff at the receiving facility to notify them of the transfer of the incarcerated individual's special education files and help coordinate the continuation of special education services.

**Educational
Records**

The AEA contact person will ensure that the record procedures will be clearly defined at each correctional facility.

Authority for the maintenance and confidentiality of the incarcerated individual's special education files is contained within IAC281— 41.610 which states:

“Confidentiality. The state shall take appropriate action, in accordance with Section 444 of the General Education Provisions Act, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the state and by LEAs and AEAs pursuant to Part B of the Act and this chapter, and consistent with rules 41.611 to 41.625.”

In addition to their other duties, the special education teacher and/or the AEA contact person will accept the responsibility to collect, maintain and transfer the incarcerated individual's special education file.
