

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 900</p> <p>INMATE PROGRAMS AND SERVICES</p>	<p>OPR:</p> <p>PS</p>
	<p>DEPARTMENT ORDER: 920</p> <p><i>INMATE SPECIAL EDUCATION SERVICES</i></p>	<p>SUPERSEDES:</p> <p>N/A</p>
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## TABLE OF CONTENTS

<b>PURPOSE</b>		
<b>RESPONSIBILITY</b>		
<b>APPLICABILITY</b>		
<b>PROCEDURES</b>		<b>PAGE</b>
920.01	FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE) .....	1
920.02	CHILD FIND.....	1
920.03	EVALUATION AND ELIGIBILITY DETERMINATION.....	2
920.04	INDIVIDUALIZED EDUCATION PROGRAMS (IEP).....	2
920.05	LEAST RESTRICTIVE ENVIRONMENT (LRE) .....	3
920.06	PROCEDURAL SAFEGUARDS .....	3
920.07	CONFIDENTIALITY OF INFORMATION .....	4
920.08	EXTENDED SCHOOL YEAR (ESY) SERVICES .....	4
920.09	GRADUATION .....	4
920.10	PUPIL – TEACHER RATIO .....	4
920.11	DISCIPLINE .....	4
	<b>IMPLEMENTATION .....</b>	<b>5</b>
	<b>DEFINITIONS .....</b>	<b>5</b>
	<b>AUTHORITY .....</b>	<b>7</b>

## PURPOSE

This Department Order establishes the procedure the Arizona Department of Corrections will use to take appropriate steps to ensure compliance with the following policy as regulated by the Federal and State Special Education Laws. However, nothing contained in these policies are intended to or will limit the authority of this agency from its primary responsibility of secure care, custody, and control of students/Inmates.

Concerning the issues of Special Education Placement, Individualized Education Programs (IEP's), Least Restrictive Environment (LRE), the education administration of the Arizona Department of Corrections may modify the delivery of special education services to eligible students/inmates incarcerated in an adult correctional facility if the Department has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

## RESPONSIBILITY

Special Education Coordinator shall:

- Establish a written formal plan of operation for the special education services offered to Students/Inmates.
- Ensure that secure care, custody, and control of Students/Inmates is maintained at all times.

## APPLICABILITY

This Department Order applies to all inmates eligible for special education services and education staff in Department operated institutions and Private Prisons. Special education operations and personnel shall be specified by contract and are covered under appropriate Federal and State laws as they apply.

## PROCEDURES

### 920.01 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

1.1 Free appropriate public education policy assures that:

- 1.1.1 The Department will ensure that all students/inmates with a disability under the age 22 within state run and contracted private prisons have the right to a free and appropriate public education (FAPE), including students with a disability who are advancing from grade to grade.

### 920.02 CHILD FIND

1.1 Child find policy assures that:

- 1.4.1 All students with a disability who are in need of special education and related services shall be identified, located, and evaluated [34 Code of Federal Regulations (CFR) 300.125].

- 1.4.2 A practical method shall be developed and implemented to determine which students are currently receiving needed special education and related services [34 CFR 300.125].
- 1.4.3 This policy applies to highly mobile students with a disability and students/inmates who are suspected of being students with a disability under 34 CFR 300.7 and in need of special education, even though they are advancing from grade to grade [34 CFR 300.125].

### **920.03 EVALUATION AND ELIGIBILITY DETERMINATION**

- 1.1 The Evaluation and Eligibility Determination policy assures that:
  - 1.1.1 A full individual initial evaluation shall be conducted for each student before the initial provision of special education and related services to a student with a disability [34 CFR 300.531].
  - 1.1.2 To determine if the student is a "student with a disability" under 34 CFR 300.7, 300.531, and the Arizona Revised Statutes (ARS) 15-761.
  - 1.1.3 To determine the education needs of the student.
- 1.2 Procedures shall be established for conducting evaluations in accordance with the requirements described in 34 CFR 300.52, 300.536, and ARS 15-766.
- 1.3 The student's Multidisciplinary Evaluation Team/Individual Education Program (MET/IEP) team and other qualified professionals shall review existing evaluation data and collect additional information, if necessary, and use the results of the evaluation to determine category of eligibility and the need for special education and related services [34 CFR 300.7, 300.534, 300.535 or ARS 15-761 and/or 15-766].
- 1.1 A re-evaluation of each student shall be conducted every three (3) years in accordance with 34 CFR 300.532, 300.534 – 300.536.

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

- 1.1 Because of the confinement of students in one of the Secure Care Facilities, the IEP Team may need to modify the IEP as a result of security or compelling penological interest that cannot otherwise be accommodated. Any modifications will be documented on the IEP.
- 1.2 This policy assures that:
  - 1.2.1 An Individualized Education Program (IEP) shall be in effect for each student with a disability at the beginning of each school year [34 CFR 300.311].
  - 1.2.2 Meetings shall be initiated and conducted for the purpose of developing, reviewing, and revising the IEP of a student with a disability [34 CFR 300.343, 300.344, 300.346, and 300.311].
  - 1.2.3 An IEP shall be developed and implemented for each eligible student served by the public agency [34 CFR 342, 300.346, 300.347, and 300.349].

- 1.2.4 A student with a disability will be invited to each IEP meeting and will be afforded the opportunity to participate in the IEP development [34 CFR 300344 and 300.345].

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

- 1.1 Change in placement may occur when there is a security or penological interest relating to the Least Restrictive Environment. The IEP Team will review placement and document any changes [34 CFR 300.311].
- 1.2 The LRE policy assures that:
  - 1.2.1 To the maximum extent appropriate, students with a disability in public or private institutions or other secure care facilities are educated with students who are not considered disabled [34 CFR 300.550].
  - 1.2.2 Special classes, separate schools, or other removal of students with a disability from the regular environment occurs only when the nature of severity of the disability is such that education in the regular classrooms, even with the use of supplementary aids and services, cannot be achieved satisfactorily [34 CFR 300.550 and the Arizona Administrative Code (AAC) R7-2-401].

## **920.06 PROCEDURAL SAFEGUARDS**

- 1.1 The Procedural Safeguard policy assures that:
  - 1.1.1 The Arizona Department of Corrections will ensure that students with a disability are guaranteed procedural safeguards with respect to the provision of a free appropriate public education [34 CFR 300.500(a)].
  - 1.1.2 The student with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE [34 CFR 300.501 (a) (1)].
  - 1.1.3 The Arizona Department of Corrections will ensure that the students with a disability are members of any group that makes decisions on the educational placement [34 CFR 300.501 (c)].
  - 1.1.4 Students with a disability have the right to obtain an independent psych-educational evaluation [34 CFR 300.502 (a) (1)].
  - 1.1.5 A copy of the procedural safeguards notice shall be given to the student, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, re-evaluation of the student, and receipt of a request for due process under 34 CFR 300.507 and 300.504 (a).
  - 1.1.6 Student consent shall be obtained if after a review of existing information, additional data is needed for an initial evaluation or re-evaluation, and before initial provision of special education and related services [34 CFR 300.505 (a) (1)].

- 1.1.7 A student or the Arizona Department of Corrections may initiate a due process hearing on any of the matters described in 34 CFR 300.503 (a) (1) and relating to the identification, evaluation, educational placement of a student with a disability, and provision of FAPE [34 CFR 300.507 (a) (2)].

## **920.07 CONFIDENTIALITY OF INFORMATION**

- 1.1 The confidentiality of information policy assures that:
  - 1.1.1 Students may inspect and review any educational records relating to themselves that are collected, maintained, or used by the agency. Without unnecessary delay, the public agency shall comply with the student's request and in no case more than 45 days after request [34 CFR 300.562].
  - 1.1.2 Procedures shall be established and implemented to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages [34 CFR 300.572 (a)].
  - 1.1.3 Students may request an amendment of records if they believe information in records is inaccurate, misleading, or violates the privacy or other rights of themselves [34 CFR. 300.567].

## **920.08 EXTENDED SCHOOL YEAR (ESY) SERVICES**

- 1.1 Even though the Arizona Department of Corrections provides educational services year round, ESY is determined on an individual basis.

## **920.09 GRADUATION**

- 1.1 The graduation policy assures that:
  - 1.1.1 Students will take a competency test in at least three academic areas: reading, writing, and mathematics and shall establish passing scores for each such test [ARS 15-701.01 (A) (3)].

## **920.10 PUPIL – TEACHER RATIO**

- 1.1 The Arizona Department of Corrections will establish the following policy regarding allowable pupil-teacher ratios as one teacher to eighteen (18) students [ARS 15-1764 (A) (5)].

## **920.11 DISCIPLINE**

- 1.1 The discipline policy assures that:
  - 1.1.1 If a change in educational placement for disciplinary removal occurs for a student with a disability, the Arizona Department of Corrections shall provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP [34 CFR 300.121 (d)].
  - 1.1.2 When a student with a disability is removed from his or her current educational placement, a change of placement occurs if:

- 1.1.2.1 The removal is for more than 10 consecutive school days; or
- 1.1.2.2 The series of removals constitute a pattern because they cumulate to more than 10 school days in a school year, because of such factors as length of each removal, total amount of time, or proximity of the removal to one another [34 CFR 300.519].
- 1.1.3 When the removal of a student with a disability constitutes a change of placement a review of the placement shall be conducted regarding the relationship between the student's disability and the behavior subject to the disciplinary action [34 CFR 300.523].
- 1.1.4 A student who has not been determined eligible for special education and related services and who engages in behavior that violates any rules or code of conduct may assert any of the protections of a student with a disability pursuant to 34 CFR 300.527.

{Original Signature on File}

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DORA B. SCHRIRO  
DIRECTOR

## IMPLEMENTATION

Within 90 days of the effective date of this Department Order, the Special Education Coordinator shall develop and publish a Special Education Procedure Technical Manual, which shall include:

- Special Education procedures detailing the guidelines that shall be followed by the Arizona Department's educational staff to provide Special Education services in accordance with the Individuals with Disabilities Education Act (P.L. 108-446 or most current Public Law)
- Procedures detailing the guidelines that shall be followed by Department staff to provide educational services in accordance with applicable Federal and State Laws.

## DEFINITIONS

**504-ACCOMMODATION PLAN** - A plan which outlines reasonable accommodations to allow an inmate who has a disability to participate in any of the education programs as required by the Rehabilitation Act of 1973, Section 504 (PL. 93-112 or most current Public Law).

**CORRECTIONAL EDUCATION PROGRAM MANAGER (CEPM)** - Department employee responsible for managing educational and/or work based education programs within an institution.

**CORRECTIONAL EDUCATION PROGRAM SUPERVISOR (CEPS)** - Department employee responsible for supervising educational and/or work based education programs within a Complex or a combination of units.

**CORRECTIONAL EDUCATION PROGRAM TEACHER (CEPT)** - Department employee responsible for providing instruction in Functional Literacy and/or GED.

**COMMUNITY COLLEGE COORDINATOR (CC)** - Community College employee responsible for managing work based education programs within a Complex.

**FUNCTIONALLY ILLITERATE** - An individual committed to the Department who fails to meet the Functional Literacy Standard, as measured by standardized testing using the Test of Adult Basic Education (TABE), in any or all of the following basic skill areas: reading, English language usage, and mathematics.

**FUNCTIONAL LITERACY PROGRAM** - Instruction in basic education (i.e., reading English, writing English, math, English language, etc.) for inmates who test below the Functional Literacy Standard on standardized testing instruments as mandated by A.R.S. 31-229.

**FUNCTIONAL LITERACY STANDARD** - Educational literacy standards mandated by A.R.S. 31-229. For inmates incarcerated on or after January 1, 1994, but before July 1, 1997, the literacy standard is the sixth (6<sup>th</sup>) grade equivalent. For inmates incarcerated on or after July 1, 1997, the literacy standard is the eighth (8<sup>th</sup>) grade equivalent.

**GENERAL EDUCATION DEVELOPMENT (GED)** - A course of study preparing an inmate for the General Education Development (GED) examination. Successful passage of the examination leads to the award of a GED certificate by the Arizona Department of Education.

**INDIVIDUAL EDUCATION PROGRAM (IEP)** - A plan developed for Special Education inmates to address the individual's educational needs.

**INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)** - Public Law #108-446 (or most current Public Law), passed by the U.S. House and Senate, which outlines requirements for providing services to students who need Special Education services

**LIMITED ENGLISH PROFICIENT (LEP)** - Inmates for whom English is not their native tongue and who are limited in English proficiency.

**MULTI-DISCIPLINARY EVALUATION TEAM (MET)** - A group of individuals that includes the inmate (and the parent or guardian of a minor), at least one CEPT, at least one certified Special Education teacher, a representative of the Department who can commit Department resources (such as the CEPS or CEPM), an individual who can interpret the evaluative instruments and express their implications (who may be one of the above), and other individuals who have knowledge of the inmate (such as Correctional Officer IIIs and IVs, medical staff, or other concerned staff).

**PRIVATE PRISON EDUCATION COORDINATOR (PPEC)** - Private prison employee responsible for managing educational and/or work based education programs within the private prison.

**PROGRAM** - A structured plan or system through which the Department works to meet its goal to modify or correct criminal behavior.(e.g., academic and work based education, counseling, substance abuse, etc.).

**SPECIAL EDUCATION SERVICES** - Services provided to an inmate up to the age of 22 who does not have a high school diploma, and who has been identified as being eligible for Special Education services under IDEA.

**STANDARDIZED TESTING** - The administration of an educational test battery identified as the TABE, which assesses basic reading, mathematics and language skills appropriate for adults, and which reports scores as grade equivalents. The TABE is the standard Department educational assessment given to all inmates.

**TEST OF ADULT BASIC EDUCATION (TABE)** - An educational test battery which assesses basic reading, mathematics and language skills appropriate for adults. TABE tests to be administered are as follows:

**Complete Battery** - An educational test used for achievement and curriculum placement information, which provides all total and normative scores in Reading Vocabulary/Comprehension, Mathematical Computation/Concepts and Applications, Language Mechanics/Expression, and Spelling.

**Survey Test Difficult (D) level** - A test used at intake to derive normative educational information and which produces Total Reading, Total Math, Total Language and Total Battery scores.

**TITLE I** - Improving America's Schools Act (IASA), P.L. 103-382, Title I, Part D, Title I-A, Title II, Title IV, Title V, and Tobacco, Alcohol and Other Drugs (TAOD), Title VI. Inmates, under the age of 21 who do not have a GED or high school diploma, and who are enrolled in academic and/or work based education, are eligible for Title I services.

**WORK BASED EDUCATION ADMINISTRATOR (WBEA)**- Department employee charged with the responsibility of the development and monitoring of the work based education contracts with the community colleges throughout the state.

**WORK FORCE DEVELOPMENT ADMINISTRATOR**- Department employee charged with responsibility for Arizona Correctional Industries, the academic, and work based education needs of inmate participants.

## **AUTHORITY**

A.R.S. 15-1372 Equalization Assistance for State Educational Systems.

A.R.S. 31-229, Functional Literacy Program.

A.R.S. 31.229.01, Functionally Literate Inmates.

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

A.R.S. 41-1604.07, Earned Release Credits, Forfeiture; Restoration.

Improving America's Schools Act (IASA), PL. 103-382, Title I, Part D, Title I-A, Title II, Title IV.

Tobacco, Alcohol and Other Drugs (TAOD), Title VI.

Individuals with Disabilities Education Act (IDEA), PL. 108-446 (or most current Public Law).

Americans with Disabilities Act (ADA), PL. 101-336.

Rehabilitation Act of 1973, Section 504, PL. 93-112.