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

August 2016

# Department of Corrections (DoC) and Department of Education (DE) Partnership

## Partners in the Provision of Special Education Services to Eligible Incarcerated Individuals

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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.

## Statement of Philosophy

The Iowa Department of Education, the Department of Corrections, and the AEAs 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.”

## Iowa Administrative Rules of Special Education, January 20, 2010

All of the Iowa Administrative Rules of Special Education 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 these Rules, the correctional rules and procedures will be accepted as in compliance with education standards.

## 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/offenders 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/offenders. 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/offender 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 (IEP Other 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.

This agreement shall be reviewed as outlined in the agreement or at least every five years.

## Funding for Special Education Support and Related Services

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.

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

## Correctional Education Association (CEA) Audit

The Iowa Department of Corrections is a member of the Correctional Education Association. CEA audits have been conducted in Iowa’s Correctional Facilities. One of the programs evaluated during these audits is the special education program provided to inmates/offenders.

The Correctional Education Association (CEA) is the only internationally recognized organization specializing in the field of correctional education.  An affiliate of the ACA (American Correctional Association) and AJA (American Jail Association), CEA offers standards and accreditation unique to education programs in correctional institutions.

CEA has established criteria for correctional facilities to use in planning and implementing education programs.  CEA Standards address four major areas of correctional education: administration, staff, students, and program.  To be accredited, an institution must provide documentation of compliance with 100% of CEA’s required Standards and 90% of non-required Standards.

Benefits of CEA accreditation:

* A professionally recognized benchmark in the field of correctional education.
* Helps the facility work toward and maintain quality in educational programming.
* The ACA Commission on Accreditation for Corrections accepts CEA accreditation in lieu of ACA education and vocational standards.
* By adopting CEA Standards and becoming accredited, correctional facilities are able to better assess their performance, improve programs, receive recognition from an independent source, and better meet the needs of society.
* Justifies funding for educational programs by demonstrating high quality.
* Provides a strong public relations tool with the legislature and the community.
* Audits are conduct at each facility every three years.

# Assessment of Incarcerated Individual Being Considered to Receive Special Services

## Who are Eligible Incarcerated Individuals?

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:

* were identified as eligible individuals with IEPs in their last educational placement.
* are less that twenty-one years old or turn twenty-one during the school year
* have not earned a high school diploma or GED/HiSET

Incarcerated individuals who are less than 18 years of age and are identified as having individual educational needs that make them eligible for special education and related services can be determined to be eligible to receive needing special education services as described on their IEP.

Special Rule – 41—102(1)“b”: If a child age 18 to 21 is incarcerated in an adult correctional facility, and the child (1) “was not actually identified as being a child with a disability under” Iowa’s Special Education Rules AND (2) did not have an IEP, then the child is not entitled to special education services. For that reason, there would be no duty to screen or evaluate that child for special education eligibility or services.

This special rule does not apply

* if the child was eligible for special education and had an IEP but left school prior to incarceration or
* “did not have an IEP in the child’s last educational setting, but who had actually been identified as a child with a disability under” Iowa’s special education rules.

## Screening and Assessment

Currently every incarcerated male individual in Iowa goes through an intake procedure at the Iowa Medical and Classification Center (IMCC) prior to placement at one of Iowa’s eight adult correctional facilities.

Currently every incarcerated female individual in Iowa goes through an intake procedure at the Iowa Correctional Institution for Women (ICIW) prior to placement.

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 IAC 281—41.122: “Children with disabilities must be evaluated in accordance with rules 41.300 Division III 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 and ICIW. 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 GED/HiSET 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.
4. 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 and ICIW, with assistance as needed from the education staff of the Kirkwood Community College housed at IMCC and Des Moines Area Community College housed at ICIW, using a combination of:

* standardized individual assessment tests
* curriculum based assessments
* classroom observations
* 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/ICIW.

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

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
* incarcerated individual’s parents
* a representative of the incarcerated individual’s district of residence.

The multi-disciplinary team will determine if the incarcerated individual can be served in:

* regular education
* regular education with accommodations
* a special education program within the correctional education program.

Incarcerated individual below the age of 18 can be 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. Incarcerated students age 18 or older who were not identified as eligible for special education and did not have an IEP in their most recent placement are not eligible for special education services. IAC 281—41.102(1)“b”.

The HiSET 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/ICIW

Screenings will be conducted at IMCC/ICIW 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/offender population.

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

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
* has already earned a high school diploma or GED/HiSET.

## 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, if applicable, of correctional officers and counselors regarding the behaviors of incarcerated individual.

## 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/HiSET/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

#### Developing an Individualized Education Program (IEP) for an Eligible Incarcerated Individual

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| 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 and his or her 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 and for whom the exception in rule 41.102(1) “b” does not apply. |
| 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 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 services is included within Iowa Code Section 256.11, section 256.11A, and Iowa Administrative Code Chapter 280—12 and rules 281— 41.404(1)”e”, and Chapter 281— 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. |
| Transition Requirements that do not Apply | If an incarcerated student is not eligible to be released from prison before his/her 21st birthday, the transition requirements in 281—41.320(2) do not apply to that individual 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. |
| 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) that 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. |
| 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. |

#### Cost of Special Education Services

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| 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 October 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. |
| 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” below.) 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 for that particular individual.  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. |
| 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. |

#### Other Issues Related to Special Education

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| Transfer of Parental Rights | IAC 281—41.520(1)*b* Special rule: incarcerated eligible individuals. All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution. |
| 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. |

# Security

## 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.

## Security Responsibilities of AEA Special Education Staff

Teachers **must** satisfactorily pass the Department of Corrections correctional security check and adhere to all security requirements of the correctional facility to which they are assigned.

IAC 281—41.324(4) Children with disabilities in adult prisons.

*b.* Modifications of IEP or placement

(1) Subject to 41.324(4)”b”(2), the IEP team of a child with a disability who is convicted as an adult under state and incarcerated in an adult prison may modify the child’s IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

#### Roles of AEA staff

## Educational Duties and Responsibilities of AEA Supervisor

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— 41.321(1)*d)*

* The AEA must provide the following to the special education teachers in their AEA:
* access to and training in the use of the Iowa Web IEP Application and how to develop
* training in the Statewide Procedures Manual and the Procedures and Guidelines for the Assessment and Delivery of Special Education Services to Incarcerated Individuals in Iowa’s Adult Correctional Facilities
* The AEA must implement the same evaluation process for special education teachers hired to work in the correctional facilities as they do for all direct service employees of the AEA.

## AEA Special Education Teacher

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.

## Correctional Education Association Audit

During the CEA audit, which is conducted every three years at each Iowa correctional facility, the auditor looks at the special education programming provided to incarcerated students with IEPs.

Part of the requirements of the program standard for special education is the expectation that AEA supervisor visits, meetings and or training for special education teacher have been offered and delivered annually at each Iowa correctional facility. This includes evaluation of the special education teacher by the AEA supervisor in accordance with the AEA’s Evaluation process for employees providing direct services to students with IEPs.

In order to assure that these practices are occurring written documentation needs to be provided during the audit. This documentation must be provided to the Director of the Department of Corrections Education on an annual basis.

Future AEA contracts with the Department of Corrections will include language to assure these practices occur.