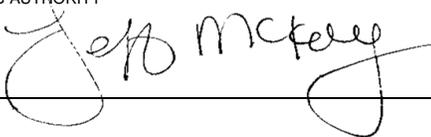


 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	TITLE <b>Academic Education Program Policies</b>		NO. 4804
			DATE 10/9/2015
SUPERSEDES DIR #4804 Dtd. 8/8/2013	DISTRIBUTION A B	PAGES PAGE 1 OF 15	DATE LAST REVISED
REFERENCES (Include but are not limited to) Directives #2010, #2614, #4805; Federal Family Educational Rights and Privacy Act; Correction Law, Section 803	APPROVING AUTHORITY 		

**I. PURPOSE:** Since there are clear correlations between level of education and employment and between attainment of a high school diploma and reduced recidivism, it is the goal of the Department of Corrections and Community Supervision (DOCCS) that every inmate possesses a high school diploma or obtains a high school equivalency diploma prior to release.

For this reason, when an inmate is identified as having an academic need, the Department requires participation in educational programming until a high school equivalency diploma is obtained. The Department requires having at least a high school diploma, equivalency diploma, or participation in the High School Equivalency (HSE) program as a prerequisite for higher paying inmate jobs and to be eligible for a variety of Department programs.

This directive presents the Department's policy and procedures that are designed to implement inmate programming that will meet the inmate's identified educational needs and require inmates to work toward obtaining a high school equivalency diploma.

**II. DEFINITIONS**

A. Language Dominance/Individuals with Limited English Proficiency: It is the policy of DOCCS to ensure that all inmates, including inmates with limited English proficiency, have access to, and the ability to benefit from, all services and programs. The first step is to determine language dominance or primary language. Primary language is the language an individual controls best, uses most frequently, and feels most comfortable using. It is the language in which a person thinks. Language dominance is determined at the Reception Center using an oral interview with appropriate questions to assess the primary language. A three digit language dominance code must be entered on the Reception Classification Information System (F451) to record each inmate's primary language.

If the identification of the primary language is missed for any reason at the Reception Center, it is the responsibility of the Education Supervisor at the first general confinement facility to assess language dominance and complete the data entry. Additionally, no inmate should have a language dominance of "Other." The Education Supervisor at the general confinement facility must determine the inmate's language dominance and enter the correct three digit code on the mainframe. If the primary language is one that does not have an established code, the Education Supervisor will contact the Coordinator of Cultural and Language Access Services in the Central Office Division of Education and request that a new code be added.

- B. Verified Diploma: Because the possession of a high school diploma or equivalency diploma is a pre-requisite for the higher paying inmate jobs, as well as selected Department programs, it is necessary that the Department receive evidence that an inmate possesses a diploma or degree. Copies of diplomas or transcripts presented by an inmate or any other individual are not acceptable. The following are the only acceptable means of verifying claims to diplomas or degrees:
1. An official transcript sent by a high school, a college, the State Education Department, or other educational institution directly to the facility Education Supervisor or other Department official.
  2. Written or oral documentation supplied by a high school, college, the State Education Department, or other educational institution that the institution has official documentation of a diploma.
  3. A Career Development and Occupational Studies (CDOS) Commencement Credential or an IEP (Individualized Education Program) Diploma from school that can provide the required documentation as per 1 and 2 above is acceptable to indicate completion of the high school requirement. See Directive #4805, "Special Education Services." (Please note that the New York State Education Department (NYSED) has discontinued IEP Diplomas as of June 30, 2013. Only IEP Diplomas issued prior to this date are valid.)
  4. Verified information contained on the Department's Academic Education Information System or the Reception/Classification System under an inmate's current or prior DIN.
- Note: It is the responsibility of the inmate to ensure that acceptable verification is provided to the Education Supervisor at the facility. It is the responsibility of the Education Supervisor to assist the inmate and to ensure that verification is documented on the Department's computerized information system.
- C. DSP: For purposes of this directive, DSP shall refer to the Deputy Superintendent for Program Services, or highest-ranking Program Services person at a facility (e.g., Assistant Deputy Superintendent for Program Services or Correctional Facility Program Administrator).
- D. Academic Need and Completion: Any inmate who is committed to the custody of DOCCS, who does not possess a verified high school diploma or equivalency diploma, CDOS, or IEP diploma, will have an academic need. This need can be satisfied in **ONLY** one of two ways:
1. Verification of one of the above-named academic/school credentials; or
  2. Achievement of a high school equivalency diploma through academic programming.
- E. School-Age: Inmates who are younger than 21 or who turn 21 years old during a school year are deemed to be school age until the end of the school year in which they turn 21.

- F. Request for Waiver: A Request for Waiver is a document used to request the removal of an inmate from an education program. A waiver may be requested for any of the approved reasons listed on [Form #4804A](#), "Request for Waiver from the Mandatory Education Policy." The request shall be initiated by a Teacher, Offender Rehabilitation Coordinator, and/or the Education Supervisor. Waivers are valid for up to one year and shall be reviewed by the assigned Offender Rehabilitation Coordinator at the quarterly review. All waiver requests must be reviewed and approved by the DSP in order to be valid.

- III. **TESTING**: Appropriate, periodic testing within the Department's Academic Education Program is necessary to ensure appropriate educational program placement, to promote inmates to the next academic level, to verify eligibility for certain inmate job assignments, to monitor the educational progress of the individual student, and to ensure program accountability.

In addition, the practice test utilized in conjunction with preparation for the TASC™ test ensures that inmates are adequately prepared for, and likely to pass, the TASC™ test.

The following test instruments, policies, and procedures are to be followed by every facility which operates an Academic Education Program:

A. Standardized Achievement Testing

1. Testing Instruments: Unless written approval has been received from the Director of Education, only the following tests may be used for educational program placement and promotion, and for measuring gain in reading, mathematics, and English Oral Proficiency:

IF THE INMATE'S  
PRIMARY LANGUAGE IS:

THE FOLLOWING TESTS  
ARE TO BE ADMINISTERED:

a. English

TABE (Reading and Mathematics)

b. Spanish

SABE Level 6 (Reading and Mathematics)  
and  
TABE Español (Reading and Mathematics)  
and  
B.E.S.T. Plus  
and  
TABE (Reading and Mathematics)

c. Other languages

B.E.S.T. Plus  
and  
TABE (Reading)

2. Retesting: In order to periodically measure student progress and assess eligibility for promotion for the TASC™, every inmate in the Academic Education Program, except for those inmates already eligible for the Readiness Assessment or TASC™ test, as noted in Sections III-B-1-a and III-B-2-a below, shall be retested using the appropriate form and level of the TABE, TABE Español, or SABE test, as defined in the "Academic Teacher's Handbook." There will be three testing cycles scheduled each year.

- Note: Shock, Drug Treatment Campus (DTC), Alcohol and Substance Abuse Treatment (ASAT), and Comprehensive Alcohol and Substance Abuse Treatment (CASAT) facilities may test more frequently to ensure that every student has the opportunity to qualify for the TASC™ test.
3. Recording Achievement Test Scores: All test scores for the B.E.S.T. Plus will be calculated and entered by Central Office Division of Education, Cultural and Language Access staff.
    - a. B.E.S.T. Plus results will be manually entered into the Department's mainframe computer within ten working days after the test is received at Central Office.
    - b. TABE, TABE Español, and SABE results will be scanned and uploaded directly to the mainframe from the scanning site within five working days of receipt of the answer sheets.
    - c. Readiness Assessment, English, and Spanish scores will be manually entered by the Education Supervisor within five working days of the administration of the tests.
  4. Timeliness of Test Scores for Placement: Test scores are only considered valid for placement if the testing was completed within the previous 12 months.
  5. Test Procedures and Security
    - a. The Education Supervisor has primary responsibility for all aspects of academic testing and security of all testing materials, including proper secure storage of these materials. The Education Supervisor/Test Coordinator is the only person allowed to administer the TASC™.
    - b. It is the responsibility of the Teachers, Proctors, Examiners, Test Coordinators, Education Supervisor, and/or Program Administrator to adhere to all testing procedures and maintain strict security of all standardized testing instruments.
    - c. Education Supervisors/Test Coordinators are responsible for the maintenance of monthly inventories of all standardized tests.
    - d. Education Supervisors/Test Coordinators are responsible for tracking the movement of all standardized tests. This includes documenting the tests distributed to Teachers to administer (TABE, TABE Español, SABE 6, and Readiness Assessment), ensuring Teachers inventory and secure tests, and documenting the administration of the Readiness Assessment and TASC™ exams.
    - e. No test materials are ever permitted to be stored in the Teachers' classrooms.
    - f. Education Supervisors, Vocational Supervisors, or Program Administrators are designated as Test Coordinators and have overall responsibility for the TASC™ Readiness Assessment, and all standardized test administrations.
    - g. Test Coordinators will secure all testing materials in a locked file cabinet within a restricted area when tests are not in use and comply with all Department and New York State Education Department regulations, including triple locks for TASC™ material and at least a double lock for all other tests, and maintenance of a perpetual inventory that accounts for all testing materials.

When the materials are in use and not secured within the cabinet, they must be accounted for at all times.

- h. It is the responsibility of the Education Supervisor and Teachers to inform all inmates taking standardized tests that no unauthorized aids are allowed into the testing area.
  - i. It is the responsibility of the Education Supervisor and DSP to ensure proper security measures are adhered to for all candidates entering the test site.
  - j. Any inmate caught cheating or attempting to cheat during testing is to be removed from the test and issued a misbehavior report. When a cheating or other disruptive event takes place during the administration of the TASC™ tests, the Test Coordinator must first notify facility security staff and the DSP, then complete Appendix H, "Incident/Irregularity Report" (found in the NYSED Test Administration Manual), and submit it to the Director of Education within 24 hours, or one business day, of the incident. The Director of Education will review and forward the Appendix H to the TASC™ Administrator for New York State. In certain circumstances it may be necessary to invalidate an examinee's test. Refer to the TASC™ Test Coordinator's Manual for examples of when to invalidate a test.
  - k. Before each standardized test administration, it is the responsibility of the Education Supervisor to review administration procedures with the academic staff. No Teacher may administer or handle the TASC™.
  - l. It is the responsibility of the Education Supervisor to ensure all test directions are read verbatim from the test administrator's manual to all test takers.
- B. TASC™ Administration Policy: The Department's policy for screening and testing inmates for admission to the TASC™ is consistent with sound educational practices and is designed to make the most efficient use of Department resources by ensuring that only inmates who have a reasonable chance of success on the TASC™ are admitted.
- 1. Readiness Assessment
    - a. Eligibility: An inmate who has been tested within the previous 12 months and scored a total reading score and a total math score of at least 9.0 (English, TABE D; Spanish SABE, Level 6) is eligible to take the Readiness Assessment.

Enrollment in the education program is not required on the initial attempt to qualify for the TASC™. Enrollment or being on a Required Program List (RPL) will be required of candidates who fail to meet the eligibility criteria listed below in Section III-B-2-a or who fail the TASC™.
    - b. Testing Instrument: The Readiness Assessment is the official assessment tool that is used as a predictor of success on the actual TASC™.
    - c. Method of Administration: All five subtests must be administered according to the instructions provided in the examiner's manual.

Inmates whose admission to the Readiness Assessment is based upon English achievement test scores on the TABE, Level D, must take the assessment in English. Those qualifying in Spanish on the SABE, Level 6, must take the assessment in Spanish.

In order to obtain the maximum predictive value of the assessment test, it should be scheduled no more than four weeks prior to the administration of the TASC™.

2. TASC™ (English or Spanish)

a. Eligibility: To be eligible to take the TASC™ an inmate must:

- (1) Have passed the Readiness Assessment within the last six months; or
- (2) Have previously taken the TASC™ and passed at least one subtest; or
- (3) Have at least one passing subtest on the GED® exam between 2002 and 2013.

b. Method of Administration: Inmates who take the Readiness Assessment and qualify in English must take the TASC™ test in English.

c. Inmates who take the Readiness Assessment and qualify in Spanish may take the TASC™ in Spanish. If the inmate passes all five TASC™ subtests in Spanish, a Spanish high school equivalency diploma will be issued by NYSED. The inmate can be issued an English high school equivalency diploma under two options: 1) Take the entire TASC™ in Spanish AND take and pass the English TASC™ subtests Reading and Writing, or 2) Take and pass the Spanish subtests of the TASC™ Science, Social Studies, and Mathematics AND take and pass the English TASC™ subtests Reading and Writing.

If the inmate opts to take the Spanish TASC™ and is issued a Spanish high school equivalency diploma, the Education Supervisor must return the Spanish diploma to NYSED when the inmate takes the English subtests. The Education Supervisor must include a memorandum to NYSED stating that this was a Spanish speaking test taker who now desires the English diploma. Otherwise the test taker will be deemed ineligible because a diploma has already been issued.

If the inmate fails the English subtests, NYSED will return the Spanish diploma to the Education Supervisor.

All policies and procedures outlined in the facility's three way agreement with the State Education Department and TASC™ publisher must be strictly adhered to.

d. Waiting Periods: Inmates must wait the required time periods between TASC™ administrations. A minimum 60 day waiting period is required before retesting. Inmates cannot make more than three attempts at the TASC™ in a one year period.

3. Recording Readiness Assessment and TASC™ Scores

a. Readiness Assessment answer sheets must be manually scored by the Education Supervisor/Test Coordinator at the testing site. The Education Supervisor/Test Coordinator will then manually enter the scores on the mainframe (FZED) immediately after scoring the assessment. Once the scores are entered, the Readiness Assessment answer sheet is to be shredded. No answer sheets are to be left unsecured for any reason or left in an area where an inmate may have access.

- b. TASC™ results must be manually entered at the facility into the mainframe on FZED within ten working days of receipt of the scores.

#### IV. ENROLLMENT POLICIES

- A. General Confinement Population: All general confinement inmates who are available for programming, and have been determined to have an academic need, will participate in the Academic Education Program. Facilities are expected to provide educational services, both instructional and testing, for all cadre inmates, as well as inmates in Phase 2 and 3 of the Behavioral Health Unit (BHU), the Residential Mental Health Unit (RMHU), the Therapeutic Behavior Unit (TBU), Intermediate Care Units, Long Term Protective Custody, Special Housing Units (SHU), Protective Custody (PC), Keeplock (KL), and Special Needs Units (SNU) of the facility. Exceptions are made for inmates who are in Temporary Release Programs, Out to Court, or in Reception. Other specific categories are addressed in Sections IV-B through G as listed below:
  1. Every inmate without a high school diploma or equivalency diploma must attend school until he or she obtains a high school equivalency diploma. Inmates whose primary language is Spanish should obtain a high school equivalency diploma in Spanish.
  2. Inmates whose primary language is other than English or Spanish who are programming in an English as a Second Language (ESL) class, and attain ESL Level 08 on the B.E.S.T. Plus Test, should be retested on the TABE E or M and may be promoted to an ABE or Pre-HSE class to improve their English reading skills or can remain in the ESL class. This determination should be made in consultation with the Teacher, student, and Education Supervisor. The goal for these students is attainment of the high school equivalency diploma.
- B. Inmates Who Are Under 21 Years of Age
  1. Every inmate under 21 years of age who does not possess a high school diploma or equivalency diploma must attend the Academic Education Program.
  2. Every inmate under 21 years of age with a high school diploma or equivalency diploma who does not have a documented vocational skill must attend the Vocational Education Program.
  3. In accordance with Directive #4805, "Special Education Services," every inmate under 21 years of age who has a documented disability will attend education programs, following the educational program recommendations of the Committee on Special Education until the end of the school year in which he or she turns 21 or when he or she obtains a high school equivalency diploma.
- C. Inmates in Shock, ASAT, and CASAT Programs
  1. Every inmate in the Shock program who does not possess a verified high school diploma or equivalency diploma is required to participate in a minimum of 12 hours of academic instruction per week.
  2. Every inmate in a CASAT or CASAT feeder facility who does not possess a verified high school diploma or equivalency diploma is required to participate in one module of academic instruction per day.
- D. Inmates Who Are 65 Years of Age or Older: Inmates who are 65 years of age or older are exempt from the mandatory educational policy and the academic qualifications for pay grades 3, 4, and 5.

- E. Minimum Security Inmates: All minimum security inmates who have an identified academic need are required to participate in the academic program. Education may be provided using the Cell Study model in order to meet the work needs of these inmates.
- F. Returned Parole Violators: Returned parole violators who have an identified academic need are required to participate in an academic program.
- G. Removal from the Program
1. Inmates removed for disciplinary reasons: If, in the judgment of the DSP, an inmate's documented behavior while in the Academic Education Program is such that continued enrollment jeopardizes the safety or security of the program area, this individual shall be removed from the program with a disciplinary waiver, [Form #4804A](#), "Request for Waiver from the Mandatory Education Policy."  
Appropriate disciplinary steps should be taken, however, and the individual should not receive an alternate assignment at a grade level higher than grade 1 or 2.
  2. Inmates removed for failure to progress: Although unlikely, it is possible that some inmates, in spite of a great deal of effort, may not progress significantly in reading and mathematics or English Oral Proficiency. The DSP may issue a waiver from the mandatory education policy for these inmates after a minimum of three testing cycles (approximately 12 months of instruction).  
This approval will be given only if sufficient documentation is provided, which indicates that a variety of instructional strategies have been used without success, and in the case of an inmate with a disability, that reasonable accommodations have been provided.
  3. Inmates removed for medical, emotional, or psychological reasons: If, in the judgment of the DSP, an inmate's medical, emotional, or psychological status is such that continued enrollment jeopardizes the safety or security of the program area or is not in keeping with the individual's treatment plan, a waiver from the mandatory education requirement can be issued. In the case of an inmate with a disability, reasonable accommodations must be considered and/or provided prior to the decision to waive the requirement.
  4. Documentation: The decision to remove an inmate for reasons listed in this Section shall be documented on [Form #4804A](#) and requires approval by the DSP. [Form #4804A](#) is to be placed in the inmate's Guidance Unit folder and the appropriate removal code is to be entered into KIPY.

## V. INMATES WITH DISABILITIES

- A. An inmate with a disability may request any reasonable accommodations which would allow the inmate to participate successfully in the education program. A reasonable accommodation is any change in the program environment, the provision of auxiliary aids or services, or a change to the way things are customarily done that enables a qualified individual with a disability to participate in the program or service offered by the Department. A qualified individual is one who meets essential eligibility requirements for participation in the education programs. Reasonable accommodations might include, but are not limited to, the following:
1. Making program areas accessible;
  2. Relocating programs to accessible areas;
  3. Providing more time for the completion of tasks;

4. Providing readers or interpreters; or
  5. Acquisition or modification of equipment or devices.
- B. Academic Teachers are required to provide whatever instructional strategies are necessary to assist the student with learning. All instruction is individualized and based on an individual diagnosis of the student's learning needs and a written prescription to remediate that need. The Teacher will identify an individual's strengths and weaknesses and write individual learning objectives for each student. The Teacher is required to document any modifications made to instruction to accommodate the learner in the classroom.
- C. Adult inmates suspected of having learning difficulties and requesting accommodations for standardized testing shall be pre-referred to the Education Supervisor, using [Form #4804C](#), "Referral Form for Adults with Learning Difficulties Who Are Requesting Accommodations on Standardized Testing." The Education Supervisor will forward the pre-referral to the Assistant Director of Academic Education, with a copy to the DSP, to begin the evaluation process. A pre-referral may be made by a professional (i.e., Teacher) or security staff member, a judicial officer, or the inmate. The person making the pre-referral should state the reason(s) for the pre-referral and include test results, reports, if available, and should include a description of attempts to remediate the student's performance prior to the pre-referral. (Please note that the disabilities of the under-21 year olds are addressed by the procedure set forth in Directive #4805, "Special Education Services," and handled by the Coordinator of Special Education.)

The Assistant Director of Academic Education will evaluate the pre-referral. It will be returned to the Education Supervisor if more information is needed. If the information is complete, the Assistant Director of Academic Education will schedule an evaluation with an Education Psychologist. The Psychologist will schedule the evaluation, conduct the evaluation, produce a written report with specific recommendations, and will complete [Form #2614B](#), "Request for Reasonable Accommodation," from Directive #2614, "Reasonable Accommodations for Inmates with Disabilities." Once completed, [Form #2614B](#) will be sent to the DSP at the assigned facility for further action, with a copy to the Assistant Director of Academic Education. This process must be completed by the Psychologist within 15 business days of the receipt of the request for evaluation by the Assistant Director of Academic Education.

In the event that an inmate seeking accommodations on standardized tests is not currently enrolled in the academic school, the inmate will submit a written request to the Education Supervisor, with a copy to the DSP. The Education Supervisor will complete [Form #4804C](#) and submit to the Assistant Director of Academic Education. The Assistant Director of Academic Education will evaluate whether the information is complete and send back to the Education Supervisor if more information is needed or schedule an evaluation with an Education Psychologist. The Psychologist will schedule an evaluation, conduct the evaluation, produce a written report with specific recommendations, and will complete [Form #2614B](#). Once assigned, [Form #2614B](#) will be sent to the DSP at the assigned facility for further action with a copy to the Assistant Director of Academic Education. This process must be completed by the Psychologist within 15 business days of the receipt of the request for evaluation by the Assistant Director of Academic Education.

- D. The DSP and Education Supervisor ensure testing accommodations are implemented and document the accommodations in the comments section of F451, Tests and Evaluations, by entering the supervisor's name and type of accommodation on the same page where the test results were uploaded.
- E. Accommodations for Standardized Tests: Whenever administering the B.E.S.T. Plus, TABE, TABE Español, SABE, Level 6, and Readiness Assessment, the Education Supervisor must follow the publisher's guidelines for testing accommodations. For the TASC™, all requests and documentation must be approved by CTB McGraw-Hill.

**VI. PROCEDURES FOR ENSURING COMPLIANCE:** It is the responsibility of the DSP to ensure facility compliance with the Department's required education policy. Individual inmate compliance is to be encouraged through implementation of, and adherence to, the following:

A. Eligibility for Grade 3, 4, 5, and Industries Jobs

1. To be assigned to a grade 3 job an inmate must possess a verified high school diploma or equivalency diploma or have documentation that he or she functions at or above the 9.0 grade level in reading and mathematics on the TABE Level D, or SABE 6, and is enrolled in an HSE program. If no program slots are available in the facility HSE program, the facility may assign an inmate at or above the 9.0 reading and mathematics levels to a grade 3 job if he or she is on the TASC™ RPL. When an inmate is reached on the HSE RPL he or she must enroll in the education program in order to retain the grade 3 assignment.
2. To be assigned to a grade 4, 5, or Industries job (at any pay level), an inmate must possess a verified high school diploma or equivalency diploma. (See exemption in Section IV-D for age 65 or older.)
3. If a facility can document to the satisfaction of the Director of Correctional Industries and the Director of Education that the Industries work force needs of the facility cannot be met with inmates who have a verified high school diploma or equivalency diploma, a waiver may be given to allow inmates who have 9.0 reading and mathematics levels and who are enrolled in the facility HSE program to be assigned to Industries (only to Industries pay grades I, II, III).
4. It is the responsibility of the Offender Rehabilitation Coordinators, of inmates who are assigned to Industries through waivers granted under A-3 above, to monitor the progress of these individuals to ensure that they are working toward their high school equivalency diploma. Failure to obtain a high school equivalency diploma after a period of six months may result in the removal of such individual from his or her Industries assignment.

B. Eligibility for Earned Eligibility Program (EEP) Certificate: For an inmate who does not possess, or attain while incarcerated, a high school equivalency diploma, he or she should have reasonably pursued this academic education need in order to obtain an EEP Certificate.

C. Sanctions: An inmate who does not have a verified high school diploma or equivalency diploma and refuses to participate in the Academic Education Program (either by refusing to accept assignment to the program or by refusing to actively and positively participate once assigned) may be denied good behavior allowances in accordance with Correction Law, Section 803.

In addition to disciplinary action, the inmate's assignment should never be higher than a grade 1 or 2 job and a work assignment never higher than a grade 1.

Removal from the education program for disciplinary reasons must be documented by placement of [Form #4084A](#), "Request for Waiver from the Mandatory Education Policy," in the inmate's Guidance folder.

At each quarterly review interview thereafter, the Offender Rehabilitation Coordinator is to discuss the inmate's educational needs and to note admission or readmission to the program, continued refusal on the inmate's part, or facility's decision not to place the inmate in the program.

- D. Closer To Home Eligibility: It is the policy of the Department that any male inmate in a medium security facility desiring to be transferred to a facility closer to home (or remain in a facility close to home) must not only meet the eligibility requirements related to time in the HUB and disciplinary adjustment, but must also participate in specific programs to meet identified programmatic needs.

Accordingly, any male inmate in a medium security facility will **not** be transferred closer to home if he has academic education listed as a program need on his program plan but refuses to participate in that program plan after being properly advised by his Offender Rehabilitation Coordinator during his first and subsequent quarterly reviews. Likewise, if such inmate is already housed in a facility close to his home, he will be transferred to a facility **farther** from home.

**VII. POST-SECONDARY CORRESPONDENCE COURSES:** It is the policy of the Department to encourage inmates to continue their education beyond a high school equivalency diploma. In order to provide educational programs beyond the High School level, facilities will provide access to independent, post-secondary, distance learning, and correspondence programs. The burden of financial responsibility is on the inmate.

Note: All distance learning and correspondence courses must be from accredited post-secondary schools. The accrediting organization must be recognized by the US Department of Education.

A. Procedures and Responsibilities

1. Responsibility for the operation of these programs is with the Education Supervisor. The Education Supervisor is responsible for verifying that a course scheduled by an external degree university or correspondence school will be given. The Education Supervisor will act as a liaison to facilitate testing, provide a testing area, and assign proctors.
2. It is the responsibility of inmates to select which courses they wish to take and which educational institutions they wish to take them from.
3. It is the responsibility of inmates to make whatever financial arrangements are necessary to pay for the courses. If the inmate is paying directly, through Inmate Accounts, it is the responsibility of the inmate to ensure that there are sufficient funds available. As per Departmental policy, inmates are not allowed to make installment payments. If the inmate/family/other source is paying from outside the Inmate Accounts System, they must make arrangements independently with the school.
4. All Departmental directives for packages, media review, and correspondence must be adhered to.

5. The Education Supervisor is responsible for ensuring inmate participation is recorded on the KIPY System. The Education Supervisor is also responsible for entering degrees and certificates using the proper codes on FZED and submitting the COLSEM report to the Division of Education at the end of each semester.
6. Any questions regarding these guidelines or any aspect of the independent study initiative should be referred to the Director of Education.

B. Eligibility

1. Inmates must have a verified high school equivalency diploma or high school diploma in order to participate in a correspondence course.
2. All inmates must meet with the Education Supervisor and sign the release, [Form #4804B](#), "Academic Education Post-Secondary Distance Learning Permission Form/Record."

C. On-Site College Programs

1. The Department also supports a number of privately funded college programs at several facilities. In order to be eligible to participate in one of these programs, an inmate must meet both Departmental criteria and individual college admission requirements. Any inmate interested in these programs should contact the Education Supervisor for program information and his or her assigned Offender Rehabilitation Coordinator for information on transfer requests.

## VIII. EDUCATIONAL RECORDS

- A. Policy: The policy and procedures adopted by the Department in this Section are designed to meet requirements of the Family Educational Rights and Privacy Act, 34 Code of Federal Regulations, Subtitle A, Part 99, which (1) establish rights of students and parents to inspect, review, and request amendment of educational records, and (2) protect the privacy of those students and records.
- B. Applicability: This Section only applies to certain inmates, parents, and educational records as specifically defined below:
1. **Eligible Inmates**: Inmates who have passed their 18<sup>th</sup> birthday (or are attending post-secondary school) and are in attendance or have attended academic school programs in DOCCS prior to their 21<sup>st</sup> birthday.
  2. **Parents of inmates** who have not reached their 18<sup>th</sup> birthday and are in attendance or have attended academic school programs in DOCCS. (A parent shall be defined as either the natural parent of a student, a guardian, or an individual acting as a parent or guardian in the absence of the student's parent or guardian.)
  3. **Educational records** generated within the Department which identify inmates who are in attendance or have attended academic school programs in DOCCS prior to their 21<sup>st</sup> birthday. Education records shall be defined as any records (in handwriting, print, tapes, film, or other medium) maintained by DOCCS or an agent of DOCCS which are directly related to the student, except for:
    - a. A personal record kept by a school staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record;
    - b. An employment record which is used only in relation to a student's employment by DOCCS; and

- c. An alumni record which contains information about a student after he or she is no longer in attendance within DOCCS and which do not relate to the person as a student.
- C. Annual Notification: Eligible students will be notified of their access and privacy rights annually through posting of this directive in the General Library and the Academic School Corridor. Parents of the students under 18 years of age will be notified annually by mail.
- D. Types, Locations, and Custodians of Education Records

<u>Types</u>	<u>Location</u>	<u>Custodian</u>
Cumulative School Records	Academic School Office	Facility Access Officer
Cumulative School Records Former Students	Central Office	Deputy Commissioner for Administrative Services
Special Tests/Special Education	Facility Committee on Special Education	Facility Access Officer
Occasional Records (Student records not identified above, such as those in an Education Supervisor's office, or in the personal possession of teachers)	Facility Access Officer will collect and make available at student's school	Education Supervisor

- E. Disclosure of Education Records: Requesters are entitled to all education records of the Department but not those exceptions listed in Section V-B of Directive #2010, "FOIL/Access to Departmental Records." In addition to the record of disclosure required under Section III-E of Directive #2010, the Department will maintain a record of requests and disclosures within a student's educational records. This will include request for and/or disclosure of information, excluding requests of school officials and requests for directory information. The record will indicate the name of the party making the request, any additional parties to who it may be disclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by a parent or eligible student.

DOCCS will not disclose information from a student's education records without prior written consent of the eligible student or parent, except in response to requests for "directory information" and requests from parties having legitimate educational interest. "Directory information," "legitimate educational interests," and "consent requirement" are detailed in the following sub-sections:

1. Fees: See Section V-E of Directive #2010.

2. Directory Information: Information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed is considered "directory information." Such information includes: student name, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous school attended. Directory information will be disclosed without consent unless a parent or eligible student has notified the records custodian(s) in writing that he or she does not want any or all of the types of information listed above designated as "directory information."
3. Legitimate Educational Interest: The Department will disclose information from a student's educational record upon request of certain officials or to serve legitimate education interests as follows:
  - a. To School Officials: School officials include (1) any person employed by the Department as an administrator, supervisor, instructor, security, or support staff member (each facility will maintain a current list of the names and titles of school officials, (2) the Director of Education, and (3) any person employed by or under contract to the Department to perform a special task, such as an attorney, auditor, medical consultant, or therapist.

A school official has a legitimate educational interest if the official is:

    - (1) Performing a task that is specified in his or her position description or by a contract agreement;
    - (2) Performing a task related to a student's education; or
    - (3) Providing a service or benefit relating to the student or student's family such as health care, counseling, or job placement.
  - b. To officials of another school in which a student seeks or intends to enroll upon request of such official;
  - c. To certain officials of the U.S. Department of Education, the Comptroller General, and State and local educational authorities in connection with certain State or Federally supported education programs;
  - d. In connection with a student's request for or receipt of financial aid, as necessary to determining the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid;
  - e. If required by a State law requiring disclosure that was adopted before November 19, 1974;
  - f. To organizations conducting certain studies for or on behalf of the Department (Refer to Family Education Rights and Privacy Act, 99.1, 6, I);
  - g. To accrediting organizations to carry out their functions;
  - h. To parents of an eligible student who claim the student as a dependent for income tax purposes;
  - i. To comply with a judicial order or a lawfully issued subpoena; and
  - j. To appropriate parties in a health or safety emergency.

4. Consent Requirement: Prior to disclosure of information not covered above, the Department must obtain a signed and dated written consent from the parent or eligible student which:
  - a. Specifies the records which may be disclosed;
  - b. States the purpose of the disclosure; and
  - c. Identifies the party or class of parties to whom disclosure may be made.
- F. Correction of Education Records: Parents or eligible students have the right to ask to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. The following are the procedures for the correction of records:
  1. Parents or the eligible student must ask the Department to amend the record. In so doing, they should identify the part of the record they want changed and specify why they believe it is inaccurate, misleading, or in violation of the student's privacy or other rights.
  2. The Department may comply with the request or it may decide not to comply. If it decides not to comply, the Department will notify the parents or eligible student of the decision and advise them of their right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's rights.
  3. Upon request, the Department will arrange for a hearing, and notify the parents or eligible student, reasonably in advance, of the date, place, and time of the hearing.
  4. The hearing will be conducted by a Hearing Officer who is a disinterested party; however, the Hearing Officer may be an official of the Department. The parents or eligible student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The parents or student may be assisted by one or more individuals, including an attorney.
  5. The Department will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reason for the decision.
  6. If the Department decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, it will notify the parents or eligible student that they have a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
  7. The statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the Department discloses the contested portion of the record, it will also disclose the statement.
  8. If the Department decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will amend the record and notify the parent or eligible student, in writing, that the record has been amended.
- G. Complaints: A person may file a written complaint with the Family Policy and Regulations Office regarding an alleged violation of the provisions of this section of the Family Education Rights and Privacy Act. The complaint must contain specific allegations of fact. The Office's address is: Family Policy and Regulations Office, U. S. Department of Education, Washington, D. C. 20202.