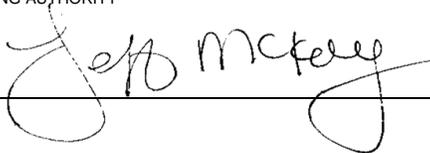


 <p>Corrections and Community Supervision</p> <p>DIRECTIVE</p>	TITLE <p>Special Education Services</p>		NO. 4805
			DATE 10/21/2015
SUPERSEDES DIR #4805 Dtd. 10/20/2014	DISTRIBUTION A B	PAGES PAGE 1 OF 7	DATE LAST REVISED
REFERENCES (Include but are not limited to) Public Law 94-142, IDEA; Part 300 of the Code of Federal Regulations, New York State's "Article 89;" Parts 116, 200, and 201 of Title 8; Directive #4804	APPROVING AUTHORITY 		

I. DESCRIPTION OF PROGRAM: In 1988, the former Department of Correctional Services and the New York State Department of Education (SED) signed a Memorandum of Agreement (MOA) which reflects and continues to conform to the following Laws and Regulations of Education: Public Law 94-142, IDEA (Reauthorized Individuals with Disabilities Education Act Amendments of 2004), Part 300 of the Code of Federal Regulations, New York State's "Article 89-Children with Handicapping Conditions," Parts 116, 200, and 201 of Title 8 of the Official Compilation of Codes, Rules and Regulations of New York, Education. This MOA ensures that students with a disability will be provided access to a Free Appropriate Public Education (FAPE) while incarcerated in an adult correctional facility. In compliance with Federal and State Laws and Regulations, the Department of Corrections and Community Supervision (DOCCS) provides a continuum of services in all types of programs and security level facilities. (See Appendix I.)

II. DEFINITIONS

- A. Alternate Special Educational Placement: Means provision of special education services outside of the academic classroom or school building. These services are in lieu of school placement and could be provided in the Housing Unit, Special Housing Unit, or any other area within the facility that is deemed appropriate by the Deputy Superintendent for Program Services and the Committee on Special Education (CSE).
- B. Board of Education: For the purposes of this directive, shall mean an appointed Central Office Special Education Records Review Board that is headed by the Director of Education. This board approves all Individualized Education Programs (IEPs) and services.
- C. Code 40: Is an extended classification found on the IB-4 form of an inmate's permanent record indicating that the Reception Center conducted individualized testing. This classification indicates corroborating TABE scores under 5.0 in reading and/or math or below 70 on the BETA II, or that the inmate had a prior special education history. Code 40 is considered a pre-referral and an inmate so classified must be transferred to a special education facility for further educational evaluation.
- D. Committee on Special Education (CSE): Is a multidisciplinary committee whose composition is defined in Article 89, Section 4402. The CSE evaluates each student to determine whether a disability does or does not exist. If the committee determines that a disability does exist, it makes recommendations to the Board of Education for special education services.

- E. Eligible Inmate: Is an under 21 year old inmate with a documented disability and who is attending education programs. Inmates continue to be eligible until the end of the school year in which they turn 21.
- F. Individualized Education Program (IEP): Is a legal document, prepared by a team of educational professionals and other designated members as stated in Part 200.4, which specifies the special education programs and services to be provided meet the unique educational needs of a student with a disability. IEP development shall be on forms prescribed by the Commissioner of the New York State Department of Education.
- G. Individualized Evaluation: Means any procedures, tests, or assessments used selectively with an individual student, including a physical examination. The following tests are recognized for use by the Department:
1. IQ tests - the current form of the BETA, TONI, WAIS IV, WISC, Stanford-Binet Fifth Edition.
 2. Academic Diagnostic Testing - Woodcock-Johnson Psycho-educational Battery, Woodcock Reading Mastery Test Revised, Key Math, Brigance Diagnostic Inventory of Essential Skills.
 3. Additional Testing - The CSE may request additional testing to be conducted if it deems it necessary.

Note: DOCCS only recognizes the TABE test for placement and promotion purposes. It should be administered to all inmate students per Directive #4804, "Academic Education Program Policies."

- H. Parent: Means a natural or adoptive parent, a guardian, a person in parental relationship to the child as defined in Education Law section 3212, or a surrogate parent who has been appointed in accordance with section 200.5.
- I. Special Education Teacher: Means a person, including an itinerant teacher, certified or licensed to teach students with disabilities.
- J. Student with a Disability: Means a student with a disability as defined in section 4401 (1) of Education Law, who has not attained the age of 21 prior to September 1st and who is entitled to attend academic classes and who, because of mental, physical, or emotional reasons, has been identified as having a disability and who requires special services and programs listed on an IEP that is approved by the local CSE and the Department's Board of Education.
- K. Testing Accommodation: Is a change made to the test administration procedure to provide equal access for students with disabilities to demonstrate their knowledge and skills. Testing accommodations may only be made/recommended by the CSE and must be approved by the Board of Education prior to implementation.
- L. Least Restrictive Environment (LRE): Is the placement of students with an identified disability(ies) in order to provide the Special Education services needed. The placement in the Least Restrictive Environment shall provide education to the maximum extent appropriate with other students who do not have disabilities. In DOCCS, these services are defined as Consultant, Resource Room, Self-Contained, and Cell Study.

III. GENERAL POLICIES

- A. Provision of Special Education: Special Education will be provided to all under 21 aged inmates who have been referred to, evaluated and identified as having a disability by the CSE.
- B. Inmate/Parent Involvement: DOCCS encourages parental and/or eligible inmate involvement during the entire CSE evaluation process.
- C. Transfers to Special Education Facilities: Under 21 inmates who have been classified by DOCCS' CSE as having an educational disability, and Code 40 inmates (see Section II-C, Definitions – Code 40) shall be transferred to designated facilities with special education programs for further CSE evaluation and/or special education services. The list of facilities with special education programs appears in Appendix I.
- D. Referral Process: Under 21 inmates suspected of having an educational disability shall be referred to the CSE chairperson or the education supervisor to begin the individual evaluation. A referral may be made by a parent, a professional or security staff member, a judicial officer, or by an eligible inmate using the "Referral Form to the Committee on Special Education (CSE)" found in Appendix II.

The person making the referral should state the reasons for the referral, should include test results and records or reports if available, and should include a description of attempts made to remediate the student's performance prior to referral.

Usually, unless there is a history of special education, monolingual youths should be placed into bilingual or English as a Second Language (ESL) classes. A referral for special education placement should come from the bilingual or ESL teacher. In this case, a Code 40 extended classification will only be entered at the Reception Center when an inmate has been evaluated with the Woodstock-Johnson Spanish version and, as a result, meets Code 40 criteria.

- E. High School Individualized Education Program Diplomas (HSIEPD): These diplomas are awarded by public and nonpublic schools to disabled students who have attended at least 12 years of school and at the end of the school year have satisfactorily completed the goals and objectives of their final IEP. Verification of this diploma will be entered in F451 as a Reception Degree. The comment section will note that it is an HSIEPD. In an effort to encourage all students to continue with their education until they receive a high school equivalency diploma (reference Directive #4804), the Department provides access to academic programs to inmates with HSIEPD diplomas. Inmates with verified HSIEPD who have reached their 21st birthday are also encouraged to attend school in order to achieve the high school equivalency diploma.
- F. Programming Inmates: Students with disabilities must be programmed in a meaningful program for two modules per day. Program assignments must be a minimum of 5 ½ hours per day with one module of academic instruction. The other program hours will consist of a vocational shop or related services specified by the IEP, as well as other required programs based on individual assessed needs.

- IV. SPECIAL EDUCATION SERVICES:** For the purposes of this directive, special education services mean individualized or group instruction or other services or programs that meet the individual needs of the student. The primary continuum of services listed below provides students with disabilities access to instruction in the Least Restrictive Environment (LRE). Additional services not listed are made available depending upon CSE recommendations and Board of Education approvals.
- A. **Special Class:** A class consisting of students with the same disabilities or with differing disabilities who have been grouped together because of similar individual needs for the purpose of being provided specially-designed instruction. Specially-designed instruction means adapting, as appropriate to the needs of an eligible student as stated in Part 200, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability; and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students. The maximum number of students in this class is 12 or 15 when there is a Civilian Teaching Assistant assigned to the designated Special Education class. Total enrollment for Special Education classes should not exceed 15 students.
- B. **Resource Room:** Program means a special education program for a student with a disability registered in either a special class or regular class who is in need of specialized supplementary instruction in an individual or small group setting for a portion of the school day.
- C. **Consultant Teacher Services:** Means direct and/or indirect services, as defined in Part 200, provided to a student with a disability who attends regular education classes and/or to such student's regular education teachers.
1. *Direct Consultant Teacher Services* means specially-designed individualized or group instruction provided by a certified special education teacher to aid a student with a disability to benefit from the student's regular education classes.
 2. *Indirect Consultant Teacher Services* means consultation provided by a certified special education teacher to regular education teachers to assist them in adjusting the learning environment and/or modifying their instructional methods to meet the individual needs of a student with a disability who attends their classes.
- D. **Special Cell Study or Outreach Services:** Special education placement and services are modified based on security issues and compelling penological requirements of the prison environment. These services could be provided directly or indirectly by a certified special education teacher.
1. *Direct Cell Study and Outreach Services* mean specially-designed individualized instruction provided by a certified special education teacher to a student inmate who is enrolled in an alternate educational placement.
 2. *Indirect Cell Study and Outreach Services* mean consultation provided by a certified special education teacher to regular education teachers to assist them in adjusting to the learning environment and/or in modifying their instructional methods to meet the individual needs of a student with a disability enrolled in an alternate educational placement.

- E. Related Services: Means developmental, corrective, and other supportive services as are required to assist a student with a disability and may include speech and language pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services including rehabilitation counseling services, medical services, parent counseling and training, school health services, school social work, other appropriate developmental or corrective support services, appropriate access to recreation, and other appropriate support services.
- F. Test Access and Modifications for Individuals with Disabilities: Are testing accommodations or procedures which provide students with disabilities an equal opportunity to participate in test situations and to demonstrate their knowledge and skills. Test modifications are supported by the American with Disabilities Act of 1990 and Individuals with Disabilities Education Act, Section 612(a) 17(IDEA). The following are eligible:
1. A disabled student whose IEP specifies the test modification (e.g., % of extended time as approved by the Board of Education).
 2. A declassified student whose annual review states on the IEP the need to continue specific test modifications.
 3. A student who acquired a disability shortly before test administration. Education supervisors may modify testing procedures for a general education student who experiences temporary (e.g., broken arm) or long-term (e.g., paraplegia) disability with proper documentation as approved by the Board of Education.
- G. Committee on Special Education Chairperson/Psychologist: Is responsible for:
1. Complying with Departmental Directive #4805 and SED regulations.
 2. Ensuring referrals, testing, and placement in the LRE to meet regulated time factors.
 3. Making a reasonable effort to include parents in the development and revision of the IEP.
 4. Making direct contact with previous school or institution in order to obtain pertinent educational information.
 5. Ensuring that the New York State Education Department mandated IEP and other required forms are used.
 6. Ensuring that appropriate related services as described in the IEP are available to Special Education students.
 7. Maintaining records of inmates with a disability on the Management System.
 8. Reporting monthly to the Coordinator of Special Education on the status of all identified students.
 9. Submitting data from the Special Education Programs to Central Office in a timely manner for assembly into a composite DOCCS report for State Education.

APPENDIX I**FACILITIES WITH SPECIAL EDUCATION PROGRAMS****FEMALE FACILITIES:**

Albion Correctional Facility (Medium Security)
Bedford Hills Correctional Facility (Maximum Security and Reception)
Lakeview Correctional Facility (Shock Incarceration)
Taconic Correctional Facility (Minimum Security and ASAT, CASAT)

MALE FACILITIES:**▪Maximum Security:**

Coxsackie Correctional Facility
Five Points Correctional Facility
Great Meadow Correctional Facility
Upstate Correctional Facility
Wende Correctional Facility

▪Medium Security:

Franklin Correctional Facility
Greene Correctional Facility
Marcy Correctional Facility
Washington Correctional Facility
Wyoming Correctional Facility

▪Shock Incarceration:

Lakeview Shock Incarceration Correctional Facility

Photocopy as Needed

APPENDIX II

REFERRAL FORM TO THE COMMITTEE ON SPECIAL EDUCATION (CSE)

FACILITY: _____

TO: Name _____
CSE Chairperson or Education Supervisor

FROM: _____
(person making referral)

DATE:

INMATE'S NAME: _____ DIN: _____ D.O.B: ____ / ____ / ____.

Please indicate your reasons for believing that the student has a disability:

List any test results, records, or reports upon which the referral is based:

Describe any prior attempts to remediate the inmate's/student's performance or reasons why remediation was not attempted: