

 <p><b>CD-121500</b></p>	<h1 style="text-align: center;">NEW MEXICO CORRECTIONS DEPARTMENT</h1> <p style="text-align: center;"><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i>  <b>C</b>ourage <b>R</b>esponsibility <b>E</b>thics <b>D</b>edication - <b>CRE</b>Dibly serving the public safety of New Mexico</p>	
	<b>ISSUE DATE:</b> <b>04/16/01</b>	<b>REVIEW/REVISED:</b> <b>03/17/15</b>
	<b>EFFECTIVE DATE:</b> <b>04/16/01</b>	
<b>TITLE: Special Education</b>		

**AUTHORITY:**

- A. NMSA 1978, Section 22-13-5, as amended.
- B. NMAC 6.31.2.2. Education Standards, Special Education.
- C. Policy *CD-010100*

**REFERENCE:**

- A. Individuals with Disabilities Education Act (IDEA), 34 CFR Parts 300 and 303.
- B. ACA Standard 2-CO-5B-01, *Standards for the Administration of Correctional Agencies*.
- C. ACA Standards 4-4464, 4-4465, 4-4466, 4-4470, 4-4475, 4-4479, *Standards for Correctional Institutions*, 4<sup>th</sup> Edition.
- D. Correctional Education Association, CEA Standards 70 abd 71, Education for Exceptional Students.

**PURPOSE:**

To provide a process for the appropriate identification and programming of inmate students with disabilities who qualify for special education services under IDEA, Individuals with Disabilities Education Act.

**APPLICABILITY:**

All employees and contracted staff of the Education Department and other personnel involved in the identification of special education students or in the implementation, delivery, or monitoring of special education services and all identified inmates. This includes staff at all state NMCD and privately contracted facilities at all custody levels.

**FORMS:**

None

**ATTACHMENTS:**

None

**DEFINITIONS:**

- A. *Psycho-educational testing*: A comprehensive assessment battery administered by a licensed professional that may include the following areas: academic and achievement skills, cognitive/intellectual abilities, processing abilities, classroom behavior/performance, creativity and/or thinking skills, communication and language skills, and physical abilities.
- B. *Special Education Coordinator*: An individual designated by the Education Department Chief to assume the responsibility for oversight of special education programs throughout all New Mexico Corrections Department, state and privately contracted facilities.
- C. *Student Assistance Team (SAT)*: Serves as the facility screening committee to determine services and make referral decisions for students who have not been previously identified as IDEA eligible. The SAT team consists of general education staff, the Education Director, the Special Educator and other staff as directed by the Education Director.
- D. *Individualized Education Plan (IEP)*: An education plan of goals and objectives developed for an individual with a disability by the IEP team.

**POLICY:**

- A. The Education Department will provide the identification and special education services for all individuals under age 22 who qualify as IDEA eligible by state and federal regulations. The Education Department will assure all qualified students are provided free and appropriate education according to state and federal mandates.
  - 1. NMCD Education Department shall provide a free appropriate public education to each qualified handicapped student within the Department's jurisdiction, regardless of the nature or severity of the student's handicap. An appropriate education shall include regular or special education and related services that are designed to meet the individual education needs of the students, as adequately as the needs of non-handicapped students are met and that are based on adherence to procedures that satisfy federal and state requirements for educational setting, evaluation and placement, and procedural safeguards. Curriculum shall be competency based supported by appropriate materials and classroom resources. [2-CO-5B-01] [4-4465] [4-4466] [4-4475]

2. Academic and vocational education programs shall be recognized, certified, or licensed by the state department of education or other recognized agency having jurisdiction. Programs up to the completion of high school and/or GED shall be available at no cost to inmates. **[4-4470]**
- B. The Department shall provide for a comprehensive education program, available to all inmates who are eligible that includes the following: **[4-4464]**
- Educational philosophy and goals;
  - Communication skills;
  - General education;
  - Basic academic skills;
  - GED preparation;
  - Special education;
  - Vocation education;
  - Postsecondary education; and
  - Other education programs as dictated by the needs of the institutional population.



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Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

03/17/15  
Date

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**AUTHORITY:**

Policy *CD-121500*

**PROCEDURE: [4-4464] [4-4475]**

**A. Intake:**

1. Initial Education and Mental Health testing takes place at RDC.
2. Education File is created by the RDC Registrar and follows the inmate when he/she transfers.
3. If the inmate indicates a history of special education, the RDC Registrar or Special Educator requests the special education records from the last school the inmate attended. A notation is made on the contact log in the education file. When received, records are placed in the inmates file or sent to the receiving facility.
4. All inmates will be screened for special educational needs at RDC.

**B. Receiving Facility:**

1. The Special Educator or designee at each facility is responsible for reviewing and signing the mental health chrono/face sheet for all students under age 22.
2. The Special Educator will be responsible for screening all inmates not originally screened by RDC for special educational needs.
3. If the inmate is over the age of 18 and has been previously identified by another agency as eligible for special education services, the special educator will conduct an IEP meeting to consider the student's need for special education services. If the IEP team agrees that services are needed and appropriate, an IEP will be developed and services provided. If the inmate has an active IEP from another agency, the IEP will be implemented until an IEP meeting is convened to review the plan and make any adjustments, if needed.

4. If the inmate is under 18, guardian involvement and consent will be obtained before the development of an IEP and the implementation of services. This may be accomplished by phone and will be documented. If an IEP meeting is necessary, the guardian must be contacted and invited to attend in person or by speakerphone. If the guardian gives permission to conduct the IEP meeting without his or her presence, they must provide input and a copy will be sent to them immediately for their review and approval before the IEP is implemented. All contact with the guardian will be well documented in the education file and on the IEP. No action will be taken on a student under 18 without guardian knowledge and consent. If no guardian is available, a surrogate guardian will be appointed.

**C. Student Assistance Team-SAT:**

1. The SAT team is made up of general education, special education, the student and the education director, and other staff as appropriate.
2. The SAT team is convened by Education staff when an inmate student is identified as not progressing, has not received special education services previously, and may be in need of educational assistance in order to progress.

**D. Diagnostic Evaluation:**

1. When an inmate is identified as IDEA eligible based on records received, a review of those records is conducted. If the last psycho-educational testing is over three years old, a re-evaluation plan must be developed. The IEP team, based on the information available, will determine the type of reevaluation. A **Consent to Test** form must be signed before psycho-educational testing is conducted.
2. A student may be referred for an evaluation by the SAT. For all students referred for an evaluation, a referral packet will be compiled for the diagnostician.
3. The referral packet on all inmates will be sent to an NMCD Education Department Diagnostician for review before testing takes place.
4. Students age 18 or over may sign all forms including the consent to test forms. Students under the age of 18 must have guardian consent or a surrogate guardian appointed to represent them.

**E. IEP Meeting- Individualized Education Plan:**

1. The IEP team develops the IEP. The team consists of the student, a general education teacher, a special education teacher, a diagnostician if testing has been done, an education administrator, mental health staff if the inmate has an active mental health treatment plan, and others designated as appropriate to include parents, outside agencies to assist in transition, vocational teachers, etc.
2. The IEP will contain specific information on present levels of performance in all academic areas. It must also include information about present levels of performance in community experiences, employment, daily living skills, functional vocational skills, and post school adult living objectives. This information is a compilation of the testing information, previous history, classroom observances, student, parent and teacher input.
3. A statement of the annual goals and short-term objectives must be included. All objectives will be measurable and relate to the present levels of performance.
4. The IEP will specify: the amount of time spent in each setting of general education, special education, vocational, etc; the position responsible for special education related services, modifications necessary for the student to be successful in general education, schedule for evaluation and ancillary or support services.
5. If the IEP team or the diagnostician recommends an evaluation by a related service staff, and the team agrees, the special educator will refer the student for that evaluation immediately. Related services include developmental, corrective, supportive, or evaluative services, which will be provided when the IEP reflects the need for those services. The IEP team determines eligibility for those services when all information and testing is available.
6. Procedural Safeguards will be reviewed with all students and parents before a change in program. This includes review before testing, before placement, and before a change in placement. The procedural safeguards are available in print in English and Spanish. A written copy is provided to the student and/or parent at each event. If their primary language is not written, the notification will be presented in the mode of communication best understood by the parent/student.

7. Students who are 18 years of age or older are regarded as legal adults and will represent themselves in all special education matters, such as notifications, consents, and IEP meetings. Students under age 18 will be represented by their legal parents, guardians, or surrogate guardians who have been appointed if parents or legal guardians are not available. Surrogate parents will be selected in accordance with state law.

**F. Notification:**

1. Students/guardians will be provided notification of their rights as stated above. They will be provided prior written notice of any proposed change of placement and will be required to sign in agreement or disagreement.
2. The student/guardian will be notified in their primary language five days before initiating or changing the identification, evaluation, or educational placement. If the student/guardian agrees, the meeting can take place sooner. If their primary language is not written, the notification will be presented in the mode of communication best understood by the student/guardian.
3. The notice will include a description of the actions proposed or refused and an explanation of why the department wishes to take the action or refuse the action, and a description of any other options considered.
4. Documentation of notifications will be placed in the inmate's file and recorded on the contact log.

**G. Confidentiality of Records and Access to Records:**

1. All state and federal laws pertaining to the confidentiality of records will be observed. The special educator at each facility and the Special Education Coordinator will be responsible for ensuring the confidentiality of these records. [4-4479]
2. The student/guardian will have access to his or her educational records for inspections and reviews. The student/guardian has the right to have school personnel explain or interpret any item in the student's records. The student/guardian must request access through the Education Director at the facility. The Special Education Coordinator must be notified and the records provided no later than 45 days from the date of request. Copies will be provided at no charge to the student/guardian.

3. Teachers, administrators, support staff, Central Office staff, or consultants employed by NMCD or privately contracted facilities will have access to all records in order to perform their responsibilities in the assessments, teaching, IEP development, review of evaluation, and review of records.

#### **H. Safeguards:**

1. The student/guardian has the right to place a statement in the education file commenting upon information in the records and/or setting forth reasons for disagreeing with the decisions of the department. If the student requests a correction, the Special Education Coordinator will be notified and will respond within 30 days of receipt of the request.
2. If a student/guardian requests a hearing, all applicable state and federal laws will be complied with by the Department. All requests must be addressed to the Special Education Coordinator.
3. Consent documentation will be maintained in the education file and recorded on the contact log to indicate that the eligible student has been fully informed of all information relevant to the activity for which consent is sought in the student's primary language or mode of communication; that the student understands the information relevant to the activity; that the student agrees in writing to the carrying out of the activity; and that the student understands that the granting of consent is voluntary and may be revoked at any time. Consent is obtained prior to formal evaluation procedures, initial placement, disclosure of confidential information, and use of information for purposes other than those previously specified to the student.

#### **I. Educational Placement/Programs:**

1. The special education student will be provided services that allow for implementation of the IEP. These services will be provided at all custody levels and in all facilities to include general population, RDC intake, D&E, segregation, and special controls facility.
2. The student will be educated to the maximum extent appropriate with non-handicapped students and will be provided the opportunity to participate in all classes on the same basis as a non-handicapped student.
3. Other arrangements, if not available and deemed necessary by the IEP team, will be provided in accordance with state and federal regulations.

**J. Withdrawal and/or Transfer of Students:**

1. Withdrawals: If a student paroles, discharges, graduates, waives services, or no longer qualifies for special education services, service should be withdrawn by an Exit IEP meeting.
2. Transfers: Students who are transferred within NMCD and privately contracted facilities will not be withdrawn. The education file must be sent to the receiving institution immediately. It is the facility Supervisor of Education: or their designee responsibility to identify special education students quickly and provide the appropriate services within ten days of the student entering their facility. The placement should be in an appropriate class according to the IEP. If it is not possible to provide similar services, a new IEP will be developed.
3. If an inmate is placed in a disciplinary unit, where educational services are not allowed, the special educator will document this in the student's file.

**K Program Management:**

1. The special education program includes: coordination of the assessment process with mental health; regular, special and vocational education; supervision for the efficient operation of the IEP committees; operation of the program within the policies of general and special education and state and federal law; coordination with Central Region Educational Cooperative (CREC); at least annual evaluation of the program; dissemination of policies and procedures to all staff and interested others.
2. The Special Education Coordinator will serve as a liaison to the facilities and other agencies as assigned.



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