

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 12/30/1997	NUMBER 05.02.115
	SUBJECT SPECIAL EDUCATION - PROCEDURAL SAFEGUARDS	
SUPERSEDES 05.02.115 (6/27/94)		AUTHORITY MCL 791.203; Agreement with U.S. Department of Education Complaint No. 15-90-4011 (12/22/93)
ACA STANDARDS 3-4410; 3-4418		PAGE 1 OF 3

**POLICY STATEMENT:**

To ensure that appropriate special education services are provided to all eligible prisoners as defined by and in accordance with the approved Michigan Department of Corrections Special Education Plan.

**DEFINITIONS:**

- A. Multidisciplinary Evaluation Team (MET) - Group of teachers, aides and professionals that provide historical observations, evaluations and interventions to assist in the full evaluation of the prisoner and the development of the prisoner's Individualized Education Plan (IEP).
- B. Individualized Education Planning Committee (IEPC) - Groups including: The prisoner, school psychologist, special education teacher, regular education teacher and others as required, that develop the goals and objectives for the special education prisoner.
- C. Individualized Education PLAN (IEP) - Education plan developed specifically for the prisoner that describes the goals and objectives for the prisoner to achieve and the services that will be provided to assist the prisoner to achieve the outlined goals and objectives.

**POLICY:**

REFERRAL PROCESS

- D. Department employees or prisoners may make a referral for special education services for any prisoner, 21 years of age or under, who appears to need those services. The referral shall be submitted to the school principal.
- E. Within 10 calendar days of receipt of the request for special education services by a prisoner or staff person, and prior to a formal evaluation, the principal or designee shall, in writing, request written consent from the prisoner to conduct an evaluation. If the prisoner refuses the evaluation, form CAJ-711 (Special Education Evaluation) must be signed by the prisoner declining special education services.
- F. If the consent to evaluate is signed and returned by the prisoner, the school principal shall designate a Multidisciplinary Evaluation Team (MET) to evaluate the prisoner's eligibility. The individual team members shall conduct independent evaluations. Those independent evaluations shall be incorporated in a summary report presented to the Individualized Educational Planning Committee (IEPC).
- G. Upon receipt of the MET's report, the IEPC shall schedule a meeting with the prisoner to discuss his/her eligibility and the development of an Individualized Educational Plan (IEP). The prisoner shall be notified of the date of the meeting at least four business days prior to the meeting.
- H. The prisoner shall be allowed to have an outside advocate familiar with special education services attend his/her IEPC meeting and any subsequent related meetings or hearings if they so desire. The advocate shall not be Department staff, a prisoner, parolee or an attorney. All advocate(s) must be lien cleared by the Department prior to attending. The request to have an advocate attend the meetings or

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hearings shall be submitted to the school principal a minimum of four (4) business days prior to the date of the meeting or hearing.

- I. If the prisoner disagrees with the evaluation recommendation, the prisoner may request an independent educational evaluation, at no expense to the prisoner. The prisoner will inform the school principal, in writing, who will notify the MDOC Education and Prisoner Programs Section, Office of Program Services. Name(s) of other school psychologist(s) will be given to the school principal and prisoner upon request.
- J. The evaluation by the IEPC shall be completed within 30 calendar days from the date that the consent for evaluation is received by the school principal. If the prisoner is determined to be eligible for special education services, the prisoner must be invited to attend the IEPC meeting to identify the prisoner's present performance level on which the IEP will focus. The prisoner shall be given written notification of the IEPC decision as to eligibility for services and a copy of the IEP which shall include an explanation of the prisoner's right to challenge the decision of the IEPC.
- K. The IEP shall be reviewed and updated by the IEPC at least yearly. The IEPC shall meet with the prisoner to discuss changes in eligibility prior to making a final decision. Notice of the subsequent meetings shall be given to the prisoner at least four business days prior to the date of the meeting. A copy of the updated IEP shall be given to the prisoner, which shall include an explanation of the prisoner's right to challenge changes which are made.

#### SPECIAL EDUCATION HEARINGS

- L. If the prisoner who is 21 years of age or under disagrees with the IEPC determination in any of the areas listed below, s/he has the right to request a hearing:
  - 1. The determination by the IEPC as to the prisoner's eligibility;
  - 2. Educational placement; or
  - 3. Other terms or conditions listed in the IEP.
- M. The prisoner may request a hearing by submitting a completed Request for Hearing form (CAJ-124) to the school principal with a copy of the supporting IEP or the IEPC report denying eligibility within 30 calendar days after receipt of the written decision by the IEPC.
- N. The principal shall ensure that the Request for Hearing form is complete and that the documentation which was the basis for the IEPC decision is attached. The principal shall submit the request and documentation to the Hearings Administrator in the Office of Policy and Hearings within 5 business days of receipt.
- O. The hearing shall be conducted by the Hearings and Appeals Division of the Office of Policy and Hearings. The hearing shall be scheduled no more than 30 calendar days following receipt of the request from the principal. The hearing officer shall conduct the hearing under the procedures set forth in R 791.3315.
- P. Within 30 calendar days from the date of the hearing, the hearing officer shall render a written decision and shall provide a copy of his/her final decision to the prisoner and the principal. The principal shall ensure that a copy of the hearing report is maintained in the prisoner's education file.
- Q. If either the prisoner or the school principal disagrees with the results of the hearing, a Request for Rehearing may be submitted to the Hearings Administrator on the Request for Rehearing form (CSH-418). The request must be submitted within 30 days after receipt of the hearing officer's decision. A Departmental Request for Rehearing must be approved and signed by the Manager of the Education and Prisoner Programs Section, Office of Program Services.

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#### OTHER PROVISIONS

- R. A prisoner may challenge other aspects of his/her special education services which are not covered by the hearing process by filing a grievance, as outlined in Policy Directive 03.02.130, Grievance Policy - Prisoner/Parolee.

#### OPERATING PROCEDURES

- S. Wardens of institutions with special education services and the Hearings Administrator for the Hearings and Appeals Division of the Office of Policy and Hearings shall ensure that operating procedures necessary to implement this policy are in effect within 60 days of its effective date. Wardens shall submit the operating procedures to the appropriate Regional Prison Administrator (CFA) for approval.

#### AUDIT ELEMENTS

- T. Primary Audit Elements List has been developed to ensure compliance with this policy by providing staff with a tool for self auditing. The List shall be used by the wardens of institutions with special education services and the Hearings Administrator for auditing purposes on an annual basis unless more frequently required by the Director or Deputy Director and the documentation shall be retained on-site and made available to the Internal Auditor when requested.

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