



FAPE for Adult Learners

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Table of Contents

FAPE for Adult Learners	3
Introduction	3
Considerations Specific to Adult Learners.....	3
Law, Regulation, and Rule	4
Free Appropriate Public Education (FAPE)	5
Adult Learners and Child Find.....	6
Public Awareness	6
Initial Evaluation.....	7
Programs and Services.....	7
Multiple Systems	9
Funding	10
Glossary	11
Acknowledgements	14
Disclaimer	14

FAPE for Adult Learners

Introduction

Michigan is committed to improving educational results for students with disabilities. Doing so is an essential element of our national policy of ensuring equality of opportunity, full citizen participation, independent living, and economic self-sufficiency for individuals with disabilities (20 USC 1400(c)(1)).

Federal law allows states to set an upper age limit for special education eligibility. In Michigan, adult learners with disabilities age 18 to 26 have available to them a free appropriate public education (FAPE) in the least restrictive environment (LRE) (34 CFR §300.1; R 340.1701 and 340.1702).

Providing special education programs and services is the responsibility of all public agencies involved in the education of adult learners with disabilities (34 CFR §300.2; R 340.1701). Michigan intermediate school districts (ISD) fulfill an important role in ensuring students have access to appropriate and supportive education which positively impacts the trajectory of their lives (MCL 380.1711). ISDs have systems in place to ensure all eligible students with disabilities are provided with appropriate programs and services, which includes eligible adult learners with disabilities, age 18 to 26.

This document provides information regarding the implementation, as it pertains to adult learners, of the *Individuals with Disabilities Education Act* (IDEA), *Michigan Compiled Laws* (MCL), and *Michigan Administrative Rules for Special Education* (MARSE). Specifically, the information discussed includes FAPE, child find, delivery of programs and services, navigating multiple systems, and funding.

Considerations Specific to Adult Learners

Adult learners with disabilities, ages 18 to 26, who have reached the age of majority, which is the legal age set by the state when a person is no longer considered a minor, retain their right to special education if they have not received a regular high school diploma. As a diverse population of learners, adults may choose different educational paths delivered in a variety of educational settings. Special education supports must be reframed to meet the disability-related needs of these diverse learners.

Adult learners are goal-oriented, need relevant educational opportunities, and are self-directed and autonomous decision makers. Special education must be tailored to the adult and not simply a rework of K-12 special education. The relationship between the adult learner and

special education providers is as equal partners. To develop and maintain this relationship and determine the system of special education supports to meet individual needs, it is necessary to meet adult learners where they are.

An effective system of special education supports for adult learners with disabilities is built on strong collaborative partnerships among ISDs, local districts, and educational programs that serve adults. The role of special education professionals is to bring expertise in disability and the impact of disability on learning to these collaborative partnerships. The coordinated effort is imperative to ensure a FAPE for adult learners with disabilities.

Law, Regulation, and Rule

The provision of special education programs and services as a system of support is governed by legislation and administrative law specific to education at the state and federal level, inclusive of workforce development, rehabilitation, and anti-discriminatory laws. Article VIII of the Michigan Constitution of 1963 identifies education as a foundation for good government and as a necessity for all Michigan citizens. The same article specifically identifies the education of individuals with disabilities and adult education as state constitutional rights. On this constitutional foundation, the state built a legacy of special education support for Michigan citizens birth to age 26 (MCL 380.1711(1)(f) and 380.1751(1)). For adult learners in Michigan, this broad governance falls under the jurisdiction of two separate agencies – the Michigan Department of Education (MDE) and the Michigan Department of Labor and Economic Opportunity (LEO).

The Michigan Compiled Laws (MCL) create an overlap specific to special education and adult education at the state level that affects both MDE, as the lead agency for special education, and LEO, as the lead agency for adult education. The MCL references adult education in the Revised School Code (e.g., MCL 380.11a; 380.601a) and the State School Aid Act (MCL 388.1707), consistent with the State Board of Education’s authority and responsibility for “Leadership and general supervision over all public education, including adult education...” in the Michigan Constitution (Const 1963 art 8, § 3). The work of the two agencies on behalf of the adult learner creates a complementary, student-centered system of support: collaborative, adaptive, and flexible in nature.

Adoption by reference of the IDEA into the MARSE (R 340.1701) obligates intermediate and local school districts to comply with the IDEA and its federal regulations (20 USC 1400 et seq.; 34 CFR, part 300) in support of all children, students, and adult learners with disabilities to the age of 26 (R 340.1702). The obligation, responsibility, and authority to ensure adult learners with disabilities receive special education programs and services, through the implementation of the individualized education program (IEP), belong to the ISD consistent with its IDEA general

supervisory responsibilities and its mandated duties in the MCL (20 USC 1412; 20 USC 1413; MCL 380.1711). The ISD, as subrecipient of IDEA funds and consistent with requirements of the MDE, has an obligation for general supervision of member districts within its constituency and their provision of a FAPE in the LRE for all eligible students, including adult learners with disabilities.

Free Appropriate Public Education (FAPE)

Eligible children, students, and adult learners with disabilities are provided a FAPE in Michigan until they reach the age of 26 or receive a regular high school diploma or until consent for initial provision of programs and services is revoked. A FAPE is the foundation of the IDEA, meant to ensure that the provision of education for all students with disabilities includes access, integration, quality, and appropriate programming. A FAPE is an applied policy that is substantive in nature and operationally defined in the IDEA as special education and related services provided consistent with an IEP. “Appropriate” is not defined in law, regulation, or rule. The meaning of appropriate is built on the broad foundation of FAPE and, for adult learners, the diversity created by the unique needs of the adult learner and the individualized nature of special education supports.

Appropriate programming for adult learners with disabilities requires a targeted and unique approach that respects the adult voice of the learner. The process required to develop individualized special education supports to fit the circumstance and educational needs of the adult:

- Recognizes the decision-making rights of the adult learner.
- Focuses on the individual’s specific goals.
- Emphasizes a collaborative relationship between the learner and the district.
- Places an emphasis on disability-related needs.
- May or may not be curriculum driven.
- Considers the time available to meet goals.
- Uses a collaborative partnership model among all stakeholders.

Following the development of appropriate individualized programming, the IEP is written. The diversity and unique adult needs of the 18 to 26-year-old population require adaptability and flexibility in the IEP process and its content. The IEP document, team process, and procedural requirements must allow for appropriate individualization while maintaining compliance with special education law, regulation, and rule.

The provision of a FAPE is dependent on an adult learner’s eligibility for special education determined by a comprehensive evaluation consistent with MARSE. A comprehensive evaluation determines how a disability affects the student's ability to access academic and nonacademic areas of education and whether specially designed instruction is needed to access a FAPE in the LRE. The process to determine an individual’s initial eligibility for special education programs and services is called child find.

Adult Learners and Child Find

Federal law places the responsibility for child find with the public school system. Child find is a district’s collective policies and procedures used to identify, locate, and evaluate all students, including adult learners to age 26, suspected to have a disability and in need of special education and related services. When an adult is suspected to have a disability that is affecting his or her education, the school district is the institution prepared to evaluate the adult learner and determine any special education needs. Child find procedures are included in the ISD Plan for the Delivery of Special Education Programs and Services and, generally, are divided into two parts: public awareness and initial evaluation.

Public Awareness

The distribution of special education information for public awareness and community outreach efforts is similar for the entire age span of students. Specific to adult learners with disabilities, child find information must reach environments that serve adults. Districts must ensure materials explaining the special education process, including initial evaluations to determine eligibility, are made available or given directly not only to families of infants, toddlers, and school age children, but also to adult learners, in a variety of environments, such as:

- ISD transition programs
- Career and technical education programs
- Alternative education programs
- Adult education programs
- Community mental health programs
- Employment centers
- Community-based organizations
- Jails

Districts must include in their child find procedures the opportunity for adult learners and, when appropriate, their guardians to access information about referrals and requests for initial evaluations to determine potential special education eligibility.

Initial Evaluation

Initial evaluations to determine an adult learner’s eligibility for special education programs and services are not very common, although the compliance requirements, including notice and consent, for adult initial evaluations are the same as for younger students. In establishing the initial evaluation process, districts have flexibility as they adapt to the unique needs of adults. The process should place an emphasis on providing the adult learner with information about disability, the evaluation process, special education supports, community supports, educational options, and self-determination so the individual can make an informed decision.

In conducting the initial evaluation and determining eligibility for an adult learner, a district must recognize and adjust to adult needs. The population of adults ages 18 to 26 is diverse, and the educational programs in which they are involved are also diverse. Some adult learners will have limited time in their schedule and a shortened duration of eligibility. Consistent with federal and state requirements, it is appropriate for special education staff to utilize the option to conduct a review of existing evaluation data for an initial evaluation (34 CFR § 300.305(a)), keeping in mind the adult learner will be an important contributor to the data. Programs providing adult educational opportunities are also a valid source of evaluation data.

Programs and Services

Eligible adult learners with disabilities in Michigan, ages 18 to 26, must be provided with appropriate special education programs and services consistent with the IDEA (20 USC 1400 et seq.) and MARSE (R 340.1702). Each ISD is required to develop, establish, and continually evaluate and modify, in cooperation with its constituent districts, a plan for special education that provides for the delivery of programs and services designed to meet the individual needs of each student with a disability, which includes adult learners with disabilities (MCL 380.1711(1)). The programs and services identified in the plan must reflect a system of special education supports that is inclusive of all eligible students, ages birth to 26, regardless of the category or intensity of the disability.

Determination of appropriate programs and services for an eligible adult learner requires collaboration among special education professionals, the adult learner, and the educational provider (e.g., alternative education, adult education). Special education brings structure and disability-related expertise to the process of determining programs and services. At the center of this collaborative effort is the adult learner with specific educational goals. Decisions about

special education programs and services to address the disability-related needs must consider multiple factors, including available curriculum options, the educational providers, and the adult learner’s eligibility time frame.

Appropriate programming for each eligible adult must be individualized and may be provided through special education programs or services, or a combination of both. The choice of programs or services is not specific to a curriculum, educational provider, disability category, or age group. For example, an adult learner with multiple years of remaining special education eligibility who is focusing on post-education independent living goals may need a combination of both programs and services, while a student with less than a year of remaining eligibility who is working on high school equivalency may need only services.

Determining the special education programs and services appropriate to address the disability-related needs for the individual adult learner requires a careful consideration of the following:

- Curriculum
 - Local high school graduation requirements (including personal curriculum)
 - High school equivalency
 - Life skills/independent living
 - Career and technical education
- Educational Provider
 - Adult education
 - Alternative education
 - Traditional high school
 - Center-based program
- High School Completion Status
 - Exited high school with certificate of completion
 - Earned some high school credits
 - Earned no high school credits
- Transition Needs
 - Education

- Training
- Employment
- Independent Living Skills

In this collaborative development of programs and services, based on individual needs, it is appropriate to include a full continuum of supports, including those not typically considered. For example, IDEA allows support services for school personnel to enable the eligible adult learner to advance toward and achieve their goals (34 CFR §300.320(a)(4)). For some adult students, the programs and services will support a goal to develop the skills needed to successfully complete a high school equivalency test.

After programming is thoughtfully developed and carefully documented in the IEP, a decision is made about placement. The placement is where the district will deliver the special education programming. Part of reframing the approach to adult learners with disabilities is recognizing the individual adult's integral role in the placement discussion and decision-making. It is important to meet adult students where they are in their educational journey as equal partners. The placement decision must be consistent with the adult learner's programming and must be reviewed annually.

Multiple Systems

There are multiple systems involved in the education of adult learners with disabilities, beginning at the state level with MDE and LEO. The two state agencies administer different federal laws: the IDEA and the Workforce Innovation and Opportunity Act (WIOA). The administration of special education is the responsibility of MDE while the administration of adult education is the responsibility of LEO. At the state level, the two agencies are accountable for different components of the same chapters of state law (MCL Chapters 380 and 388). The agencies share a common mission and charge to serve adult learners with disabilities.

At the intermediate and local school district level, it is the responsibility of special education professionals to be aware of all district programs serving adult learners with disabilities ages 18 to 26. In addition to adult education programs, eligible adults may be enrolled in traditional high school, alternative education, career and technical education, or special education programs. To appropriately serve adult learners with disabilities across this variety of programs, the ISD special education system of support must establish and maintain collaborative partnerships built on strong relationships with all providers.

The collaborative partnerships necessary to serve adult learners require special education professionals to focus on their expertise – disability and disability's impact on learning,

education, and self-determination – and recognize and respect the expertise brought to these partnerships by the educational programs serving adults. Establishing relationships among the multiple systems serving the adult learner is necessary to build and deliver appropriate special education programming and begins with a shared student-centered approach.

Funding

A system of support designed to serve eligible adult learners with disabilities, ages 18 to 26, must comply with all state and federal funding requirements. Establishing and maintaining a system of support must ensure continuity in the delivery of special education programs and services, including any transition needs, regardless of the category or intensity of the disability. Funds used to deliver programs and services to eligible adult learners are scrutinized using the same standards as funds used to deliver special education programs and services to younger students. The diversity of ISDs across the state and the multiple sources and types of funding applicable to adult learners require thoughtful consideration, creativity, and flexibility.

To effectively use all funds available for the education of eligible adult learners, it is essential to engage in conversations about funding with all educational providers involved. Keep in mind there are multiple funding sources available to provide educational programming, including IDEA flow-through, applicable state funds (e.g., MCL 388.1707 - Section 107, foundation allowance), available local funds, and WIOA, Title II.

Special education funding, both state and local, is available for eligible adult learners to age 26. The foundation allowance through the State School Aid Act applies to eligible adult learners with disabilities to age 26 (MCL 388.1606(4)(l)(i)), including individuals who are pursuing high school completion and high school equivalency. IDEA federal funding may be utilized for special education programs and services for eligible adult learners with disabilities through 21 years of age.

Each funding source contains specific compliance requirements that may or may not be compatible with other funding sources. In the same way that collaborative partnerships are required in the development of appropriate programming, collaborative partnerships are essential in determining appropriate funding sources. The complexities of programming and funding delivered through multiple sources requires an organized and thoughtfully coordinated effort among providers to ensure the provision of a FAPE to eligible adult learners with disabilities.

Glossary

Adult Education. Adult Education is a program of academic instruction for adults, including but not limited to basic reading, writing, and mathematics, as well as English as a second language (ESL), high school completion, high school equivalency, and workforce preparation. Adult education programs in Michigan are administered within the Michigan Department of Labor and Economic Opportunity's Talent Development Division, Workforce Development.

Age of Majority. In Michigan, the age of majority is 18 years. An adult is responsible for educational, vocational, financial, and other decisions unless otherwise designated through legal means.

Certificate of Completion. A certificate is not a regular high school diploma. Michigan law makes no reference to certificates and does not provide any definition of a certificate. Certificates are given, or not given, at the discretion of each local school board. A certificate of completion may be identified under a variety of titles (e.g., certificate of attendance).

Free Appropriate Public Education (FAPE). Learning that is equitable, accessible, and meaningful. FAPE is what a student with a disability is entitled to receive from a district, based on documented, individualized needs. FAPE is defined in the IDEA federal regulations at 34 CFR § 300.17.

High School Equivalency. An option to certify an individual's attainment of academic knowledge and skills equivalent to those of a high school graduate. A high school equivalency credential is not a regular high school diploma. In compliance with MCL 388.1707, the State of Michigan identifies high school equivalency test options for individuals 18 and older.

Individuals with Disabilities Education Act (IDEA). Federal law that grants funding to states to support educational programming for eligible students with disabilities. IDEA Part B supports children, students, and young adults ages three through 21, and Part C supports children birth to three. Although IDEA allows states to set a higher upper age limit, which Michigan has set at "to 26," IDEA Part B funding may only be used to support children, students, and young adults ages three through 21.

Individualized Education Program (IEP). A written statement for an individual with a disability that is developed, reviewed, and revised in accordance with the IDEA and MARSE. IEP is defined in the IDEA federal regulations at 34 CFR § 300.22 and §§ 300.320 through 300.324.

Initial Evaluation. A comprehensive evaluation used to determine eligibility for special education programs and services. A variety of assessments and other tools determine how

disability impacts an individual's ability to access education and whether specially designed instruction is needed to access FAPE in the LRE.

Least Restrictive Environment (LRE). IDEA requirement that students receive special education services in general education settings with non-disabled peers to the maximum extent appropriate.

Michigan Administrative Rules for Special Education (MARSE). The section of the Michigan Administrative Code specific to special education and students with disabilities: Special Education Programs and Services, R 340.1701 to R 340.1873. The official copy of the MARSE is available at the Michigan Office of Administrative Hearings and Rules within the Michigan Department of Licensing and Regulatory Affairs.

Michigan Department of Education (MDE). The state agency responsible for supporting learners and learning in Michigan. The Office of Special Education is housed within the MDE.

Michigan Department of Labor and Economic Opportunity (LEO). The state agency responsible for the administration of adult education programs in Michigan. Adult education is part of the Talent Development Division, Workforce Development. Specific to individuals with disabilities, the agency also contains Michigan Rehabilitation Services and the Bureau of Services for Blind Persons.

Office of Special Education (OSE). Office within the Michigan Department of Education that is responsible for the general supervision, administration, and funding of special education programs and services for individuals with disabilities ages 3 to 26.

Regular High School Diploma. The State of Michigan requires a minimum of 18 credits to graduate from high school under the Michigan Merit Curriculum (MMC). The MMC credit requirements are specified in MCL 380.1278a. Credits are earned by demonstration of the skills acquired in the course rather than by classroom time. Credits may be earned by testing out of courses, performing independent study as guided by a teacher, through completion of major projects, and by integrated content within other courses, such as receiving math credit for math content in career and technical education courses.

Related Services. Services, provided by qualified personnel, that are specially designed to meet the unique needs of a student with a disability. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and

mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training (34 CFR §300.34).

Student with a Disability. A person who has been evaluated according to the IDEA and MARSE, and is determined by an individualized education program team, an individualized family service plan team, or an administrative law judge to have 1 or more of the impairments specified in the IDEA and MARSE that necessitate special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, and who has not graduated from high school. A student who reaches the age of 26 years after September 1 is a student with a disability and entitled to continue a special education program or service until the end of that school year (R 340.1702).

Transition Services. A coordinated set of activities uniquely designed to support a student with a disability in preparation for adult life. Needs, strengths, preferences, and interests are considered for development of specially designed instruction, related services, community experiences, employment, post school adult living objectives, and, where appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Workforce Innovation and Opportunity Act (WIOA). The WIOA is a federal law that assists job seekers with accessing employment, education, training, and support services they need to meet employers' requirements and succeed in the labor market. It is the nation's primary federal workforce development law. The law requires each state to develop a unified plan, describing strategic and operational elements across four Titles, one of which is Title II (Adult Education and Literacy). Title II is administered at the federal level by the U.S. Department of Education and at the state level in Michigan by LEO. Additionally, specific to individuals with disabilities, Subtitle B of Title IV (Vocational Rehabilitation Services), is under the federal Rehabilitation Act of 1973 and is administered at the federal level by the U.S. Department of Education and in Michigan by LEO.

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Fruitport Community Schools	Negaunee Public Schools
Heritage Southwest ISD	Northwest Michigan Works!
Ionia County ISD	Oakland Schools
Kent ISD	Ottawa Area ISD
Lake Shore Public Schools (Macomb)	Washtenaw ISD
Livonia Public Schools	Wayne RESA
Marquette-Alger RESA	Zeeland Public Schools
Menominee County ISD	
Michigan Association of Community and Adult Education	

Disclaimer

Although this document is not a substitute for special education laws and regulations, this guidance offers regulatory information to responsible parties to assist in meeting obligations under state and federal laws, regulations, and rules for adult learners with disabilities.