DEPARTMENT OF CORRECTIONS

Policy Number:	**204.035**
Title:	**Secondary Education**
Effective Date:	**08/29/23**

PURPOSE: To provide information about the various secondary educational program opportunities for incarcerated adults, including individuals with disabilities, to work toward obtaining a secondary credential, literacy, basic skills, digital literacy, and English language skills. Individuals without a secondary credential are required to work toward obtaining one.

APPLICABILITY: All Minnesota Correctional Facilities that offer adult educational programming.

DEFINITIONS:

Adult basic education (ABE) – educational programming that includes programming for adults obtaining a high school credential; obtaining English language skills; improving basic skills including literacy, math, and digital literacy; or preparing for post-secondary education.

Americans with Disabilities Act (ADA) – a federal civil rights law that prohibits discrimination against people with disabilities. The ADA guarantees that people with disabilities have the same opportunities as everyone else to participate in and benefit from state and local government services, programs, and activities, including correctional educational programming.

Auxiliary aids and services – methods to make information available to individuals with communication disabilities (such as hearing, vision, or speech disabilities) so that they can receive and convey information to others as effectively as individuals without disabilities. Examples of auxiliary aids and services include qualified interpreters, notetakers, written materials, qualified readers, taped texts, audio recordings, Brailled materials, screen reader software, magnifiers, large print materials, and other similar services and actions.

Distance learning – any form of remote education where the student is not physically present with a teacher for the lesson.

DOC literacy mandate – the DOC requirement that all incarcerated individuals who do not have a high school diploma or equivalent participate in programming to obtain one. Individuals with a secondary credential from a difficult-to-verify source, or a post-secondary credential without a verifiable secondary credential, are deemed to have met the DOC requirement if they demonstrate a reading level of at least sixth grade.

Foundations program – an education orientation program for individuals following intake to DOC custody.

Hybrid instruction – combines in-class instruction combined with distance learning activities.

Individual with a disability – a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Integrated Education and Training – a service approach providing adult education and literacy activities at the same time as workforce preparation activities and workforce training for a specific occupation or occupational cluster.

Individualized Education Program (IEP) – a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act (IDEA), a federal law that makes available a free appropriate public education to eligible children with disabilities and ensures special education and related services to those children.

Reasonable Modification – an adjustment or change to a program or a process designed to ensure students with disabilities have equal access to educational programming or testing that does not fundamentally alter the nature of the educational program or testing. Students with disabilities will be provided modifications such as instructional approaches focused on meeting their individual needs and designed to ensure equal access to educational programming or testing. Modifications may also include changes in the length of time permitted for completion; substitution of requirements of courses; or adaptation of the manner in which the course, practice test, or exam is conducted or materials are distributed.

Secondary credential – a high school equivalency diploma, high school diploma, or state adult diploma.

Section 504 Plan – a plan developed to ensure a student with a disability receives appropriate educational services and accommodations required under Section 504 of the Rehabilitation Act (Section 504), a federal civil rights law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance. A student may be eligible for a Section 504 Plan even if they are not eligible for special education under the IDEA.

Special Education – specially designed instruction and related services to meet the unique cognitive, academic, communicative, social and emotional, motor ability, vocational, sensory, physical, or behavioral and functional needs of a student with a disability who is eligible under IDEA. Even students who did not previously receive special education or who are not currently eligible for special education may be students with disabilities who are entitled to reasonable modifications in Adult Basic Education (ABE) and other educational programming under the ADA and Section 504.

Student Written Accommodation Plan – a written plan for a MNDOC student with a disability that describes the student's area(s) of difficulty; approved accommodations, modifications, and auxiliary aids and services; and plan for implementation. A student may be eligible for a Student Written Accommodation Plan even if they are not eligible for special education under the IDEA or never had either an IEP or Section 504 Plan in their educational history.

PROCEDURES:

A. Adult Basic Education (ABE) Programming

1. ABE programming at Minnesota Correctional Facilities may include:
   a) Reading and math;
   b) Secondary credential preparation;
   c) Transition to post-secondary, college, and career readiness;
   d) Integrated Education and Training; and
   e) College developmental education.

2. The goals of ABE programming include:
   a) Obtaining a secondary credential;
   b) English language speaking, reading, and writing skills;
   c) Mastering basic academic skills;
   d) Increasing self-esteem and confidence;

e) Supporting personal educational goals of students; and
f) Gaining or improving skills necessary to enter post-secondary education or training if desired and/or improving employability.

3. All ABE programming:
   a) Is taught by teachers with current Minnesota teaching licenses;
   b) Provides students equal access to programming and classes regardless of race, disability, sex, age, color, national origin, creed, religion, sexual orientation, ancestry, or any other legally-protected classification;
   c) Allows learners to enter and exit programming at the appropriate point for them; and
   d) Provides in-person classes, or distance learning or hybrid instruction when in-person is not possible due to facility operational needs.

4. Individuals will be assigned to ABE programming with a goal of obtaining a secondary credential prior to their release from custody. If an individual is also assigned to treatment programming, the facility education director will work with treatment staff and the individual to develop an education plan the individual can pursue while engaged in treatment.

5. Each facility must develop procedures to ensure appropriate ABE programming access is available to students on a restricted status who are required to be in education programming, in accordance with other DOC policies.

6. Each facility:
   a) shall not deny qualified individuals with disabilities equal opportunity to participate in or benefit from its ABE programming or otherwise subject them to discrimination;
   b) shall make reasonable modifications to its ABE programming for qualified individuals with disabilities;
   c) shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills in its ABE program, unless offering a particular auxiliary aid or service would fundamentally alter the program or would result in an undue burden;
   d) shall properly evaluate requests for modifications, accommodations, auxiliary aids or services, or other disability-related needs of individuals in its ABE programming in accordance with the ADA;
   e) shall give considerable weight to past modifications, accommodations, or auxiliary aids or services received in similar educational testing situations, as well as through a prior individualized education program (IEP) or Section 504 plan;
   f) shall not prohibit, prevent, or otherwise hinder an individual from seeking reasonable modifications or accommodations on the GED or HiSET exam and shall provide necessary assistance so that the individual can submit such requests and supporting documentation to obtain modifications, accommodations, or auxiliary aids or services for the GED or HiSET exam;
   g) shall administer its GED and HiSET programs in facilities that are accessible to individuals with disabilities, or alternative accessible arrangements must be made; and
   h) shall assure that, when the GED or HiSET exam is administered to an individual with a disability, the exam is administered in such a way that complies with the ADA and fully implements any exam accommodations approved by GTS/GED or HiSET.

7. A person who, due to a significant documented medical or mental health condition, has received maximum benefit from educational programming, but has not obtained a secondary credential may be exempt from the literacy mandate. If medical documentation supports such an exemption, a medical professional must provide a statement that the person has received maximum benefit from educational programming, then a waiver shall be documented in the person's electronic file and remain in effect in all DOC facilities until removed.

B. Life Skills and Fine Arts

1. Life skills programming may be provided to help people develop skills to independently direct and manage their own lives in areas such as communication, job seeking and keeping, and navigating and using information. It may be offered in conjunction with other facility and community services.

2. Fine arts programming:
   a) Will utilize only materials and mediums that are consistent with DOC policy;
   b) Will provide opportunities for persons to exhibit or perform their work, or to view guest artist presentations, that align with facility security policies and procedures; and
   c) Will allow works of art to remain the property of the person who created the work, subject to DOC policy, and permit the artist to sell works of art created in educational programming in accordance with DOC policy.

C. Education Intake, Screening, Orientation

1. During intake to DOC custody, individuals will be screened by education staff to determine educational need and to identify disabilities or medical conditions that may impact equal access to educational programming.

2. Education staff will attempt to verify reported secondary credentials and take meaningful steps to ascertain whether individuals previously received modifications, accommodations, or auxiliary aids or services as part of an IEP, Section 504 Plan, Student Written Accommodation Plan, or similar educational learning plan.

3. Individuals with disabilities will be properly identified, evaluated, and provided appropriate accommodations, modifications, and auxiliary aids or services as described in Procedures D-F below. In addition, if a student without a secondary credential is identified as potentially qualifying for Special Education services (addressed in Procedure G of this policy) they will be referred to Special Education for follow-up.

4. Prior to entering ABE programming, students must complete the Foundations orientation program which includes information regarding secondary credential options, DOC education policies and procedures, the process for requesting educational programming or third-party testing accommodations and modifications for individuals with disabilities, and examples of available accommodations and modifications.

5. All individuals must sign a Tennessen Warning.

D. Student Requests for Modification in Educational Programming

1. Upon admission into any secondary education program, upon qualification for GED programming, and upon eligibility for each GED practice test and exam, education staff will notify the student of the process for requesting educational programming or testing

accommodations or modifications for individuals with disabilities. Education staff will also provide examples of available accommodations, modifications, and auxiliary aids or services. Education staff will also notify the student of this process and provide examples if the student informs them that they have a disability and need assistance due to their disability.

2. A student may request accommodations, modifications, auxiliary aids or services within educational programming at any time by completing and signing the Student Request for Modification in Education form, which asks the student to:
   a) Identify their disability;
   b) Explain how the disability limits their access to educational programming or their ability to benefit from educational programming;
   c) Detail the specific accommodations, modifications, auxiliary aids or services they are requesting; and
   d) Acknowledge willingness to participate in discussions, assessments, or examinations with education, medical, or behavioral health staff as necessary to resolve their request.

3. The student may ask education staff to help them complete and submit their Student Request for Modification in Education.

4. The student must submit the completed Student Request for Modification in Education to the Facility ADA Education Coordinator.

5. A student's refusal to participate in assessments or examinations, or their refusal to provide information or releases for DOC staff to obtain third-party records related to their disability or request for accommodations or modifications, may affect the outcome of their request if the DOC lacks sufficient information to assess their disability or disability-related needs.

E. Facility ADA Education Coordinator Review of Student Requests for Modification in Educational Programming

1. While reviewing a Student Request for Modification in Education, the Facility ADA Education Coordinator may discuss the request with the student to gather additional information about the request.

2. The Facility ADA Education Coordinator must complete a Review of Student Request for Modification in Education form and respond to the student within five (5) working days.

3. The Facility ADA Education Coordinator may consult with appropriate educational, medical, behavioral health, and case management staff as necessary to confirm the student's disability and determine whether the requested accommodations, modifications, auxiliary aids or services are reasonable and appropriate.

4. During the review, the Facility ADA Education Coordinator must review whether:
   a) The request involves a medical or mental health condition;
   b) The student requires additional educational, medical, or behavioral health testing or evaluations to establish disability or to support future requests for third-party testing accommodations;
   c) The requested modifications present safety or security concerns;
   d) The requested modifications require facility physical plant adjustments; and
   e) The student may be accommodated through alternative but equally effective means if their initial request is not feasible.

5. At the conclusion of their review, the Facility ADA Education Coordinator may:
   a) Approve the requested modifications;
   b) Approve alternative modifications;
   c) Deny the request for modifications with an explanation; and/or
   d) Refer the student for disability-related diagnostic testing to assess possible disability or to support a request for third-party testing accommodations when indicated.

6. Upon completing the review, the Facility ADA Education Coordinator must:
   a) Provide the student with a copy of the Review of Student Request for Modification, any supplemental information, and notification of the student's right to appeal the decision to the ADA Compliance Coordinator if they are not satisfied with the result;
   b) Complete any referrals for disability-related diagnostic testing;
   c) Make any necessary requests for records; and
   d) Upload and save the documentation in the student's electronic file and notify the student's teacher of the completed review.

7. Any student whose request for modifications is approved, or who receives approval for alternative modifications they agree are satisfactory, will meet with their teacher to develop a Student Written Accommodation Plan which will be implemented and reviewed with the student annually.

F. Student Right to Appeal

1. A student whose request for modifications is denied by the Facility ADA Education Coordinator or who is not satisfied with approved alternative modifications may seek reconsideration of their request by appealing to the DOC's ADA Compliance Coordinator at Central Office within thirty (30) days of receiving the Facility ADA Education Coordinator's response to their Student Request for Modification in Education. To appeal, the student must submit to their teacher a completed Student Appeal of Education ADA Decision form with the following attached documents:
   a) The Student Request for Modification in Education; and
   b) The Review of Student Request for Modification in Education and any supplemental information.

2. Upon receipt, the teacher must forward a student's appeal documents to the ADA Compliance Coordinator at Central Office.

3. The ADA Compliance Coordinator must respond to all appeals within fifteen (15) working days of receiving the appeal and document the response in the student's electronic file. In response to the appeal, the ADA Coordinator may:
   a) Approve the student's original request for modifications;
   b) Approve reevaluation of the student's disability or condition by the Facility ADA Education Coordinator. The approval for reevaluation may include a referral for new or updated educational, medical, or behavioral health disability-related diagnostic testing or assessments. Upon being directed to reevaluate a student for possible disability, the Facility ADA Coordinator may also refer the student within thirty (30) days for new or updated educational, medical, or behavioral health disability-related diagnostic testing or assessments; or
   c) Deny the appeal. For all denied appeals, the ADA Compliance Coordinator will provide a written explanation. The decision of the ADA Compliance Coordinator is

final within the DOC but the student will be provided with information about U.S. Department of Justice in case they wish to submit a complaint.

G. Special Education

1. Special education services, criteria for eligibility, and requirements for programming priority are governed by federal and state law and guidelines and monitored by the Minnesota Department of Education.

2. If a student is identified as age eligible with a qualifying disability and a prior individualized education program (IEP) or Section 504 Plan in their last educational placement before incarceration, a special education teacher must meet with them to determine eligibility and need for services under an IEP or Section 504 Plan.

3. If a student qualifies for services, the special education teacher must develop an IEP and/or Section 504 Plan for educational services. All applicable due process procedures prescribed in law must be followed during the student's period of eligibility. An adult student may choose to withdraw consent for special education services at any time.

4. Students qualifying for or receiving special education services must receive transfer clearance from the director of special education prior to transfer to ensure that arrangements are made for the services to continue.

INTERNAL CONTROLS:

A. Documents related to educational indicators, confirmation of secondary credentials, education-related disabilities, special education, IEPs, Section 504 Plans, and Student Written Accommodation Plans are retained electronically, including the DOC Education Screening form, Educational History Survey, Personal Education Inventory, Request for Modification, Review of Request for Modification, and Student Appeal of Education ADA Decision. Such documents and information will be accessible to education program staff at the individual's facility, including when the individual transfers between facilities.

B. Student participation in education programming is documented and retained in student's electronic file and in the Minnesota Department of Education Adult Basic Education database.

REFERENCES: Americans with Disabilities Act (ADA)
Individuals with Disabilities Education Act (IDEA)
Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. Part 104)

REPLACES: Policy 204.040, "Education," 02/04/20
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: DOC Education Screening (204.035A)
Educational History Survey (204.035B)
Personal Education Inventory (204.035C)
Notice of Right to Request Modifications (204.035D)
MCEC Tennessen Warning (204.035E)
Student Request for Modifications in Education (204.035F)
Review Request for Modifications in Education (204.035G)
Notice of Right to Appeal (204.035H)
Student Appeal of Education ADA Decision (204.035I)
Accommodation Plan (204.035J)

APPROVALS:
Deputy Commissioner, Chief of Staff
Deputy Commissioner, Client Services and Supports
Assistant Commissioner, Agency Services and Supports
Assistant Commissioner, Facilities
Assistant Commissioner, Facilities
Assistant Commissioner, Health, Recovery, and Programming