

Eaton Regional Education Service Agency

# Free Appropriate Public Education (FAPE) for Adult Learners Procedures and Guidance Manual

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## INTRODUCTION

***This manual is intended to assist in the enrollment and identification of Adult Education students that previously qualified or may qualify to receive special education services under IDEA or MARSE.***

***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).***

***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.***

***When developing an IEP for an adult learner, it is recommended that the IEP team read [Michigan Department of Education, Office of Special Education: FAPE For Adult Learners](#).***

\*Eaton RESA credits Lapeer ISD for developing the majority of the content in this Guide.

## DEFINITIONS

**AGE OF MAJORITY** - the legal age set by the state when a person is no longer considered a minor. The Michigan Age of Majority is 18 years old.

**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).

**CHILD FIND** - 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 resident school district is the institution prepared to evaluate the adult learner and determine any special education needs.

**FAPE** - Free Appropriate Public Education - 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.

**IDEA** - Individuals with Disabilities Education Act - 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.



**MARSE** - Michigan Administrative Rules for Special Education - 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.

**Special Education** - Special education is the practice of educating students in a way that accommodates their individual differences, disabilities, and special needs. This involves the individually planned and systematically monitored arrangement of teaching procedures, adapted equipment and materials, and accessible settings.

# ENROLLMENT

## Adult Education Enrollment for Students with Disabilities Flowchart

Eaton RESA Adult education enrollment process, **student identifies as previously having an IEP or Section 504 Plan**. Adult learners may be found in a variety of environments, including ERESA Adult Education Program, alternative education, career and technical education programs, community mental health programs, employment centers, community based organizations and jails.

<p>Adult student expresses the desire to continue with IEP programs and services and signs a release of information.</p>	<p>Adult does not sign the release of information and or declines the option for special education. A prior written notice is then provided by the ERESA adult education stating that ERESA is ready, willing, and able to communicate with the District of residence through the release and based on student eligibility and entitlement until age 26.</p>	<p>Adult does not sign the release of information and requests to revoke their rights and eligibility which would be completed through a revocation of consent/ notice of cessation of services.</p>
↓	↓	↓
<p>Eaton RESA adult education will contact ERESA Assist. Superintendent for Special Education to locate any records in MiPSE for the Eaton County student. If student received IEP services outside of Eaton county, the release of information will be sent to the prior district in order to obtain copies of records.</p>	<p>If the adult student declines special education and a prior written notice is provided, then the student enrolls without communicating with the District of residence and without receiving special education services.</p> <div style="text-align: right;"></div>	<p>If the student requests a cessation of services, then the student enrolls without communication with the District of residence and this document terminates the students eligibility and programming in the IEP.</p> <div style="text-align: right;"></div>
↓		
<p>ERESA Assist. Supt. for Special Ed. will communicate with the District of Residence(DOR). DOR to complete MiPSE Transfer of Student with Disability and/or hold a new IEP within a week if expired. The resident district will be responsible for conducting future IEPs and may invite Adult Education teacher(s) and a district representative to participate.</p>	<p><b>NOTE: Contact Eaton RESA Assistant Superintendent for Special Education</b></p> <p><b>IF the Adult Ed. student resides outside of Eaton County, that district would be responsible for providing a Free and Appropriate Public Education (FAPE). A 105c Cooperative Agreement could allow the student to receive services through Eaton County if both ERESA and the resident district were in agreement for any added costs for special education.</b></p>	

## **SECTION 504**

Section 504 accommodations - Districts that receive federal financial assistance from the US Department of Education must ensure that all program services and activities including adult education programs are operated in a non-discriminatory manner. A district operating an adult education program may not exclude qualified students with disabilities and must take into account their needs and determining the aid, benefits, or service it provides. To satisfy these obligations the operating District must provide accommodation and supports to qualified students with disabilities.

## **ALTERNATIVE EDUCATION STUDENTS**

ALTERNATIVE EDUCATION students remain part of the K-12 Education System and are working towards completion of a high school diploma. These students continue to be the responsibility of the resident district for providing an IEP and the delivery of services.

Local Districts may contact the Eaton RESA Assistant Superintendent for Special Education to inquire about services provided to the adult learner on behalf of local districts through the billback system. In which case special education services are agreed to be provided by Eaton RESA, the district representative would sign IEP as the operating district and Eaton RESA would conduct any future IEPs.

## CHILD FIND

### **Child Find Procedure for students in Adult Education Programs through Eaton RESA**

#### **Child Find**

Every member district and Eaton RESA has a shared responsibility and obligation to identify, locate, and evaluate students with disabilities ages birth to 26.

If a member district or Eaton RESA suspect that an adult learner has a disability, it must take steps to ensure that there is collaboration with the District of residence on next steps in meeting the adult learners needs consistent with the district's privacy and confidentiality requirements.

#### **Special education eligibility and FAPE**

Students attending Eaton RESA adult education programs may be eligible for special education programming if they are:

- (1) Are under age 26 (by September 1st of the current school year),
- (2) Have not graduated with a regular high school diploma, which does not include the general educational development (GED) credential, and
- (3) Otherwise meet the eligibility criteria in the individuals with disabilities Education Act (IDEA) and the Michigan administrative rules for special education (MARSE).

An Ineligible student attending an adult education program is entitled to the same rights and procedural safeguards under the IDEA and MARSE as any other student with a disability, including the right to receive a free appropriate public education (FAPE) and the least restrictive environment through the provision of an individual education program (IEP). The student's District of residence is responsible for offering the provision of FAPE.

#### **Confidentiality**

In satisfying the requirements described above, districts and the Intermediate School District should be mindful of their confidentiality obligations under FERPA, the IDEA, and other state and federal laws. Districts cannot disclose personally identifiable information from a student's education record without the consent of the student or the student's Parent / Guardians (as applicable) unless a specific disclosure exception applies. Notifying another District that a student who may have a disability has enrolled, without first obtaining consent, may violate both FERPA and IDEA. Eaton RESA Adult Education will seek consent before notifying the District of residence of the student enrollment if consent is not provided, Eaton RESA will document its efforts to obtain consent and will send written notice to the student or the parents/Guardian (as applicable) explaining how to initiate an evaluation. Finally, many students attending adult education programs will be over age 18 and will likely meet the definition of quote "eligible student" under FERPA and "parents" under IDEA, which means that the student will have the right typically afforded to parents under those statutes.

## Eaton RESA Adult Education Child Find Procedure Flowchart

Eaton RESA Adult Education Staff or the adult learner has a substantiated concern\* and/or suspects a disability.



Eaton RESA Adult Education will immediately contact the Assistant Superintendent for Special Education who will contact the district of residence with a referral for initial special education evaluation. Include area(s) of suspected disability, data/observation, comparison to peers, etc.



Within **10 school days** from the date the district of residence receives the request for evaluation, the resident district will conduct a Review of Existing Evaluation Data (REED) and provide Notice.



If eligible, the district of residence will work with the adult learner, the adult education program, and the ERESA transition coordinator to develop an initial Offer of FAPE IEP that is appropriate to the learning goals and needs of the student.



The resident district will be responsible for conducting future IEPs and may invite Adult Education teacher(s) and district representative, as well as ERESA Transition Coordinator to participate.

\*A **substantiated** concern is one that is supported by data, with comparison to the growth/progress of other adult learners in the program.



## FUNDING

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 for adult education contains specific compliance requirements that may or may not be compatible with other funding sources.

For students receiving special education services, the special education component must be reported to MSDS.

## RESOURCES

[MDE-OSE FAPE for Adult Learners Presentation August 2022](#)

[MDE - FAPE For Adult Learners](#)

[Family Matters: Free Appropriate Public Education](#)

[Local Adult Ed. Services Resources](#)

[Procedural Safeguards Notice](#)

See MiPSE Documents:

- Consent to Invite Community Agency
- Transfer of Student with Disability-Part B
- IEP
- Review of Existing Evaluation Data (REED)
- Revocation and Notice of Cessation
- Release of Information
- Prior Written Notice (stand alone document)

Each local District has Child Find & Evaluation Procedures