

		THE CITY OF NEW YORK DEPARTMENT OF CORRECTION			
		DIRECTIVE			
<input type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input checked="" type="checkbox"/> REVISED		SUBJECT INMATE ACCESS TO BOARD OF EDUCATION SERVICES			
EFFECTIVE DATE 07/01/99					
CLASSIFICATION # 3503R	SUPERSEDES Directive #3503	DATED 05/22/89	DISTRIBUTION A	PAGE 1 OF 9 PAGES	
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER WILLIAM J. FRASER, CHIEF OF DEPARTMENT SIGNATURE			AUTHORIZED BY THE COMMISSIONER BERNARD B. KERIK SIGNATURE		

I. PURPOSE

To set forth the procedure by which the Department shall afford all eligible youth, as defined below, an opportunity to participate in educational services in accordance with New York State Education and Correction Law.

II. POLICY

The Department encourages all eligible youth, as defined below, to participate in educational services provided by the Board of Education of the City of New York. The Department shall provide all eligible youth with the opportunity to participate in such educational services.

III. DEFINITIONS

For purposes of this Directive, the following terms have the following meanings:

A. The "Board" means the Board of Education of the City of New York.

B. An "eligible youth" is any inmate who:

(1) Is incarcerated at a correctional facility on Rikers Island; and

(2) Has been incarcerated for 10 or more calendar days, or in the judgment of the Warden or his/her designee, can reasonably be expected to be incarcerated for a period of 10 or more calendar days; and

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III. DEFINITIONS (cont.)

- (3) On September 1 of the applicable school year, is under the age of 21 years if entitled to receive regular education and under the age of 22 years if entitled to receive special education; and
 - (4) Has not received a high school or high school equivalency (GED) diploma; and
 - (5) If 18 years or older, states that he/she wishes to receive educational services from the Board while incarcerated at a correctional facility on Rikers Island.
- C. "Educational services" means those services made available by the Board to an eligible youth while incarcerated at a correctional facility on Rikers Island.

IV. SCHEDULING

- A. Each facility's daily schedule of activities, programs and services shall be organized so that no eligible youth who participates in education services at a Department facility is denied the opportunity to also participate in the following programs or services because of attendance at educational instruction:
- (1) recreation;
 - (2) legal services;
 - (3) religious services;
 - (4) visitation;
 - (5) health services.
- B. Educational services may be postponed by a Department facility only during emergencies declared by the facility's Commanding Officer or designee, or the Tour Commander.
- C. Whenever educational services are postponed due to declared emergency, the applicable facility's Commanding Officer or designee, or the Tour Commander shall so notify the applicable Board principal as soon as possible. If feasible, advance notice shall be given to the applicable principal.

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V. NEW ADMISSION PROCEDURES

- A. All new admission inmates, who are identified as under 22 years old, must attend the facility's orientation program, including a presentation concerning educational services. The Department shall inform these inmates that 16-17 year old inmates, who qualify as eligible youth, are required to and will receive educational services, and that 18-21 year old inmates, who qualify as eligible youth, have the opportunity to receive educational services, if they so choose. The Department is responsible for making the presentation in English and Spanish, if needed, by reading aloud to all inmates present, the presentation entitled: "The Inmate's Right to Educational Services Provided By The Board of Education," which is annexed to this Directive as form 3503A.
- B. All new admission inmates, who are identified as under 22 years old, shall complete and sign a Rikers Island Schools Request for Educational Services (the "Request"), which is attached to this Directive as form 3503B. The back side of the Request contains a written version of an eligible inmate's rights to educational services. The inmate must (i) indicate whether he/she has received a high school or high school equivalency (GED) diploma, (ii) if not and the inmate is 18-21 years old, indicate whether he/she wishes to receive educational services; (iii) sign the Request, and (iv) complete the other information on the Request. Upon an inmate's request, the Department shall provide additional assistance to the inmate, including those who may be non-English speaking, so that he/she can understand the presentation and complete the Request.
- C. One copy of the Request shall be retained in the inmate's institutional folder. An additional copy shall be sent to the principal of the school located at the facility at which the inmate is incarcerated. Within 10 school days of the principal's receipt of the completed Request, the Board shall provide educational services to the eligible youth.
- D. All eligible youths who decline educational services at orientation, shall be permitted at any time after completion of the orientation process, to request access to educational services during incarceration. The request shall be made on a new Request form which shall be completed and deposited in grievance/education lockboxes in each facility. Request forms shall be available at the facility's school, housing areas, law library and program unit.

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V. NEW ADMISSION PROCEDURES (cont.)

The lockbox shall be emptied daily by the Department, and each Request shall be retained by the Department in the applicable inmate folder.

- E. Whenever an eligible youth indicates his/her desire to access educational services during incarceration by following the procedure outlined in the preceding paragraph, facility staff shall submit to the Board, by the end of the next school day, a written request for such services providing either a copy of the Request or the following information to the Board:

- (1) the youth's name;
- (2) the youth's date of birth;
- (3) the name and location of the facility;
- (4) the last grade completed as reported by the youth;
- (5) the anticipated period of incarceration, if the youth is City-sentenced; and
- (6) the address of the last known residence of the youth at the time of his/her incarceration.

VI. INMATE IDENTIFICATION PROCEDURES

- A. Each facility's General Office shall make available to the Board each school day computer-generated housing area, new admission, and transfer alpha lists of inmates who are 16-21 years old. Discharge alpha lists of inmates who are 16-21 years old shall be provided to the Board on the first school day of the week.
- B. The Department shall provide the Board with reasonable access to all eligible youth so that the Board can provide counseling to interested eligible youth regarding educational services available during and after incarceration.

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VI. INMATE IDENTIFICATION PROCEDURES (cont.)

- C. It shall be the responsibility of the Department to identify all inmates under 22 years old in its custody and to inform those inmates of their potential right to receive educational services.
- D. All facilities shall post in each housing area and all law libraries the notice annexed hereto as form #3503C concerning educational services.

VII. CLASSROOM SPACE AND PROGRAMS

- A. The Department shall make every reasonable effort to provide space sufficient for the Board to provide 5.5 hours of instruction per day, 5 days a week when school is in session, to eligible youths who are 16-17 years old. Such instruction may include small group or individual instruction, and computer, vocational and artistic programs where appropriate.
- B. The Department shall make every reasonable effort to provide space sufficient for the Board to provide a minimum of 3 hours of high school equivalency instruction per day, 5 days a week when school is in session, to eligible youths who are 18-21 years old.

VIII. RESTRICTION OR DENIAL OF EDUCATION SERVICES

- A. Eligible youths confined in special housing units shall not be denied access to educational services solely on the basis of their classification status.
- B. An eligible youth's participation in educational services shall not be restricted or denied as a result of such youth's involvement in a disciplinary matter unrelated to the youth's participation in the facility's educational program, except when such involvement demonstrates that the youth's presence in such program presents a clear threat pursuant to paragraph C(1) of this section.
- C. An eligible youth's participation in educational services may only be denied or restricted by the Warden under the following conditions:

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VIII. RESTRICTION OR DENIAL OF EDUCATION SERVICES (cont.)

- (1) the Warden has determined that the presence of such youth in the educational program presents a clear threat to the safety of that inmate, other inmates, educational or facility staff, or any other person present in the facility; or
 - (2) an emergency situation exists within the facility or island-wide that temporarily prevents or significantly interferes with the delivery of such services.
- D. Whenever possible, prior to making a determination to restrict or deny educational services to an eligible youth pursuant to paragraph C(1) of this section, the Warden shall discuss the matter with the youth's instructor(s) and/or Board designee(s).
- E. Any determination made pursuant to paragraph C(1) of this section, to restrict or deny an eligible youth's participation in educational services, shall be made in writing. (See Form #3503D, Notice of Restriction/Denial of Educational Services, annexed to this directive.)
- F. Such written determinations shall include, but need not be limited to:
- (1) the date of the determination;
 - (2) the name of the eligible youth affected;
 - (3) the date when services are to be denied and the date when services may be resumed, if applicable;
 - (4) the nature of and/or time period for any restriction of services;
 - (5) the specific facts and reasons underlying the decision;
 - (6) comments and/or recommendations made by the youth's instructor(s) and/or Board designees, if solicited; and
 - (7) the signature of the Warden.

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VIII. RESTRICTION OR DENIAL OF EDUCATION SERVICES (cont.)

- G. (1) Unless mitigating circumstances exist, an eligible youth who is infraacted for either a Grade I or Grade II offense shall be deemed to present a clear threat. Where aggravating circumstances exist, an eligible youth who is infraacted for a Grade III offense, shall be deemed to present a clear threat.
- (2) An eligible youth may also be deemed to present a clear threat for reasons other than infractions, including but not limited to red ID card/restraint status, gang activity, conduct while incarcerated elsewhere which if occurring in Department custody would constitute a clear threat, or if the inmates' presence in the educational program presents a clear threat.
- H. Whenever an eligible youth's participation in educational services is restricted or denied by the Warden pursuant to paragraph C(1) of this section, the youth shall be advised that at any time he/she may submit comments in writing to the Warden concerning this action.
- I. Whenever a determination is made to restrict or deny an eligible youth's participation in educational services pursuant to paragraph C(1) of this section, the Warden shall review such determination in writing within 14 days and at least every 14 days thereafter while such restriction or denial is in effect. (See Form #3503E, 14 Day Review of Restriction/Denial of Educational Services, annexed to this Directive.)
- J. Such written review shall include, but need not be limited to the following information:
- (1) the date of the review;
 - (2) comments submitted by the eligible youth, if available;
 - (3) comments made by the youth's instructor(s) and/or Board designee(s);
 - (4) justification for either continuing the denial or restriction of such services or for permitting the youth to resume participation in the program;
 - (5) recommendations as appropriate; and
 - (6) the signature of the Warden.

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VIII. RESTRICTION OR DENIAL OF EDUCATION SERVICES (cont.)

- K. Copies of each determination and review made pursuant to this section shall be distributed as follows by the end of the next school day following the date of the determination or review:
- (1) provided to each eligible youth;
 - (2) placed and retained in the youth's facility file; and
 - (3) forwarded to the youth's instructor(s) and/or Board designee(s).

IX. SPECIAL POPULATION INMATES

Eligible youths who are housed in special or restrictive housing areas and who are unable to receive classroom instruction, shall receive cell study materials and/or other approved study materials and/or educational services, to the extent permitted under Section VIII herein. The Board shall provide the study materials, which shall be distributed to the youths by the Department by the end of the day following the Department's receipt of the materials. All facilities shall ensure that such eligible youths have access to teacher instruction in addition to the cell study materials. Instruction may be provided in person, by telephone, by video-conferencing, by computer, etc., as deemed appropriate by the teacher and the facility.

X. REFERENCES

8 NYCRR 7070.1, et seq.
9 NYCRR 118.1, et seq.
N.Y. Education Law § 3202(7)

IX. ATTACHMENTS

- A. INMATE'S RIGHTS TO EDUCATIONAL SERVICES PROVIDED BY THE BOARD OF EDUCATION (Form #3503A)

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IX. ATTACHMENTS (cont.)

- B. RIKERS ISLAND SCHOOLS REQUEST FOR EDUCATIONAL SERVICES (Form #3503B, dated 10/20/00)
- C. EDUCATIONAL SERVICES IN THIS FACILITY (Form #3503C)
- D. NOTICE OF RESTRICTION/DENIAL OF EDUCATIONAL SERVICES (Form #3503D)
- E. 14 DAY REVIEW OF RESTRICTION/DENIAL OF EDUCATIONAL SERVICES (Form #3503E)

X. SUPERSEDES

Directive #3503, INMATE ACCESS TO BOARD OF EDUCATION SERVICES, dated 05/22/89 (as amended).