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The Six-Step Special Education Process

- ✓ Child Find (Includes Transition Meeting, Preschool Screening and Prereferral)
- ✓ Referral for Comprehensive Educational Evaluation
- ✓ Parental Notice, Evaluation Plan, Assessments and Observations
- ✓ Child Study Team Meeting
- ✓ IEP Meeting (Includes Parental Notice, Review of Existing Data, Participation, Development and Content, and Consent for Placement)
- ✓ IEP Implementation and Annual Review of the IEP

Preface

This manual responds to questions raised regarding child find; that is, the public schools' obligations to locate, identify, and evaluate children with disabilities. The basis for this is more than 25 years old, but implementation of the early intervention program for infants and toddlers, expansion of Head Start, and development of various structured support and assistance programs in elementary schools complicated child find processes. After discussing different aspects of child find, referral, and evaluation planning, the manual presents a set of questions and answers that address concerns, a suggested meeting notice form, and a list of relevant federal and state regulations.

The target audience for this manual includes special education directors, child find coordinators, special education personnel, administrators, and others whose responsibilities include efforts to locate, identify, and evaluate children with disabilities. Family support specialists providing service coordination to families enrolled in early intervention programs and Head Start disability coordinators will find the topics addressed in this manual crucial to their efforts to collaborate with public schools to meet needs of young children with disabilities. Parents of young children with disabilities will find this manual a clear summary of responsibilities combined with recommendations for building partnerships with their public schools.

The statutes and regulations governing the IDEA use the term, "local educational agency," or LEA, to refer to the administrative unit that is responsible for fulfilling the mission of the law. In many cases, the LEA will be a public school district while in others it will refer to a special education cooperative. This manual uses the term, "public school," instead of local educational agency for purpose of clarity.

This manual covers the steps that necessarily come before the initial Child Study Team (CST) meeting that determines whether a child has a disability and needs special education. This guide is intended to help special education teachers with the child find, referral, and evaluation plan processes. Throughout this manual, names or titles of forms and documents are italicized, e.g., *Referral*, *Parental Rights in Special Education*, etc. The guide is not intended to answer every possible question regarding these topics, but to provide answers and examples for general questions regarding evaluation, eligibility and completing the child find, *Referral*, and *Evaluation Plan*. Other manuals cover the subsequent steps in Montana's special education process.

If you have questions regarding the child find, referral, and evaluation plan process after reviewing this manual, please contact the Division of Special Education at 444-5661. Comments, additional questions or suggestions regarding this guide may be sent to: danmcc@state.mt.us.

Please visit our website at: <http://www.opi.state.mt.us/SpecEd/>

Child Find

The Individuals with Disabilities Education Act (IDEA) requires the public school to have a practical method to locate, evaluate, and identify all children who have a disability and need special education and related services. Child find applies to all children, birth through 21, who live within a public school district's boundaries. Child find extends to children receiving early intervention services, enrolled in Head Start or private schools, as well as those attending their neighborhood public school. The IDEA assigns responsibility for child find to both its early intervention program under Part C and its public school special education program under Part B of the Act, though the Part C emphasis is on infants and toddlers with disabilities and the Part B focus is broader, birth through 21 years.

Child find includes:

- Preschool transition from the IDEA Part C Early Intervention Program;
- Preschool screening activities that reach out to the community at large, including private and home schools, as well as local Head Start programs; and
- School-based prereferral activities for school-age students.

Because the needs and resources differ from community to community, child find procedures vary between districts. Frequently, community-based agencies are partners in the child find effort. Notice of preschool screening activities, published in local newspapers or other media, will inform parents about child find activities.

Transition from Early Intervention

Infants and toddlers with disabilities are eligible to participate in the IDEA's early intervention program, but this program abruptly ends when the child turns three. Fortunately, the IDEA strongly encourages smooth transitions from its early intervention to the public school's special education program for preschool-age children with disabilities. This transition process should also assist families to pursue other community-based programs not supported by the IDEA. The parent, ultimately, consents to an outcome that either includes the public school's special education program supported by the IDEA or one that uses other resources.

Two keys to smooth transitions from early intervention to preschool special education are:

- Beginning the transition process early – [at least 90 days prior to the child's third birthday or earlier, if appropriate](#), and
- Developing the transition plan with active participation from public school personnel.

Consistent with federal and state regulations, the best practice for ensuring smooth transitions from early intervention services brings the public school's child find coordinator and family of a child with disabilities together through the [Individual Family Service Plan](#) (IFSP). To make this happen, the family support specialist convenes, with the parent's permission, an IFSP meeting to develop a transition plan as part of the IFSP at least 90 days prior to the child's third birthday. The family support specialist will schedule this IFSP meeting at a mutually agreeable time and place. Appendix B has a [sample invitation](#) form a child and family service provider agency may use to invite a public school representative to an IFSP meeting. The purposes of these transition IFSP meetings are to:

- Provide the family an opportunity to meet public school staff and begin to develop mutually supportive relationships;
- Review the child's [priority outcomes](#) for the period of his or her third birthday through the beginning of the next school year;
- Describe the steps and anticipated outcomes of the transition process;
- Consider future needs and placements in relation to current services and placements;
- Prepare the child for changes in service delivery; and
- Develop a [transition plan that is part of the IFSP](#).

The core team at this IFSP meeting includes the child find coordinator, or other designated representative, from the family's public school district. The core team considers termination of early intervention services occurring when the child turns three and what resources the child and family have afterwards.

The child find coordinator and family support specialist will discuss with the family the similarities and differences between the early intervention and special education programs and procedures. They will also advise the family about alternatives to special education if the child is not eligible to continue under the IDEA, or if the parent chooses not to refer for evaluation. Then, with the family's consent, the child find coordinator and family support specialist will assist the family to:

- Complete and sign the district's [Referral](#) to begin the special education process;
- Discuss the *Request For Records* form of assessments, evaluations, and interventions; and
- Complete an [Evaluation Plan and Notice of Intent to Conduct an Evaluation](#) form that identifies which evaluations and assessments are in the record and which will need to be done before the Child Study Team (CST) meeting.

Along with developing an *Evaluation Plan*, the child find coordinator will give the family a copy of the *Parental Rights in Special Education* brochure and explain the IDEA's procedural safeguards related to initial evaluation. The child find coordinator will explain how the CST will determine whether the child has a disability and needs special education. The child find coordinator and family support specialist will arrange

for the family to meet special education personnel and visit placement sites, should the family so desire.

A smooth transition for an eligible child with disabilities will result in the development of an Individualized Education Program (IEP) on or before the child's third birthday. The actual special education and related services in the IEP, of course, will begin on the dates of service set by the team developing the IEP. The team developing the IEP will evaluate the child's need for [extended school year services](#) that may be needed prior to the start of the school year.

For children who either are not eligible to participate in the special education program or whose parents choose not to participate further in the IDEA, a smooth transition may result in placements and services in selected community programs in accord with the parents' choice.

Preschool Screening

Child find has always been synonymous with preschool screening, but screening is a much narrower term. Screening procedures are a brief look at a child to determine whether he or she needs further assessment. Screening often leads to referral for a comprehensive educational evaluation. Child find screening activities address the child's status not only with respect to general health, hearing and vision, speech and language development, but also regarding general development, fine and gross motor skills, or behavior.

Montana's regulations prescribe [no specific procedures for screening](#); therefore, each public school designs its preschool screening procedures. Screening activities are not individualized assessments requiring prior parental consent.

An effective and efficient child find requires interagency cooperation and collaboration. The IDEA Part C clearly mandates [collaborative child find](#) efforts. In most communities, more than one agency has mandated "screening and referral" responsibilities that overlap with the public school's child find efforts. Early intervention agencies, public health agencies, and Head Start all conduct early childhood screening activities that go hand in glove with child find activities. Well-coordinated child find activities reduce the likelihood of inappropriate, untimely, and controversial referrals for comprehensive educational evaluation under the IDEA.

Frequently, the public school's special education personnel and family support specialists from an early intervention agency conduct preschool screening activities as a team. These joint screening clinics generally result in successful introductions to the public school's special education program.

Prereferral

Prereferral activities go by a number of names (schoolwide assistance team, teacher assistance team, etc.), and their methods differ from school to school. Schools adopt [prereferral support and assistance](#) plans suited to their needs. These school-based interventions are meant to address concerns for all students, not just students with disabilities. What prereferral activities have in common, though, are mechanisms to help teachers identify concerns individual students present and strategies to implement that are likely to resolve these concerns. Prereferral does not “delay the process,” rather it reduces the numbers of inappropriate referrals; that is, those that do not result in special education placements because the students do not “qualify.”

Montana's school accreditation standards require each school to provide [structured support and assistance](#) to regular education teachers to identify and meet the diverse needs of students. Likewise, the standards require a framework for considering the full range of alternatives for addressing these needs. Child Study Teams consider the results of prereferral interventions for all school-age children referred for evaluation.

Child Find and Private Schools

Children suspected of having a disability, from birth through 21 years of age, are eligible to participate in the public school's child find activities. [Children enrolled in private schools](#) are able to participate in public school child find activities. Indeed, public school districts are required [to consult with private schools](#) regarding children with disabilities enrolled in private schools. In some communities, public schools coordinate child find activities with private schools within their boundaries and in others they collaborate on prereferral strategies implemented as part of the private school's program. Most often, however, the public school's advertising in local newspapers and other media is sufficient to inform private school personnel about the availability of child find activities.

Sometimes a child who lives in one community attends a private school located in another public school district. Accordingly, one district's child find activity may identify a nonresident student attending a private school as possibly having a disability and needing special education. This circumstance complicates child find and subsequent IDEA-related activities because the district in which the parent resides is responsible for ensuring a child with disabilities receives free appropriate public education (FAPE), while the district in which the private school is located is not. The following procedure permits both the district of residence and district in which the private school is located to implement the IDEA.

The public school conducts the child find activity according to its plan. If the child find activity locates a child who resides in another district and may have a disability, the child find coordinator will:

- Inform the child's neighborhood school district that a child residing in the district may have a disability and may need special education;
- Send the student's records, including the screening results, to the neighborhood school; and, when appropriate,
- Assist both the neighborhood school and private school to develop a *Referral and Evaluation Plan* for a comprehensive educational evaluation conducted by the district of residence.

The district in which the child lives, not the district in which the private school is located, will conduct the evaluation and hold a CST meeting to determine whether the student has a disability and needs special education. The district in which the child lives will also schedule a meeting to develop an IEP that provides FAPE.

Child Find and Head Start

In many ways, Head Start and local education agencies have overlapping responsibilities for children with disabilities. Head Start's requirements emphasize the need to establish collaborative relationships with local education agencies, especially those involving children with disabilities. Federal Head Start regulations require each program to screen all enrolled children for referral to components of its program. Head Start screenings occur in the early fall and may also occur later in the year. This screening aims at identifying children who may have delays severe enough to suggest that the child may have a disability. Head Start screening, like other developmental screening activities, examines one or more of the following areas: cognitive development, physical development, communication development, social and emotional development, or adaptive functioning skills. Since children as young as three are eligible to receive free, appropriate public education from the public school, the local district's child find activities should coordinate with Head Start's screening procedures. This coordination is typical throughout Montana.

In many cases, the public school's special education personnel conduct preschool screening at or in conjunction with the local Head Start program. In other cases, after Head Start conducts its screening, it sends a referral to the public school.

Concerns have arisen throughout the state when the district's established child find procedures conflicted with Head Start's referral procedure. Sources of concern reported include:

- The district's schedule for developing an *Evaluation Plan*, conducting evaluations and assessments, and holding a CST meeting have not met Head Start's expectations;
- Referrals were based on medical diagnoses not directly linked to the IDEA and Montana's disability categories;

- Head Start did not present evidence of interventions prior to referral;
- The district's child find schedule and Head Start screening schedules were not coordinated and did not suit each other's obligations or preferences; and
- Head Start directed referrals to the district in which the program was located, not the district in which the child resided.

Because no method for resolving differences between Head Start and local education agencies exists at the state government level, establishing effective, collaborative, mutually responsive child find procedures at the local level is absolutely necessary.

For children with disabilities, transitions from IDEA Part C Early Intervention programs into Head Start may be less than satisfactory when public school personnel are not involved in the transition plan development. This outcome results from Head Start's reliance on the public school's resources to actually provide the individualized services and supports the child needs in the Head Start environment.

Referral, Notice, and Evaluation Plan

A referral begins the process through which a Child Study Team conducts a comprehensive educational evaluation. Because local needs and resources vary so widely across Montana, no single, statewide referral procedure is sensible. As a result, each public school will have an established referral method for collecting information to determine whether comprehensive educational evaluation is necessary and the types of evaluations needed. Each public school will have a *Referral* or multiple forms to collect this required information. The Office of Public Instruction has published a model *Referral* that has all critical features.

Referral Requirements

Montana's regulation governing [referral components](#) includes these elements:

- Statement of the reasons for referral;
- Documentation of general education interventions; and
- Signature of the person making the referral.

The reason for referral should reflect the results of observations, assessments, and interventions (such as screening data, individualized test results, and prereferral strategies) as the reason for referral. The referral establishes the concern that the child may have a disability that adversely affects educational performance and, as a result, needs

an IEP. This information assists the Child Study Team (CST) to determine the types of evaluations necessary for comprehensive evaluation. Then, if a comprehensive educational evaluation is warranted, the public school obtains consent of the parent before conducting a comprehensive educational evaluation.

If the Child Study Team determines a comprehensive education evaluation is necessary, it will propose an evaluation plan and seek parental consent for that initial evaluation. If the Child Study Team determines a comprehensive educational evaluation is *not* necessary, it will notify the parent and inform the parent of the reasons why it will not evaluate the child. At the same time, the public school will provide a full explanation of the procedural safeguards available to parents by sharing a copy of the *Parental Rights in Special Education* brochure. The parent may then exercise procedural rights and challenge the district's decision, or not. The *Parental Rights in Special Education* brochure explains how to make this challenge.

Referral by Parent or Agency

Neither federal nor state regulations advise public schools about who can make a referral, how a referral must be handled, or what timelines apply to referral. Consequently, most public school policies do not have detailed referral procedures, except as referrals come from a child find activity. At the same time, federal regulations impose child find responsibilities on both early intervention agencies and Head Start programs, requiring coordination with local education agencies, but, again, do not direct these agencies on how to connect with local education agencies. In any case, the public school must have procedures that describe their child find activities and practices for children with disabilities birth through 21 years.

The best practices recommended with regard to referral procedures are to describe in detail how a referral will result from a:

- Transition meeting with an early intervention agency;
- Preschool screening activity, coordinated with local community-based agencies;
or
- Decision by a student assistance team.

A similar procedure should address how to process a parent's request for an initial evaluation to determine whether a student has a disability and needs an individualized education program. This procedure should establish how the parent's referral relates to the three procedures discussed above. The district will provide the parent with a copy of the *Parental Rights in Special Education* brochure before it directs its staff to conduct or not conduct a comprehensive educational evaluation. Since neither federal nor state regulations address the role played by community-based agencies, other than IDEA Part C-supported early intervention agencies, public school policy should speak to referral by these agencies, if appropriate.

Evaluation Plan

The referral initiates evaluation planning. The public school will use a document titled *EVALUATION PLAN: Notice of intent to conduct an evaluation or reevaluation and permission for evaluation or reevaluation*. The Office of Public Instruction has published a model *Evaluation Plan* form that has all features necessary to gather information needed by the Child Study Team and obtain parental consent for evaluation.

While the referral indicates the specific reasons why an evaluation is needed and indicates some areas of concern, the evaluation plan indicates which evaluations, assessments and observations will be necessary to determine whether the child has a disability and needs special education and related services, as well as:

- Which set of criteria best categorizes the nature of the student's disability;
- Whether the disability adversely affects educational performance;
- What individualized instruction and related services the student will need; and
- To what extent the student needs accommodations and modifications and supplementary aids and services in order to achieve progress.

Notice of Parental Rights

The *Evaluation Plan* is addressed to the parent. It indicates the child has been referred for comprehensive educational evaluation for whatever reason. The form advises the parent of the types of individualized observations and assessments that the public school intends to conduct. The *Evaluation Plan* will not identify specific test instruments, individual observers or evaluators, methods of gathering the required information, or timelines. The *Evaluation Plan* will establish that the parent received a copy of the *Parental Rights in Special Education* brochure and indicates a person the parent may contact for additional information about the evaluation. Most important, the parent must sign the form to give permission for the evaluation or withhold permission. Neither federal nor Montana regulation requires a public school to discuss or explain parental rights and procedural safeguards assured by the IDEA; however, statute and regulation emphasize the need to obtain the parent's informed consent for evaluation and placement, and the need to present pertinent information in language the parent understands.

Assessment Procedures

The reason for referral is a strong influence on the evaluation plan. So, too, are the criteria that define each of the disability categories that, in turn, determine who is an eligible child with disabilities. The assessment will use a variety of tools and strategies

to gather relevant functional and developmental information that will be compared to criteria established to determine whether or not a child has a disability and needs special education. The [assessment will consider](#) the child's involvement and progress in the district's general curriculum, or for preschool-age children, participation in appropriate activities. The parent, of course, will be a source of information.

The assessment will address all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. Much of this information is gathered at preschool screening activities, including interviews with parents to gather developmental history information. The evaluation plan ensures that no single procedure will be used as the sole criterion for determining whether a child has a disability or used to determine appropriate educational programming.

Required Assessments

Montana's regulations governing evaluation require the Child Study Team to conduct a classroom-based assessment considering involvement and progress in general education curriculum, and observations by the student's teachers and related service providers. These two assessments are required for ALL initial and subsequent evaluations, and for ALL disability categories. In addition, the specific criteria defining each disability category will require additional evaluations, assessments, and documentation to establish the nature and severity of that disability. Consequently, to establish eligibility with respect to each disability category requires additional evaluations and assessments, as well as classroom-based assessment and observations.

Useful Information

While the referral will establish the specific reasons for referral for evaluation, regulations do not require public school districts to obtain or require those referring to submit specific information. The form does, however, summarize activities and outcomes that will guide the evaluation procedures to determine whether the child has a disability and needs an individualized education program. When the parent, special educator, and, where appropriate, other agencies involved with the referral jointly complete the *Referral*, the public school should then request records from agencies and individuals for consideration by the Child Study Team. The extent to which agencies outside the public school comply with requests for records is determined by the agencies' policies not governed by the IDEA.

Appendix A: Questions and Answers

Transitions from an IDEA Part C Early Intervention agency

Referrals from parents

Referrals from Head Start

Referral Documentation

Evaluation Plan

Transitions From an Early Intervention Agency

- 1. For a child and family participating in the IDEA Part C Early Intervention program, must the Individual Family Service Plan (IFSP) contain a transition plan?**

Part C regulations do not explicitly require an IFSP to contain a transition plan. However, these regulations require each IFSP to include the steps to be taken to support the transition either to preschool special education under the IDEA, to the extent that those services are appropriate, or to other services that may be available in the community outside of the IDEA, if appropriate.

[CFR 303.148](#) [Transition to Preschool Programs](#)

[CFR 303.342](#) [Procedures for IFSP Development, Review, and Evaluation](#)

[CFR 300.343](#) [Participants in IFSP Meetings and Periodic Reviews](#)

[CFR 303.344](#) [Content of an IFSP](#)

- 2. When a family support specialist indicates that a family has a child eligible for IDEA's Early Intervention and may be eligible for special education, but the child needs only related services, what steps should the district take?**

The district should follow steps the Montana Special Education Process described at the beginning of this manual. When the family support specialist invites the child find coordinator or other designee to a transition IFSP meeting, the public school representative should attend, participate, and discuss the district's program. If the parent decides to refer their child for special education, the district will develop an evaluation plan, conduct appropriate assessments and evaluations, and discuss the results at a CST meeting. The CST then determines whether the child needs special education and related services in accord with the IDEA requirements. The CST will advise the parent

that under IDEA regulation 300.7 (2)(a)(2), a child who does not need special education, despite needs for related services, is not eligible to benefit from the IDEA Part B Special Education Program.

CFR 300.7	Child With a Disability
CFR 300.13	Free Appropriate Public Education
CFR 300.24	Related Services
CFR 300.26	Special Education

3. What is required of the public school with respect to preschool transitions?

Both Parts B and C of the IDEA expect public schools and early intervention agencies to collaborate to ensure children with disabilities experience a smooth transition between the two programs. Montana's policies governing both Parts B and C, regarding preschool transitions, clearly support smooth and effective transitions. These policies ensure that early intervention agencies invite representatives to participate in an IFSP meeting, with parental consent, to discuss transition concerns at least 90 days in advance of the child's third birthday. Appropriate public school personnel attend these IFSP meetings and assist the parent with referral, should the parent choose to do so. Subsequently, public school personnel will follow the special education process described at the beginning of this manual.

CFR 303.148	Transition to Preschool Programs
CFR 300.121(c)	Free Appropriate Public Education (FAPE)
ARM 10.16.3122	LEA Responsibility for Students With Disabilities
ARM 10.16.3129	Parental Involvement
ARM 10.16.3132	Interagency Coordination for Part C, IDEA

4. How does the district ensure free appropriate public education for a child with a disability whose third birthday occurs when school is not in session, when the child does not need extended school year services?

Children with disabilities are entitled to receive free appropriate public education beginning on their third birthday. To satisfy this requirement, an IEP should be developed on or before the child's third birthday. The date of initiation of services within the IEP will determine when special education and related services will begin. Children with disabilities, whose third birthday falls during the summer months, may not receive special education and related services when school is not in session. The public school must provide special education and related services during the summer, or other breaks in service, only when the IEP team determines that the child needs extended school year services in order to receive free appropriate public education (FAPE).

CFR 303.148	Transition to Preschool Programs
CFR 300.309	Extended School Year Services
CFR 300.13	Free Appropriate Public Education
CFR 300.121(c)	Free Appropriate Public Education (FAPE)
ARM 10.16.3122	LEA Responsibility for Students With Disabilities

Referrals from Parents

1. Does the IDEA confer a “right to refer” a child for evaluation?

No. The IDEA requires each public school, and each early intervention agency, to have effective, coordinated child find procedures. These local procedures prescribe how local public schools locate, evaluate, and identify all children with disabilities residing within the district, including procedures to support transition from early intervention services, local screening activities, and school-based prereferral strategies. A parent may refer a child for evaluation; however, the district will address that referral through its established child find procedures. Should the district decide to conduct a comprehensive educational evaluation, it will develop an Evaluation Plan, obtain informed parental consent, gather the necessary evaluations and assessments, and hold a CST meeting. Should the district determine an evaluation is not necessary to determine whether the student has a disability and needs an IEP, the district will inform the parent of its decision and reasons, and provide the parent appropriate notice of procedural safeguards related to initial evaluation. The *Parental Rights in Special Education* brochure provides a reasonably comprehensive, yet readable, overview of procedural safeguards the IDEA affords parents.

[CFR 300.125](#)

[Child Find](#)

[CFR 303.321](#)

[Comprehensive Child Find System](#)

[ARM 10.16.3122](#)

[LEA Responsibility for Students With Disabilities](#)

[ARM 10.16.3320 \(2\)](#)

[Referral](#)

2. Can a parent request the public school to “test” a child?

Yes. A parent can request a public school to “test” a child by following the school’s child find procedure. However, this direct communication between the parent and the child’s teacher should begin with the building’s structured support activities. A referral for comprehensive evaluation will follow these prereferral activities. A parent’s request for testing does not bypass screening, prereferral, or other school-based interventions, as long as these steps do not present an unreasonable delay in determining whether the student has a disability and needs an IEP.

[ARM 10.16.3125](#)

[LEA Child Find Responsibilities](#)

3. Can a school district refuse to conduct a comprehensive educational evaluation when a parent requests one?

Yes. A student should be tested for special education eligibility when the school has reason to suspect the student may qualify. This involves two inquiries: Do we suspect the student may have a disability that qualifies under the IDEA? Do we suspect the student may need specially designed instruction and related services? If the answer to either question is no, the school can refuse to conduct the testing.

The refusal to conduct a comprehensive educational evaluation is one of those events that triggers a duty for the school district to provide written notice to the parent. The school district cannot simply ignore the parent's request. The school district must respond to the request for an assessment by doing the assessment or by providing written notice with a full explanation of why the assessment is not being done.

A parent should put the request in writing to establish a "paper trail" showing the request was indeed made. If a school district refuses to do an evaluation, the parent can request a due process hearing and ask the hearing officer to order the district to conduct the assessment.

(This question and answer is taken from PLUK News, (2002), 17, p.10, with one important change: The evaluation must determine the student may need specially designed instruction and related services, not specially designed instruction or related services.)

CFR 300.503	Prior notice by the Public Agency; Content of Notice
CFR 300.504	Procedural Safeguards Notice
CFR 300.505	Parental Consent
ARM 10.16.3125	LEA Child Find Responsibilities
ARM 10.16.3320 (2)	Referral

4. Can a parent or teacher sign the *Referral* and bypass prereferral?

A parent may sign a referral and, thereby, begin to plan the evaluation and continue through to a Child Study Team meeting. Doing so, however, does not bypass the building's prereferral procedure. Prereferral activities should continue concurrent with evaluation activities since data from these activities will be considered during the Child Study Team meeting. While the IDEA has no regulation that prescribes a specific timeline, the public school must ensure that the evaluation is completed in a timely manner.

Community-based Agencies and Head Start

1. Must the public school conduct child find screenings at each Head Start site?

No. The public school has an obligation to develop and implement effective child find procedures to locate, evaluate, and identify all children with disabilities residing within the district. Working with Head Start to conduct child find screenings is certainly one well-accepted and traditional method of locating young children who attend Head Start programs. Head Start regulations require screening of all enrollees toward the beginning of each program year, but these regulations do not bind the public school. Collaborative screening activities, planned by both Head Start and the public school, should meet both Head Start and public school needs. The IDEA does not regulate relationships between Head Start and the public school.

[ARM 10.16.3122 LEA Responsibility for Students With Disabilities](#)

[ARM 10.16.3125 LEA Child Find Responsibilities](#)

2. Should an agency working with a child and family send a completed *Referral* to the district?

No. Generally, an agency working with the family of a child suspected of having a disability should not send a completed *Referral* to the public school. In most communities, Head Start and early intervention agencies have written interagency agreements with local public schools that address child find. Head Start regulations require grantees to negotiate local interagency agreements. Early intervention regulations encourage providers to negotiate local interagency agreements. Regulations governing public schools are silent in regard to local interagency agreements. In any case though, the public school's child find procedure will describe how community-based agencies will work with the district to locate and identify children with disabilities.

Community-based agencies should meet with public school representatives and jointly complete the referral document. Parents, of course, should be a part of this meeting that establishes the reason for referral and summarizes information relevant for identification and evaluation. The child find coordinator should meet with the referring agency and review referral procedures appropriate in this circumstance when referrals appear outside of established procedures.

3. How does child find apply when a child attends Head Start or a private school in another community?

If the student is parentally enrolled in a private school outside the boundaries of the public school in which the student is living, the public school where the private school is located is responsible for child find activities through referral.

The responsibility to provide free appropriate public education (FAPE) rests with the district of residence. This means the district in which the child resides, not the district in which the private school or Head Start program is located, is responsible. Therefore, when a student lives in one district and attends a private school or Head Start in another, the district in which the private school is located will provide child find activities and will assist with a referral to the district of residence. The district in which the child actually lives will continue the special education process. Specifically, the district of residence will conduct the evaluation, Child Study Team meeting, and develop an IEP, if appropriate. This same procedure applies for preschool-age students attending a Head Start program located outside the district of residence boundaries. Local education agencies design their child find procedures to meet the needs of their district, but include efforts to reach out to private schools located within their boundaries.

[CFR 300.451](#)

[Child Find for Private School Children with Disabilities](#)

[ARM 10.16.3122](#)

[LEA Responsibility for Students With Disabilities](#)

[ARM 10.16.3125](#)

[LEA Child Find Responsibilities](#)

Documenting Referral

1. Is prereferral documentation really necessary?

Yes. Each school must have a structured support and assistance process in place and must use the process prior to referral for evaluation. Some specific disability categories require evidence of intervention in order to establish that the student has a disability. Early intervention services provided through the Part C program may be considered prereferral interventions when appropriate. Head Starts are encouraged to develop prereferral procedures and document their effects.

[ARM 10.55.805 Special Education](#)

2. Who should fill out the *Referral*?

No regulation governs who should complete the *Referral*, other than the person who completes the form must sign. A representative of the public school should fill out the *Referral*. A special education teacher, related service specialist, or administrator is the most likely person to complete the form since he or she will pull together the information from sources such as the parent, early intervention program, Head Start, or most likely, building-level student assistance team. Ideally, the parent and child find coordinator would complete the form together.

[ARM 10.16.3320 Referral](#)

3. If a family chooses not to involve the public school in the transition activities prior to referral, what should the IDEA Part C Early Intervention section say?

If the local public school did not participate in a meeting with the family to discuss preschool transition and develop a transition plan prior to referral, the *Referral* should indicate “None” in the form’s results section.

4. Must someone complete each section of the *Referral*?

No. Only the parts of the *Referral* that apply need be addressed. Obviously, the “Student Information” section must be addressed thoroughly. The section summarizing participation in “IDEA Part C Early Intervention” is essential to document participation in the preschool transition process stressed by the IDEA. While “Preschool Screening Information” may not apply to all students referred, large numbers of students enter the IDEA umbrella through local child find screenings. Referrals originating at a Head Start program are likely to emphasize this component. Further, “Student Performance on Standardized Group Achievement Tests” will apply only to those students who participated in such tests. “Student Classroom Performance Summary” captures relevant information for students at the K-12 level. Summarize interventions attempted and their results in the “General Education/Other Interventions” section. This section applies for both school-age and preschool-age students. Finally, the name of the person making the referral must be documented.

5. Must the referral document the specific reasons for referral for evaluation?

Yes. The “Specific Reasons for Referral for Evaluation” supports the whole purpose of identifying this student as a student who might have a disability and, therefore, need an individualized education program. This information assists the CST to identify which assessments, evaluations, and observations will be necessary to establish that the student has a disability and needs special education.

[ARM 10.16.3320 Referral](#)

6. Must a principal sign the *Referral*?

No. Some school districts have policies that require an administrator to authorize an initial evaluation and document authorization with a signature on the *Referral*.

7. What is the timeline between referral and Child Study Team meeting?

No regulation establishes a timeline for referral or evaluation procedures. The guidance regarding this timeline is simple: The evaluation must be conducted with no undue delay.

Evaluation Plan

1. Who develops the *Evaluation Plan*?

The public school is responsible for developing the evaluation plan; however, no regulation assigns responsibility to a specific individual. A special educator or a team of educators develops the evaluation plan. Although representatives of other agencies may be part of the team developing an evaluation plan, these agencies do not develop the plan. Developing the plan may or may not include the parent. Often an initial evaluation plan will be developed during a preschool screening activity. A special educator could develop an evaluation plan at a meeting that develops the transition plan for early intervention’s individual family service plan. Similarly, the building-level intervention assistance team might also develop an evaluation plan.

2. What is the purpose of the *Evaluation Plan*?

The purpose of the evaluation plan is to gather information in preparation for the Child Study Team meeting. The evaluation plan outlines what data resources may be needed and solicits parental permission to collect those data that are not part of the student’s educational record. Existing data include evaluations and information provided by the parents, current classroom-based assessments and observations, and observations by teachers and related services providers. The Child Study Team will review existing evaluation data on the child and, on the basis of that review and input from the child’s parents, identify what additional data, if any, are needed.

For an initial evaluation, the evaluation plan ensures that the parent:

- Is aware there is reason to suspect the child has a disability and needs special education;
- Understands which evaluations and assessments will be conducted to establish those facts;
- Has been informed about parental rights assured by the IDEA; and
- Gives or declines to give consent for the comprehensive evaluation.

3. Is a meeting necessary to develop an evaluation plan for an initial evaluation?

No. An informal meeting between parent and special education personnel would be the preferred, but not necessary, method for developing an evaluation plan for an initial, comprehensive educational evaluation.

4. Who is responsible for ensuring the parent receives a copy of the *Parental Rights in Special Education* brochure?

The public school is responsible for ensuring that the parent receives a copy of the *Parental Rights in Special Education* brochure prior to beginning the evaluation process. A representative of the public school should, when appropriate, go through the brochure with the parent to help the parent understand the nature of the procedural safeguards provided within the IDEA. A best practice would be to offer to review and explain the brochure each time it is offered to the parent throughout the child's educational career.

[CFR 300.503](#) [Prior Notice by the Public Agency; Content of Notice](#)

[CFR 300.504](#) [Procedural Safeguards Notice](#)

[CFR 300.505](#) [Parental Consent](#)

Initial Evaluation or Reevaluation

1. Just how comprehensive must an initial evaluation or reevaluation be?

The reason for an initial evaluation or reevaluation is to establish whether a child is eligible or continues to be an eligible student with a disability under the IDEA. The CST will determine:

- Whether the student meets the eligibility criteria established by the IDEA; and
- What must be the content of the IEP.

To meet these responsibilities, the CST will use a variety of assessment tools and strategies to gather relevant functional and developmental information about the child. The CST will consider information provided by the parent, as well as other information related to enabling the child to be involved in and progress in the general curriculum.

(For a preschool-age child, the focus is on participation in appropriate activities, since the general curriculum may not reach below the kindergarten level.)

The child must be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. The evaluation may include administration of standardized tests, as well as informal and highly individualized observations and assessments. Technically sound instruments will assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors, related to the student's functioning. These assessment tools and strategies will provide relevant information that directly assists persons in determining the educational needs of the child. In all cases, the evaluation will be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

CFR 300.531	Initial Evaluation
CFR 300.532	Evaluation Procedures
CFR 300.533	Determination of Needed Evaluation Data
ARM 10.16.3321	Comprehensive Educational Evaluation Process
ARM 10.16.3322	Composition of a Child Study Team

2. Which assessments are required for an initial evaluation?

For initial evaluations, the CST must review existing evaluation data on the student, including evaluations and information provided by the parents of the student; current classroom-based assessments and observations that include the student's involvement and progress in the general curriculum; and observations by teachers and related services providers. The CST must also consider specific evaluations and assessments required to establish a child's eligibility with regard to one or more disability criteria established in regulation.

The CST must also consider the results of evaluations related to in all areas of the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities and the data necessary to address criteria established in regulation. The *Evaluation Plan* will identify which assessments and evaluations will be conducted, with parental consent, prior to the CST meeting. (Please refer to the Technical Assistance manual titled *The Child Study Team: A Special Educator's Guide to the Child Study Team Process* for details about evaluation and CST procedures.)

CFR 300.7	Child With a Disability
CFR 300.532	Evaluation Procedures
CFR 300.533	Determination of Needed Evaluation Data
CFR 300.534	Determination of Eligibility
ARM 10.16.3321	Comprehensive Educational Evaluation Process

3. What is a “*Review of Existing Evaluation Data*?”

As part of an initial evaluation, if appropriate, and as part of any reevaluation, the members of the IEP team and other qualified professionals, as appropriate, review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based assessments and observations; and observations by teachers and related service providers. For an initial evaluation, the members of the CST and IEP are the same. On the basis of that review, and input from the child’s parents, the team identifies what additional data, if any, are needed to determine:

- Whether the child has a particular category of disability or, in case of a reevaluation of a child, whether the child continues to have such a disability;
- The present levels of performance and educational needs of the child;
- Whether the child needs special education and related services or, in the case of a reevaluation of a child, whether the child continues to need special education and related services;
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

If additional data is needed, public school personnel shall administer tests and other evaluation materials as may be needed to produce the data identified. If no additional data are needed to determine whether the child continues to be a child with a disability, the public school shall notify the child’s parents of that determination and the reasons for it and the right of the parents to request an assessment to determine whether the child continues to be a child with a disability. The public school is not required to conduct this assessment unless requested to do so by the child’s parents.

While the IEP team, meeting as a group, may conduct a review of existing data as a part of its planning process, a meeting solely for the purpose of conducting the review is not necessary. A meeting to review existing data is not a substitute for a CST meeting conducted every three years or more frequently, as appropriate.

The Office of Public Instruction has published a model *Review of Existing Data* form that has all features necessary to gather information needed by the Child Study Team and obtain parental consent for evaluation. This form is standard throughout the state.

[CFR 300.533](#)

[CFR 300.534](#)

[CFR 300.535](#)

[ARM 10.16.3321](#)

[ARM 10.16.3322](#)

[Determination of Needed Evaluation Data](#)

[Determination of Eligibility](#)

[Procedures for Determining Eligibility and Placement](#)

[Comprehensive Educational Evaluation Process](#)

[Composition of a Child Study Team](#)

Appendix B: Forms

Invitation To Participate In An IFSP Meeting To Discuss Transition

The following is an example of an invitation to attend an IFSP meeting that addresses transition from the IDEA Part C program. An early intervention agency would use this form, not the public school. With this form, or one like it, the child and family service provider agency extends an invitation to the local public school to meet the family of a toddler with disabilities. The invitation introduces the parent, person acting as parent, or foster parent and gives their address. The notice gives the date, time, and location of the meeting, in addition to stating the purpose. The form advises the public school's child find coordinator or other designated representative to bring a *Referral, Evaluation Plan*, request for special education records form, and *Parental Rights in Special Education* brochure to the meeting. These documents will enable the family to begin the special education process at the meeting or shortly thereafter, should the family decide to refer their child for evaluation. At this IFSP meeting, the child find coordinator or representative will discuss the district's special education programs and procedures, as well as answer questions the family may have about their school. At the end of this meeting, the family should have a clear understanding of how their public school will determine whether their child has a disability and needs special education, and if so, what the IEP will do to provide the child with free appropriate public education under the IDEA. The family may then explore alternatives to the IDEA in the event that the child is not eligible for special education, or the family chooses to refer their child for evaluation.

Referral Form

The Office of Public Instruction developed this form in 1998 as a means of establishing that a child may have a disability and need special education.

Evaluation Plan

The Office of Public Instruction developed this notice of intent to conduct an evaluation or reevaluation and permission for evaluation or reevaluation in 1998 and revised in 2001. The *Evaluation Plan* often accompanies a *Review of Existing Data* form that documents that current information about the student's performance is sufficient and no additional assessment or evaluations will be necessary for the upcoming Child Study Team meeting, except for classroom-based assessment and observation.

Review of Existing Data

The Office of Public Instruction developed this form in 2001. The form documents consideration of the need to conduct additional evaluations and assessments in order for the Child Study Team to determine whether the student has, or continues to have, a disability and needs special education.

{qualified provider agency letterhead}

Invitation To Participate In An IFSP Meeting To Discuss Transition

Dear _____ (name of child find coordinator or designated contact person)

You are invited to a meeting to discuss the transition of a toddler currently enrolled in our agency's IDEA Part C early intervention program. The meeting will assist the family to understand the changes that occur around the child's third birthday. _____ (child's name) was born on _____ (mm/dd/yy) and will turn three and exit the IDEA Part C program in approximately 90 days or longer.

(His or Her) parents (or guardians) are _____.
They reside at _____.

_____ is a person acting in the place of a parent (grandparent, stepparent with whom the child lives, or a person who is legally responsible for the child's welfare) who resides at _____.

The child is a ward of the state and the foster parents are:
_____ and they reside at _____.

The foster parents have been appointed or are interested in appointment as surrogate parents. Yes No

The meeting will be held at _____ (time) on _____ (date) at _____ (location). Attending the meeting will be _____ (parent), myself, and _____ (others). Please bring your district's forms to this IFSP meeting:

- Referral* to discuss and, should the parent choose to do so, start the referral;
- Evaluation Plan* so that we can plan an assessment based on information our agency has and what your school will need to collect for the Child Study Team meeting;
- Parental Rights in Special Education* to accompany the *Evaluation Plan* and assist the family to understand differences between IDEA Parts B and C; and
- Release of Records* form so our agency can send you the child's records.

If I can provide further information or if your schedule conflicts with the meeting date, please call me at _____ (phone #)
_____ (Family Support Specialist) _____ (Date)



Linda McCulloch, Superintendent
Office of Public Instruction
PO Box 202501
Helena, MT 59620-2501
www.opi.state.mt.us

Referral for Comprehensive Educational Evaluation

STUDENT INFORMATION

Student's Name: _____ Initials: _____ Birthdate: _____ Age: _____ Sex: _____ Grade: _____ Today's Date: _____

Parent/Guardian Name: _____ Parent/Guardian Address: _____ Home Phone: _____

Work Phone: _____

Primary language of the student's home: _____ School District: _____ School: _____

English Other _____

Teacher: _____

CURRENT EDUCATION PROGRAM

General Education

Early Intervention Services

Head Start

Title I for _____

School Counseling

Private School

Limited English Proficiency

Gifted/Talented Program

None

Other _____

IDEA PART C EARLY INTERVENTION (IF STUDENT RECEIVES OR HAS RECEIVED PART C SERVICES)

Date School Staff Met with Family: _____

School Staff Attending: _____

Agency: _____ Family Support Specialist: _____

Results: _____

PRESCHOOL SCREENING INFORMATION (FOR STUDENTS AGES 3-6 ONLY)

Test Date: _____ Test Name: _____ School: _____

Results: _____

STUDENT PERFORMANCE ON STANDARDIZED GROUP ACHIEVEMENT TESTS:

Test Date: _____ Test Name: _____ School: _____

Results: _____

STUDENT CLASSROOM PERFORMANCE SUMMARY

Yes No

- Student receives passing grades in all subject areas. If no, the student is currently failing in subject areas: _____
- Student has been retained. If yes, student was retained in grade(s): _____
- Student has received disciplinary action for inappropriate behavior. If yes, please explain or attach record: _____
- Student's absences have affected classroom performance. If yes, please explain. _____

GENERAL EDUCATION/OTHER INTERVENTIONS

Dates	Implemented By	Intervention	Results of Intervention

SPECIFIC REASONS FOR REFERRAL FOR EVALUATION

Why is the student being referred for a comprehensive educational evaluation?

The student may have a disability which adversely affects the student's educational performance to the degree which requires special education and related services. The areas of concern that need further evaluation are:

- Academic Assistive Technology/Services Behavioral Communication
- Developmental Limited English Proficiency Physical Psychological
- Social/Emotional Other: _____

Signature of person making referral: _____ Date: _____



Linda McCulloch, Superintendent
Office of Public Instruction
PO Box 202501
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www.opi.state.mt.us

EVALUATION PLAN NOTICE OF INTENT TO CONDUCT AN EVALUATION OR REEVALUATION AND PERMISSION FOR EVALUATION OR REEVALUATION

TO: _____
(Parent/Guardian/Surrogate/Adult Student)

_____/_____/_____
(Name of Student) Date of Birth

Has been referred for comprehensive evaluation for the following reasons:

The tests and other evaluation procedures to be used to assess your child are marked below:

ACADEMIC ACHIEVEMENT: Individually administered diagnostic tests in reading, language, math and written language to determine skills in the above areas.

ASSISTIVE TECHNOLOGY/SERVICES: Needs for assistive devices and services in order to benefit from special education services.

BEHAVIORAL: Assessment and/or observations to identify supports and strategies to address behavioral needs.

CLASSROOM-BASED ASSESSMENT*: Involvement and progress in general education curriculum: (i.e., reading, math, etc.).

COMMUNICATION: Individual tests of speech and/or receptive and expressive language skills.

*Required

DEVELOPMENTAL: Individually administered tests and/or structured observations of preschool-age students or others as appropriate.

ENGLISH PROFICIENCY: Assessments measuring English proficiency as it relates to educational needs.

FUNCTIONAL BEHAVIOR ASSESSMENT: Assessment and/or observations to identify supports and strategies to address behavioral needs.

OBSERVATIONS*:

PHYSICAL: Visual and hearing acuity; gross and fine motor development; orientation/mobility; blindness/visual impairment (need for Braille instruction).

PSYCHOLOGICAL: Individually administered intelligence tests and measures of adaptive behavior designed to help determine the student's ability to function in an academic setting.

SOCIAL/EMOTIONAL: Checklists, tests and observations to determine social skills and emotional status of the student.

TRANSITION NEEDS: Needs in terms of major changes in instruction, learning environment or learning objectives.

OTHER: (specify) _____

If you have any questions about your rights, or any part of the Special Education process, please contact your school administrator or cooperative personnel. Please respond to this request for Permission for Evaluation as soon as possible.

I understand the reason(s) for the evaluation and the description of the tests and other evaluation procedures and have checked the appropriate box below. I have received the pamphlet **PARENTAL RIGHTS IN SPECIAL EDUCATION**.

Permission is **given** to conduct the evaluation. _____
Parent/Surrogate/Guardian/Adult Student Date

Permission is **denied**. _____
Parent/Surrogate/Guardian/Adult Student Date

School Contact Phone Number Date Sent



Linda McCulloch, Superintendent
Office of Public Instruction
PO Box 202501
Helena, MT 59620-2501
www.opi.state.mt.us

Review of Existing Evaluation Data

Student's Name	Initials	Birthdate	Today's Date	Next 3-year Comprehensive Reevaluation Due
Parent/Guardian Name	IEP Manager (Contact for parent) and Phone Number		School	

The purpose of the review of existing evaluation data is to identify what, if any, additional data are needed to determine:

- Whether the student has or continues to have a disability;
- The present levels of performance and educational needs of the student;
- Whether the child needs or continues to need special education and related services; and
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the Individualized Education Program of the child and to participate, as appropriate, in the general curriculum.

The following **existing evaluation data** were reviewed:

- Current Classroom-Based Assessments and Observations
- Teacher and Related Services Providers' Observations
- Evaluations and Information provided by the parents of the student
- Other: _____
- Other: _____

Based on the review of the existing evaluation data, the IEP Team and other qualified professionals have determined that:

- Additional data are not needed to determine whether the student continues to be a student with a disability. Reason for determination: _____

As the parent, you have the right to request an assessment to determine whether your child continues to be a student with a disability. The school district shall not be required to conduct such an assessment unless requested by the child's parents.

- Additional data are needed to determine whether the student continues to be a student with a disability. Additional data is needed for the following reason(s):

The IEP Team may conduct the Review of Existing Evaluation Data without a meeting.

The following persons, as indicated by their signatures, have participated in the Review of Existing Evaluation Data.

Parent/Guardian/Surrogate	Date	School Psychologist	Date
Parent/Guardian/Surrogate	Date	Speech/Language Pathologist	Date
Student	Date	Signature/Position	Date
Administrator or Designee	Date	Signature/Position	Date
Regular Education Teacher	Date	Signature /Position	Date
Special Education Teacher	Date		

Appendix C: Selected Federal Part B Regulations

The IDEA Part B regulations govern special education for children aged 3 through 21 years. All IDEA Part B regulations begin with **300**, while the Part C regulations begin with **303**.

CFR 300.7 Child With a Disability

[Part B Regulation]

(a) General. (1) As used in this part, the term child with a disability means a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (2) (i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.530-300.536, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part. (ii) If, consistent with §300.26(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(b) Children aged 3 through 9 experiencing developmental delays. The term child with a disability for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, include a child- (1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (2) Who, by reason thereof, needs special education and related services.

(c) Definitions of disability terms. The terms used in this definition are defined as follows:

(1) (i) **Autism** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements,

resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (b)(4) of this section. (ii) A child who manifests the characteristics of "autism" after age 3 could be diagnosed as having "autism" if the criteria in paragraph (c)(1)(i) of this section are satisfied.

(2) **Deaf-blindness** means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(3) **Deafness** means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

(4) **Emotional disturbance** is defined as follows: (i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors. (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. (C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems. (ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(5) **Hearing impairment** means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

(6) **Mental retardation** means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(7) **Multiple disabilities** means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

(8) **Orthopedic impairment** means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) **Other health impairment** means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited

alertness with respect to the educational environment, that- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and (ii) Adversely affects a child's educational performance.

(10) **Specific learning disability** is defined as follows: (i) General. The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (ii) Disorders not included. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(12) **Traumatic brain injury** means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(13) **Visual impairment** including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

CFR 300.13 Free Appropriate Public Education

[Part B Regulation]

As used in this part, the term free appropriate public education or FAPE means special education and related services that-

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the SEA, including the requirements of this part;

(c) Include preschool, elementary school, or secondary school education in the State; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.340-300.350.

CFR 300.24 Related Services

[Part B Regulation]

(a) **General.** As used in this part, the term **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, 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. The term also includes school health services, social work services in schools, and parent counseling and training.

(b) Individual terms defined. The terms used in this definition are defined as follows:

(1) **Audiology** includes- (i) Identification of children with hearing loss; (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; (iv) Creation and administration of programs for prevention of hearing loss; (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) **Counseling services** means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) **Early identification and assessment of disabilities in children** means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) **Medical services** means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(5) **Occupational therapy-**

(i) Means services provided by a qualified occupational therapist; and (ii) includes- (A) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and (C) Preventing, through early intervention, initial or further impairment or loss of function.

(6) **Orientation and mobility services-** (i) Means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home,

and community; and (ii) Includes teaching students the following, as appropriate: (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street); (B) To use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; (C) To understand and use remaining vision and distance low vision aids; and (D) Other concepts, techniques, and tools.

(7) **Parent counseling and training** means- (i) Assisting parents in understanding the special needs of their child; (ii) Providing parents with information about child development; and (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(8) **Physical therapy** means services provided by a qualified physical therapist.

(9) **Psychological services** includes- (i) Administering psychological and educational tests, and other assessment procedures; (ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; (iv) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and (vi) Assisting in developing positive behavioral intervention strategies.

(10) **Recreation** includes- (i) Assessment of leisure function; (ii) Therapeutic recreation services; (iii) Recreation programs in schools and community agencies; and (iv) Leisure education.

(11) **Rehabilitation counseling services** means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

(12) **School health services** means services provided by a qualified school nurse or other qualified person.

(13) **Social work services in schools** includes- (i) Preparing a social or developmental history on a child with a disability; (ii) Group and individual counseling with the child and family; (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and (v) Assisting in developing positive behavioral intervention strategies.

(14) **Speech-language pathology services** includes- (i) Identification of children with speech or language impairments; (ii) Diagnosis and appraisal of specific speech or language impairments; (iii) Referral for medical or other professional attention neces-

sary for the habilitation of speech or language impairments; (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(15) **Transportation** includes- (i) Travel to and from school and between schools; (ii) Travel in and around school buildings; and (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

CFR 300.26 Special Education

[Part B Regulation]

(a) General. (1) As used in this part, the term special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including- (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education. (2) The term includes each of the following, if it meets the requirements of paragraph (a)(1) of this section: (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education.

(b) Individual terms defined. The terms in this definition are defined as follows:

(1) **At no cost** means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) **Physical education**- (i) Means the development of- (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and (ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) **Specially-designed instruction** means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction- (i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(4) **Travel training** means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to- (i) Develop an awareness of the environment in which they live; and (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(5) **Vocational education** means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

CFR 300.121 (c) Free Appropriate Public Education (FAPE) (Reads in Part)

[Part B Regulation]

... (c) FAPE for children beginning at age 3. (1) Each State shall ensure that- (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with §300.342(c). (2) If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin.

CFR 300.125 Child Find

[Part B Regulation]

(a) General requirement. (1) The State must have in effect policies and procedures to ensure that- (i) All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. (2) The requirements of paragraph (a)(1) of this section apply to- (i) Highly mobile children with disabilities (such as migrant and homeless children); and (ii) Children who are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade.

(b) Documents relating to child find. The State must have on file with the Secretary the policies and procedures described in paragraph (a) of this section, including- (1) The name of the State agency (if other than the SEA) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section; (2) The name of each agency that participates in the planning and implementation of the child find activities and a description of the nature and extent of its participation; (3) A description of how the policies and procedures under paragraph (a) of this section will be monitored to ensure that the SEA obtains- (i) The number of children with disabilities within each disability category that have been identified, located, and evaluated; and (ii) Information adequate to evaluate the effectiveness of those policies and procedures; and (4) A description of the method the State uses to determine which children are currently receiving special education and related services.

(c) Child find for children from birth through age 2 when the SEA and lead agency

for the Part C program are different. (1) In States where the SEA and the State's lead agency for the Part C program are different and the Part C lead agency will be participating in the child find activities described in paragraph (a) of this section, a description of the nature and extent of the Part C lead agency's participation must be included under paragraph (b)(2) of this section. (2) With the SEA's agreement, the Part C lead agency's participation may include the actual implementation of child find activities for infants and toddlers with disabilities. (3) The use of an interagency agreement or other mechanism for providing for the Part C lead agency's participation does not alter or diminish the responsibility of the SEA to ensure compliance with the requirements of this section.

(d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability listed in §300.7 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(e) Confidentiality of child find data. The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements of §§300.560-300.577.

CFR 300.309 Extended School Year Services

[Part B Regulation]

(a) General. (1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section. (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not- (i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this section, the term extended school year services means special education and related services that- (1) Are provided to a child with a disability- (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.

CFR 300.451 Child Find for Private School Children With Disabilities

[Part B Regulation]

(a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA,

in accordance with §§300.125 and 300.220. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

(b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

CFR 300.503 Prior Notice by the Public Agency; Content of Notice (Reads in Part)

[Part B Regulation]

(a) Notice. (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency— (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) Content of notice. The notice required under paragraph (a) of this section must include— (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of any other options that the agency considered and the reasons why those options were rejected; (4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action; (5) A description of any other factors that are relevant to the agency's proposal or refusal; (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

CFR 300.504 Procedural Safeguards Notice (Reads in Part)

[Part B Regulation]

(a) **General.** A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum— (1) Upon initial referral for evaluation; (2) Upon each notification of an IEP meeting; (3) Upon reevaluation of the child; and (4) Upon receipt of a request for due process under §300.507. ...

CFR 300.505 Parental Consent (Reads in Part)

[Part B Regulation]

... (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before— (i) Conducting an initial evaluation or reevaluation; and (ii) Initial provision of special education and related services to a child with a disability. (2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section. (3) Parental consent is not required before— (i) Reviewing existing data as part of an evaluation or a reevaluation; or (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(b) Refusal. If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) Failure to respond to request for reevaluation. (1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. (2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in §300.345(d).

(e) Limitation. A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

CFR 300.531 Initial Evaluation

[Part B Regulation]

Each public agency shall conduct a full and individual initial evaluation, in accordance with §§300.532 and 300.533, before the initial provision of special education and related services to a child with a disability under Part B of the Act.

CFR 300.532 Evaluation Procedures

[Part B Regulation]

Each public agency shall ensure, at a minimum, that the following requirements are met:

(a) (1) Tests and other evaluation materials used to assess a child under Part B of the Act- (i) Are selected and administered so as not to be discriminatory on a racial or

cultural basis; and (ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and (2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining-

- (1) Whether the child is a child with a disability under §300.7; and
- (2) The content of the child's IEP.

(c) (1) Any standardized tests that are given to a child-

- (i) Have been validated for the specific purpose for which they are used; and
- (ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

(2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(i) The public agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

CFR 300.533 Determination of Needed Evaluation Data

[Part B Regulation]

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals described in §300.344, and other qualified professionals, as appropriate, shall - (1) Review existing evaluation data on the child, including- (i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based assessments and observations; and (iii) Observations by teachers and related services providers; and (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine - (i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability; (ii) The present levels of performance and educational needs of the child; (iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) Need for additional data. The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(d) Requirements if additional data are not needed. (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents- (i) Of that determination and the reasons for it; and (ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability. (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

CFR 300.534 Determination of Eligibility

[Part B Regulation]

(a) Upon completing the administration of tests and other evaluation materials - (1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and (2) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(b) A child may not be determined to be eligible under this part if- (1) The determinant factor for that eligibility determination is- (i) Lack of instruction in reading or math; or (ii) Limited English proficiency ; and (2) The child does not otherwise meet the eligibility criteria under §300.7(a).

(c)(1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability. (2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

CFR 300.535 Procedures for Determining Eligibility and Placement

[Part B Regulation]

(a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and (2) Ensure that information obtained from all of these sources is documented and carefully considered.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340-300.350.

CFR 300.536 Reevaluation

[Part B Regulation]

Each public agency shall ensure-

(a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and

(b) That a reevaluation of each child, in accordance with §§300.532-300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

Appendix D: Selected Federal Part C Regulations

The IDEA Part C regulations govern early intervention services for infants and toddlers aged birth through 2 years. The IDEA Part C regulations begin with **303**.

CFR 303.148 Transition to Preschool Programs

[Part C Regulation]

Each application must include a description of the policies and procedures to be used to ensure a smooth transition for children receiving early intervention services under this part to preschool or other appropriate services, including—

(a) A description of how the families will be included in the transition plans;

(b) A description of how the lead agency under this part will— (1) Notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with State law; (2) (i) In the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days, and at the discretion of the parties, up to 6 months, before the child is eligible for the preschool services, to discuss any services that the child may receive; or (ii) In the case of a child who may not be eligible for preschool services under Part B of the Act, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive; (3) Review the child's program options for the period from the child's third birthday through the remainder of the school year; and (4) Establish a transition plan; and

(c) If the State educational agency, which is responsible for administering preschool programs under part B of the Act, is not the lead agency under this part, an interagency agreement between the two agencies to ensure coordination on transition matters.

CFR 303.321 Comprehensive Child Find System

[Part C regulation]

(a) General. (1) Each system must include a comprehensive child find system that is consistent with Part B of the Act (see 34 CFR 300.128), and meets the requirements of paragraphs (b) through (e) of this section. (2) The lead agency, with the advice and assistance of the Council, shall be responsible for implementing the child find system.

(b) Procedures. The child find system must include the policies and procedures that the State will follow to ensure that— (1) All infants and toddlers in the State who are eligible for services under this part are identified, located, and evaluated; and (2) An effective method is developed and implemented to determine which children are receiving needed early intervention services.

(c) Coordination. (1) The lead agency, with the assistance of the Council, shall ensure that the child find system under this part is coordinated with all other major efforts to locate and identify children conducted by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, tribes and tribal organizations that receive payments under this part, and other tribes and tribal organizations as appropriate, including efforts in the— (i) Program authorized under Part B of the Act; (ii) Maternal and Child Health program under Title V of the Social Security Act; (iii) Early Periodic Screening, Diagnosis and Treatment (EPSDT) program under Title XIX of the Social Security Act; (iv) Developmental Disabilities Assistance and Bill of Rights Act; (v) Head Start Act; and (vi) Supplemental Security Income program under Title XVI of the Social Security Act. (2) The lead agency, with the advice and assistance of the Council, shall take steps to ensure that— (i) There will not be unnecessary duplication of effort by the various agencies involved in the State's child find system under this part; and (ii) The State will make use of the resources available through each public agency in the State to implement the child find system in an effective manner.

(d) Referral procedures. (1) The child find system must include procedures for use by primary referral sources for referring a child to the appropriate public agency within the system for— (i) Evaluation and assessment, in accordance with Secs. 303.322 and 303.323; or (ii) As appropriate, the provision of services, in accordance with Sec. 303.342(a) or Sec. 303.345. (2) The procedures required in paragraph (b)(1) of this section must— (i) Provide for an effective method of making referrals by primary referral sources; (ii) Ensure that referrals are made no more than two working days after a child has been identified; and (iii) Include procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate the information, as described in Sec. 303.320, prepared by the lead agency on the availability of early intervention services to parents of infants and toddlers with disabilities. (3) As used in paragraph (d)(1) of this section, primary referral sources includes— (i) Hospitals, including prenatal and postnatal care facilities; (ii) Physicians; (iii) Parents; (iv) Day care programs; (v) Local educational agencies; (vi) Public health facilities; (vii) Other social service agencies; and (viii) Other health care providers.

(e) Timelines for public agencies to act on referrals. (1) Once the public agency receives a referral, it shall appoint a service coordinator as soon as possible. (2) Within 45 days after it receives a referral, the public agency shall— (i) Complete the evaluation and assessment activities in Sec. 303.322; and (ii) Hold an IFSP meeting, in accordance with Sec. 303.342.

Note: In developing the child find system under this part, States should consider (1) tracking systems based on high-risk conditions at birth, and (2) other activities that are being conducted by various agencies or organizations in the State.

CFR 303.342 Procedures for IFSP Development, Review, and Evaluation

[Part C Regulation]

(a) Meeting to develop initial IFSP—timelines. For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial IFSP must be conducted within the 45-day time period in Sec. 303.321(e).

(b) Periodic review. (1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine— (i) The degree to which progress toward achieving the outcomes is being made; and (ii) Whether modification or revision of the outcomes or services is necessary. (2) The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

(c) Annual meeting to evaluate the IFSP. A meeting must be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family, and, as appropriate, to revise its provisions. The results of any current evaluations conducted under Sec. 303.322(c), and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

(d) Accessibility and convenience of meetings. (1) IFSP meetings must be conducted— (i) In settings and at times that are convenient to families; and (ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. (2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(e) Parental consent. The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service or withdraw consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

CFR 303-343 Participants in IFSP Meetings and Periodic Reviews

[Part C Regulation]

(a) Initial and annual IFSP meetings. (1) Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants: (i) The parent or parents of the child; (ii) Other family members, as requested by the parent, if feasible to do so; (iii) An advocate or person outside of the family, if the parent requests that the person participate; (iv) The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP; (v) A person or persons directly involved in conducting the evaluations and assessments in Sec. 303.322; (vi) As appropriate, persons who will be providing services to the child or family. (2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including— (i) Participating in a telephone conference call; (ii) Having a knowledgeable authorized representative attend the meeting; or (iii) Making pertinent records available at the meeting.

(b) Periodic review. Each periodic review must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section.

CFR 303.344 Content of an IFSP

[Part C Regulation]

(a) Information about the child's status. (1) The IFSP must include a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development. (2) The statement in paragraph (a)(1) of this section must be based on professionally acceptable objective criteria.

(b) Family information. With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child.

(c) Outcomes. The IFSP must include a statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timelines used to determine— (1) The degree to which progress toward achieving the outcomes is being made; and (2) Whether modifications or revisions of the outcomes or services are necessary.

(d) Early intervention services. (1) The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in paragraph (c) of this section, including— (i)

The frequency, intensity, and method of delivering the services; (ii) The natural environments, as described in Sec. 303.12(b), and Sec. 303.18 in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment; (iii) The location of the services; and (iv) The payment arrangements, if any. (2) As used in paragraph (d)(1)(i) of this section— (i) Frequency and intensity mean the number of days or sessions that a service will be provided, the length of time the service is provided during each session, and whether the service is provided on an individual or group basis; and (ii) Method means how a service is provided. (3) As used in paragraph (d)(1)(iii) of this section, location means the actual place or places where a service will be provided.

(e) Other services. (1) To the extent appropriate, the IFSP must include— (i) Medical and other services that the child needs, but that are not required under this part; and (ii) The funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources. (2) The requirement in paragraph (e)(1) of this section does not apply to routine medical services (e.g., immunizations and “well-baby” care), unless a child needs those services and the services are not otherwise available or being provided.

(f) Dates; duration of services. The IFSP must include— (1) The projected dates for initiation of the services in paragraph (d)(1) of this section as soon as possible after the IFSP meetings described in Sec. 303.342; and (2) The anticipated duration of those services.

(g) Service coordinator. (1) The IFSP must include the name of the service coordinator from the profession most immediately relevant to the child’s or family’s needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the IFSP and coordination with other agencies and persons. (2) In meeting the requirements in paragraph (g)(1) of this section, the public agency may— (i) Assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation to be responsible for implementing a child’s and family’s IFSP; or (ii) Appoint a new service coordinator. (3) As used in paragraph (g)(1) of this section, the term profession includes “service coordination.”

(h) Transition from Part C services. (1) The IFSP must include the steps to be taken to support the transition of the child, in accordance with Sec. 303.148, to— (i) Preschool services under Part B of the Act, to the extent that those services are appropriate; or (ii) Other services that may be available, if appropriate. (2) The steps required in paragraph (h)(1) of this section include— (i) Discussions with, and training of, parents regarding future placements and other matters related to the child’s transition; (ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; and (iii) With parental consent, the transmission of information about the child to the public school, to ensure continuity of services, including evaluation and assessment information required in Sec. 303.322, and copies of IFSPs that have been developed and implemented in accordance with Secs. 303.340 through 303.346.

Note 1: With respect to the requirements in paragraph (d) of this section, the appropriate location of services for some infants and toddlers might be a hospital setting—during the period in which they require extensive medical intervention. However, for these and other eligible children, early intervention services must be provided in natural environments (e.g., the home, child care centers, or other community settings) to the maximum extent appropriate to the needs of the child.

Note 2: Throughout the process of developing and implementing IFSPs for an eligible child and the child's family, it is important for agencies to recognize the variety of roles that family members play in enhancing the child's development. It also is important that the degree to which the needs of the family are addressed in the IFSP process is determined in a collaborative manner with the full agreement and participation of the parents of the child. Parents retain the ultimate decision in determining whether they, their child, or other family members will accept or decline services under this part.

Note 3: The early intervention services in paragraph (d) of this section are those services that a state is required to provide to a child in accordance with Sec. 303.12. The "other services" in paragraph (e) of this section are services that a child or family needs, but that are neither required nor covered under this part. While listing the non-required services in the IFSP does not mean that those services must be provided, their identification can be helpful to both the child's family and the service coordinator for the following reasons: First, the IFSP would provide a comprehensive picture of the child's total service needs (including the need for medical and health services, as well as early intervention services). Second, it is appropriate for the service coordinator to assist the family in securing the non-required services (e.g., by (1) determining if there is a public agency that could provide financial assistance, if needed, (2) assisting in the preparation of eligibility claims or insurance claims, if needed, and (3) assisting the family in seeking out and arranging for the child to receive the needed medical-health services).

Thus, to the extent appropriate, it is important for a state's procedures under this part to provide for ensuring that other needs of the child and of the family, related to enhancing the development of the child, such as medical and health needs, are considered and addressed, including determining (1) who will provide each service, and when, where, and how it will be provided, and (2) how the service will be paid for (e.g., through private insurance, an existing federal-state funding source, such as Medicaid or EPSDT, or some other funding arrangement).

Note 4: Although the IFSP must include information about each of the items in paragraphs (b) through (h) of this section, this does not mean that the IFSP must be a detailed, lengthy document. It might be a brief outline, with appropriate attachments that address each of the points in the paragraphs under this section. It is important for the IFSP itself to be clear about (a) what services are to be provided, (b) the actions that are to be taken by the service coordinator in initiating those services, and (c) what actions will be taken by the parents.

Appendix E: Selected Montana Regulations

Montana's special education regulations clarify or add to federal regulations. Pertinent regulations governing the special education process are appended. No Montana regulations governing early intervention services or developmental disabilities services for older children are included in this manual.

ARM 10.16.3122 LEA Responsibility for Students With Disabilities

[MT Regulation]

(1) The local educational agency in which a student with disabilities resides is responsible for ensuring the student with disabilities, age 3 through 18, beginning on the student's third birthday, including students with disabilities who have been suspended or expelled from school, has available a free appropriate public education in accordance with the Individuals with Disabilities Education Act (IDEA) (20 U.S.C., sections 1401 through 1485) and its implementing regulations (34 CFR, part 300), the Montana statutes pertaining to special education (Title 20, chapter 7, part 4, MCA) and the administrative rules promulgated by the superintendent of public instruction governing special education (ARM Title 10, chapter 16). If the student's third birthday occurs in the summer, the individualized education program (IEP) team shall decide whether the student is to receive extended school year services during the summer. The local educational agency shall participate in transition planning conferences arranged by the early intervention provider agency.

(2) When the local educational agency provides education to students ages 19, 20 or 21, students of the same age with disabilities will be provided a free appropriate public education in accordance with IDEA.

(3) Students with disabilities unilaterally placed in private schools by their parents when a free appropriate public education is not an issue will be provided services as required by 34 CFR 300.450 through 300.462. (a) The local educational agency in which the private school is located shall be responsible for child find activities, through referral, for students attending the private school. (b) The local educational agency in which the private school is located shall refer each student identified under (3)(a) to the local educational agency in which the student resides. (c) The local educational agency in which the student resides shall follow the procedures established in ARM 10.16.3320(1)(c) or (2) for each referred private school student. (d) If the student is qualified for special education services, the local educational agency in which the student resides shall consult with the private school officials and develop a service agreement in accordance with 34 CFR 300.454 through 300.456. (e) Each private school student with disabilities who

has been designated to receive services under 34 CFR 300.452 must have a services plan that describes the specific special education and related services that the local educational agency in which the student resides will provide to the student in light of the services that the local educational agency has determined, through the process described in 34 CFR 300.453 through 300.454, it will make available to private school students with disabilities.

ARM 10.16.3125 LEA Child Find Responsibilities

[MT Regulation]

(1) Each local educational agency shall establish procedures to ensure that all students with disabilities living within the boundaries of the local educational agency regardless of the severity of their disability are identified, located, and evaluated including a practical method to determine which students are currently receiving needed special education and related services. If the student is parentally enrolled in a private school outside the boundaries of the local educational agency in which the student is living, the local educational agency where the private school is located is responsible for child find activities through referral.

(a) The procedures shall include a method to screen and develop criteria for further assessment for children between the ages of birth to 21 including all children in public and private agencies operated within the local educational agency legal boundaries.

(b) The written procedures shall describe the methods for collecting, maintaining, and reporting current and accurate data on all student identification activities. At a minimum, the procedures must:

(i) name the title of the person responsible for the coordination, implementation, and documentation of the procedures;

(ii) describe student identification activities including audiological, health, speech/language and visual screening, and review of data or records for students who have been or are being considered for retention, delayed admittance, long term suspension or expulsion, or waiver of learner outcomes (accreditation standards);

(iii) describe the role and responsibilities, if any, of other public or private agencies; and

(iv) ensure the collection and use of data are in accordance with the confidentiality requirements of 34 CFR 300.560 through 300.577.

(2) Before any major identification, location, or evaluation activity, the local educational agency must provide parents with written notice of the policies and procedures it implements to ensure protection of the confidentiality of any personally identifiable information collected, used, or maintained under Part B of IDEA. The notice must comply with the requirements of 34 CFR 300.561 and be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the local educational agency boundaries of the activity.

ARM 10.16.3129 Parental Involvement

[MT Regulation]

(1) Each local educational or public agency shall afford parents the opportunity to participate in the child study team process and individualized education program meetings.

(2) No parent of a student receiving special education and related services will be required to perform duties not required of any other parent of a student enrolled in the local educational agency.

ARM 10.16.3132 Interagency Coordination for Part C, IDEA

[MT Regulation]

(1) The office of public instruction shall develop and implement interagency agreements with the department of public health and human services for the purpose of coordinating on transition matters between Part C and Part B of IDEA.

(2) The agreement shall include policies and procedures relating to a smooth and effective transition for those children participating in the early intervention program under Part C of IDEA who will participate in preschool programs assisted under Part B of IDEA, including: (a) determining financial responsibilities of agencies; (b) identifying responsibilities for performing evaluations; (c) developing and implementing educational programs; (d) coordinating communication between agencies; (e) participating in transition planning conferences; and (f) ensuring an individualized education program has been developed and implemented by the student's third birthday.

ARM 10.16.3320 Referral

[MT Regulation]

(1) A local educational agency shall establish a referral process which includes a method for collecting information to determine whether comprehensive educational evaluation is necessary and the types of evaluations warranted. (a) The referral must include a statement of the reasons for referral, including documentation of general education interventions, and the signature of the person making the referral. (b) Referral shall document the suspicion that the student may have a disability which adversely affects the student's educational performance to the degree which requires special education and related services. (c) If a comprehensive educational evaluation in accordance with 34 CFR 300.531 through 300.536 is warranted, the local educational agency shall obtain consent of the parent before conducting a comprehensive educational evaluation.

(2) If, after receiving a referral, a child study team determines that a comprehensive evaluation is not necessary, the local educational agency shall notify the parent in writing of its decision, including a description of any options the local educational agency considered and the reasons why those options were rejected and a full explanation of all of the procedural safeguards available under 34 CFR 300.500 through 300.529.

ARM 10.16.3321 Comprehensive Educational Evaluation Process

[MT Regulation]

(1) Before initial provision of special education and related services, a comprehensive and individualized evaluation of the student's educational needs shall be conducted in accordance with the requirements of 34 CFR 300.531 through 300.543.

(2) For initial evaluations, the child study team report shall address: (a) The results of assessments in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; and (b) The data necessary to address criteria established in ARM 10.16.3010 through 10.16.3022.

(3) For all initial evaluations and re-evaluations, the child study team report shall address a review of existing evaluation data on the student, including: (a) Evaluations and information provided by the parents of the student; (b) Current classroom-based assessments and observations which include the student's involvement and progress in the general curriculum; and (c) Observations by teachers and related services providers.

(4) The child study team shall determine whether the evaluation is adequate and whether the student has a disability which adversely affects the student's involvement and progress in the general curriculum and because of that disability needs special education.

(5) The child study team shall prepare a written report of the results of the evaluation. The report shall include the results of assessments and shall include statements of implications for educational planning in terms understandable to all team members.

(6) All child study team reports shall include a summary statement of the basis for making the determination whether the student has a disability and needs special education and related services.

(7) All child study team reports will identify a disability category or categories for each student with a disability consistent with 20-7-401, MCA. This identification of a disability category is for the purposes of data reports required by the office of public instruction.

(8) Each participant of the child study team shall be provided an opportunity to

submit a separate statement of conclusions if the report does not reflect the conclusions of the participant.

(9) A copy of the report shall be provided to the parent.

ARM 10.16.3322 Composition of a Child Study Team

[MT Regulation]

(1) The child study team is a group of individuals that determines whether a student with disabilities is eligible for special education and related services. The child study team includes the following members: (a) The parents of the student; (b) At least one general education teacher of the student if the student is or may be participating in the general education environment; (c) At least one special education teacher or, if appropriate, at least one special education provider; (d) An administrative representative or designee of the local educational agency who: (i) is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities; (ii) is knowledgeable about the general curriculum; and (iii) is knowledgeable about the availability of resources; (e) At least one teacher or other specialist with knowledge in the area of suspected disability who can interpret the instructional implications of evaluation results. This individual may be a member of the team described in (1)(a) through (f). For specific disabilities, the following specialists or teachers are required for initial evaluation: (i) emotional disturbance, traumatic brain injury, specific learning disability or cognitive delay - a school psychologist; (ii) speech-language impairment, deaf/blindness, traumatic brain injury - a speech-language pathologist; (iii) autism - a school psychologist and speech-language pathologist; and (iv) deafness or hearing impairment - a speech-language pathologist or audiologist; (f) At the discretion of the parent or the local educational agency, other individuals who have knowledge or special expertise regarding the student; and (g) The student, when appropriate.

(2) The local educational agency shall invite other specialists when such specialists are needed to complete a comprehensive evaluation.

ARM 10.55.805 Special Education

[MT Regulation]

(1) Each school shall comply with all federal and state laws and regulations addressing special education.

(2) Each school shall use the Montana Special Education Reference Manual as guidance for administering special education programs.

(3) Each school shall provide structured support and assistance to regular education teachers in identifying and meeting diverse student needs, and shall provide a framework for considering a full range of alternatives for addressing student needs.

(4) Each school shall be responsible for the following: (a) students with disabilities shall be given opportunities to become confident, dignified, and self-sufficient members of society; (b) to the maximum extent possible, and when appropriate, students with disabilities are educated with students without disabilities in the district in which they live; (c) a student shall receive special education only when documentation shows that the student cannot be appropriately educated in the regular program; (d) a current individualized education program is prepared for each student receiving special education.

(5) Each school district with middle, junior high, 7th and 8th grade budgeted at high school rates or high school(s) shall require the development and use of processes to waive specific learner goals based on individual student needs, performance levels, age, maturity, and assessment of ability. Goals which are viewed as the result of this process must be identified on a student's individualized education program.

(6) A student who has successfully completed the goals identified on an individualized education program shall be awarded a diploma.

Technical Assistance guides are developed by the Division of Special Education to provide guidance to schools, parents, advocates and others regarding eligibility for and the implementation of special education and services to students with disabilities under the Individuals with Disabilities Education Act, the Administrative Rules of Montana, and Montana statutes.

This document contains recommended practices and procedures that may enhance the services to children and youth with disabilities. All policy statements regarding the delivery of special education and related services are contained in the current *Montana State Plan Under the Individuals with Disabilities Education Act*.