

**Billings School District 2**

**INSTRUCTION**

Special Education Procedure

The Superintendent shall place the annual application on the agenda of a regular meeting of the Board, for action prior to submission to the state educational agency for final approval.

Child Find

The District shall be responsible for the coordination and management of locating, identifying, and evaluating all disabled children ages zero (-0-) through twenty-one (21). Appropriate staff will design the District's Child Find plan in compliance with all state and federal requirements and with assistance from special education personnel who are delegated responsibility for implementing the plan.

The District's plan will contain procedures for identifying suspected disabled students in private schools, as identified in 34 C.F.R. § 300.130, students who are home schooled, homeless children, as well as public facilities located within the geographic boundaries of the District. These procedures shall include screening and development criteria for further assessment. The plan must include locating, identifying, and evaluating highly mobile children with disabilities and children who are suspected of being a child with a disability and in need of special education, even though the child is and has been advancing from grade to grade. The District's Child Find Plan will conform to the requirements of the applicable Montana regulation (A.R.M. 10.16.3125) including:

1. Procedures used to annually inform the public of all child find activities, for children zero through twenty-one;
2. Identification of the title of the person responsible for the coordination, implementation, and documentation of the child find procedures.
3. Procedures used for collecting, maintaining, and reporting data on child identification;
4. Description of 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, waiver of learner outcomes (accreditation standards), regular education intervention and progress monitoring procedures and procedures for identification of children who are suspected of being a child with a disability even though they are advancing from grade to grade, in each of the following age groups:

- A. Infants and Toddlers (Birth through Age 2)  
Procedures for referral of infants and toddlers to the appropriate early intervention agency, or procedures for conducting child find.
  - B. Preschool (Ages 3 through 5)  
Part C Transition planning conferences; frequency and location of screenings; coordination with other agencies; follow-up procedures for referral and evaluation; and procedures for responding to individual referrals.
  - C. In-School (Ages 6 through 18)  
Referral procedures, including teacher assistance teams, parent referrals, and referrals from other sources; and follow-up procedures for referral and evaluation.
  - D. Post-School (Ages 19 through 21)  
Individuals who have not graduated from high school with a regular diploma and who were not previously identified. Describe coordination efforts with other agencies.
  - E. Private Schools (This includes home schools.)  
Child find procedures addressing the provisions of 34 C.F.R. § 300.130 *et seq.*; follow-up procedures for referral and evaluation.
  - F. Homeless Children
- 5. The procedures for identification of a student as having a specific learning disability.
  - 6. Ensure the collection and use of data are in accordance with the confidentiality requirements of 34 C.F.R. §§ 300.611–300.627.

[Zirkel comment: Finally, the overall keys will be to initiate the evaluation via the required consent procedure within a reasonable time after reasonably suspecting that the child may be eligible under the IDEA's criteria, which include the need for special education.]

#### Procedures for Evaluation and Determination of Eligibility

Procedures for evaluation and determination of eligibility for special education and related services are conducted in accordance with the procedures and requirements of 34 C.F.R. §§ 300.301-300.311 and the following state administrative rules:

- A.R.M. 10.16.3320 – Request for Initial Evaluation;
- A.R.M. 10.16.3010 – 10.16.3022 – Criteria for Identification(series);
- A.R.M. 10.16.3321 - Comprehensive Educational Evaluation Process and Reevaluations

#### Procedural Safeguards and Parental Notification

The Billings District implements the procedural safeguard procedures as identified in 34 C.F.R. §§ 300.500 - 300.520.

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one (1) time a school year, except that a copy also must be given to the parents:

- Upon initial referral or parent request for evaluation;
- Upon receipt of the first state complaint under 34 CFR §§ 300.151 through 300.153 and upon receipt of the first due process complaint under 34 CFR § 300.507 in a school year;
- In accordance with the discipline procedures in 34 CFR § 300.530(h); and
- Upon request by a parent.

The referral for special education consideration may be initiated from any source, including school personnel. To initiate the process, an official referral form must be completed and signed by the person making the referral. The District shall accommodate a parent who cannot speak English and therefore cannot complete the District referral form. Recognizing that the referral form is a legal document, District personnel with knowledge of the referral shall bring the referral promptly to the attention of the Evaluation Team.

The District shall give written notice to the parent of its recommendation to evaluate or not to evaluate the student. The parent will be fully informed concerning the reasons for which the consent to evaluate is sought. Written parental consent will be obtained before conducting the initial evaluation or before reevaluating the student.

The recommendation to conduct an initial evaluation or reevaluation shall be presented to the parents in their native language or another mode of communication appropriate to the parent. An explanation of all the procedural safeguards shall be made available to the parents when their consent for evaluation is sought. These safeguards will include a statement of the parents' rights relative to granting the consent.

[Kirkel note: remove this section entirely because it is already covered above under "Procedures for Evaluation and Determination of Eligibility"]

#### Individualized Education Programs

The Billings District develops, implements, reviews, and revises individualized education programs (IEP) in accordance with the requirements and procedures of 34 C.F.R. §§ 300.320-300.328.

#### Least Restrictive Environment

To the maximum extent appropriate, children with disabilities, including children in public or

private institutions or other care facilities, are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily. Educational placement decisions are made in accordance with A.R.M. 10.16.3340 and the requirements of 34 C.F.R. §§ 300.114 - 300.120, and a continuum of alternate placements is available as required in 34 C.F.R. § 300.551.

#### Children in Private Schools/Out-of District Placement

Children with a disability placed in or referred to a private school or facility by the District, or other appropriate agency, shall receive special education and related services in accordance with the requirements and procedures of 34 C.F.R. §§ 300-145 through 300.147.

As set forth under 34 C.F.R. § 300.137, children with a disability placed in or referred to a private school or facility by parents do not have an individual right to special education and related services at the District's expense. When services are provided to children with disabilities placed by parents in private schools, the services will be in accordance with the requirements and procedures of 34 C.F.R. §§ 300.130 - 300.144.

#### Impartial Due Process Hearing

The District shall conduct the impartial hearing in compliance with the Montana Administrative Rules on matters pertaining to special education controversies.

#### Special Education Records and Confidentiality of Personally Identifiable Information

##### A. Confidentiality of Information

The District follows the provisions under the Family Educational Rights and Privacy Act and implements the procedures in 34 C.F.R. §§ 300.610-300.627, § 20-1-213, MCA, and A.R.M. 10.16.3560.

##### B. Access Rights

Parents of disabled students and students eighteen (18) years or older, or their representative, may review any educational records which are designated as student records collected, maintained, and used by the District. Review shall normally occur within five (5) school days of the request and in no case longer than forty-five (45) days. Parents shall have the right to an explanation or interpretation of information contained in the record. Non-custodial parents shall have the same right of access as custodial parents, unless there is a legally binding document specifically removing that right.

##### C. List of Types and Locations of Information.

A list of the records maintained on disabled students shall be available in the District office.

Disabled student records shall be located in the District's student services office, where they are available for review by authorized District personnel, parents, and adult students. Special education teachers will maintain an IEP file in their classrooms. These records will be maintained under the direct supervision of the teacher and will be located in a locked file cabinet. A record-of-access sheet in each special education file will specify the District personnel who have a legitimate interest in viewing these records.

D. Safeguards

The District will identify in writing the employees who have access to personally identifiable information, and provide training on an annual basis to those staff members.

E. Destruction of Information

As part of the IEP, the District will inform parents that five (5) years after the termination of special education services personally identifiable information is no longer needed for program purposes. The parent will be advised that such information may be important to establish eligibility for certain adult benefits. At the parent's request, the record information shall either be destroyed or made available to the parent or to the student if eighteen (18) years or older. Reasonable effort shall be made to provide the parent with notification sixty (60) days prior to taking any action on destruction of records. Unless consent has been received from the parent to destroy the record, confidential information will be retained for five (5) years beyond legal school age.

F. Children's Rights

Privacy rights shall be transferred from the parent to an adult student at the time the student attains eighteen (18) years of age, unless some form of legal guardianship has been designated due to the severity of the disabling condition.

Discipline

Students with disabilities may be suspended from school the same as students without disabilities for the same infractions or violations for up to ten (10) consecutive school days. Students with disabilities may be suspended for additional periods of not longer than ten (10) consecutive school days for separate, unrelated incidents, so long as such removals do not constitute a change in the student's educational placement. However, for any additional days of removal over and above the initial ten (10) school days in the same school year, the District will provide educational services to a disabled student, which will be determined in consultation with at least one (1) of the child's teachers, determining the location in which services will be provided. The District will implement the disciplinary procedures in accord with the requirements of CFR §§ 300.530 - 300.537.

Implementing Policy 2161 Special Education

Cross References: Policy 6430 Development of Administrative Procedures

<u>Legal References:</u>	34 CFR § 300.1 <i>et seq.</i>	Individuals with Disabilities Act (IDEA)
	§ 20-1-213, MCA	Transfer of school records
	A.R.M. 10.16.3125	Local Education Agency Child Find Responsibilities
	A.R.M. 10.16.3321	Comprehensive Educational Evaluation Process
	A.R.M. 10.16.3340	Individualized Education Program and Placement Decisions
	A.R.M. 10.16.3560	Special Education Records
	A.R.M. 10.60.103	Identification of Children with Disabilities

Procedure History:

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