Special Education Model Policies and Procedures

Department of Education & Workforce

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Introduction

Purpose

The Ohio Department of Education and Workforce (the Department) Special Education Model Policies and Procedures provides a model for educational agencies to either adopt or a basis to create their own. The Special Education Model Policies and Procedures reflect existing regulations and explain procedural mechanisms; however, individual educational agencies have discretion and flexibility to enhance these Special Education Model Policies and Procedures in order to meet the needs of students and staff. It is the educational agency's responsibility to ensure the students' rights as written in the procedural safeguards are included when creating contracts or written agreements with other educational agencies or entities.

If an educational agency decides to adopt the Department's Special Education Model Policies and Procedures, the educational agency agrees to the written policies and procedures in accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the Ohio Operating Standards for Ohio Educational Agencies Serving Children with Disabilities (hereafter referred to as the "Operating Standards"). The educational agency also agrees to use the required special education forms as stated on the Department's website.

This document, while comprehensive, does not include every requirement set forth in the IDEA, the regulations implementing IDEA, the Operating Standards, the Ohio Revised Code (ORC), and/or the Ohio Administrative Code (OAC). The educational agency recognizes its obligation to follow these laws, regardless of whether their provisions are restated in the Special Education Model Policies and Procedures.

In accordance with Ohio Revised Code 3323.02, the Department may require any state or local agency to provide documentation that special education and related services for children with disabilities provided by the agency are in compliance with the requirements of this chapter.

Notification

In accordance with federal IDEA 34 CFR 300.201, Ohio Revised Code 3323.08, and Ohio Administrative Code 3301-51-01, each educational agency is required to adopt and implement written policies and procedures approved by the Department. Educational agencies are required to notify the Department of their special education policies and procedures each school year through the Monitoring System. If an educational agency decides to create their own Special Education Model Policies and Procedures, there will be an option for the educational agency to upload these policy and procedures for the Department to review and approve. Any educational agency that creates their own Special Education Model Policies and Procedures will be required to incorporate any updates and changes into their own policies and procedures provided by the Department. Verification of local school board approval of policies and procedures is required to be uploaded for all educational agencies annually. Annual due date is Nov. 30.

Contact Information:

Title	Name	Email	Phone Number
Special Education Administrator			
Educational Agency Contact for policies and procedures			
State Support Team Region			

Free Appropriate Public Education (OAC 3301-51-02)

Policy

The educational agency ensures a Free and Appropriate Public Education (FAPE) is made available to all children with disabilities between the ages of three and twenty-one, inclusive, including children with disabilities who have been suspended or expelled from school, have failed or been retained in a course or grade, and are advancing from grade to grade.

Procedure

THE EDUCATIONAL AGENCY:

Makes FAPE available to every child eligible for special education services.

Begins special education services no later than the child's third birthday and has an IEP is in effect for the child by that date.

If a child's third birthday occurs during the summer, the child's IEP team determines the date when IEP services begin.

Special education and related services eligibility is made on an individual basis by the group responsible within the child's school district of residence for making eligibility determinations.

ASSISTIVE TECHNOLOGY

Makes assistive technology devices and/or assistive technology services available to a child with a disability, if required, as a part of the child's special education, related services, and supplementary aids and services.

Makes the use of school-purchased assistive technology devices available in a child's home or in other settings if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

EXTENDED SCHOOL YEAR SERVICES (ESY)

Ensures that extended school year services are available as necessary to provide FAPE.

Provides extended school year services only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. Additionally, the following is considered when determining if extended school year services should be provided:

- Whether extended school year services are necessary to prevent significant regression of skills or knowledge retained by the child so as to seriously impede the child's progress toward achieving the child's educational goals, and
- Whether extended school year services are necessary to avoid something more than adequately recoupable regression.

In implementing the requirements, an educational agency will not:

- Limit extended school year services to particular categories of disability, or
- Unilaterally limit the type, amount, or duration of those services.

NONACADEMIC SERVICES

Takes steps to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity to participate in those services and activities. This includes the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team.

Nonacademic and extracurricular services and activities shall include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the educational agency and assistance in making outside employment available.

PHYSICAL EDUCATION

Makes physical education services, specially designed, if necessary, available to every child with a disability receiving FAPE, unless the educational agency does not provide physical education to children without disabilities in the same grades.

If the educational agency serves a child with a disability who is enrolled in a separate facility, they must ensure that the child receives appropriate physical education services.

Regular physical education

The educational agency ensures that each child with a disability is afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:

- The child is enrolled full time in a separate facility, or
- The child needs specially designed physical education, as prescribed in the child's IEP.

Special physical education

If specially designed physical education is prescribed in a child's IEP, the educational agency responsible for serving the child provides the services directly or makes arrangements for those services to be provided through another public or private program.

The educational agency ensures that adaptive physical education services are provided by an appropriately licensed provider.

PROGRAM OPTIONS

Ensures that children with disabilities served by the educational agency have access to a variety of educational programs and services available to nondisabled children in the area served by the school district, including art, music, industrial arts, consumer and homemaking education, and vocational education.

Ensures that children with disabilities have access to FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.

SCHOOL DISTRICT OTHER THAN SCHOOL DISTRICT OF RESIDENCE

The educational agency ensures that a child with a disability who is living in its school district, even though the school district is not the child's school district of residence, is being served. The child's school district of residence retains responsibility for making FAPE available to the child.

The educational agency understands that their responsibility to serve a nonresident child with a disability living in the school district includes, but is not limited to, a child with a disability placed in a juvenile justice facility, institution, hospital, department, home, or other facility or entity located in the school district.

The student's district of residence is typically determined by the residential address of the student's parents.

THE SCHOOL DISTRICT OF RESIDENCE:

RESIDENTIAL PLACEMENT

If the school district of residence's IEP team determines placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the educational agency ensures that the program, including non-medical care and room and board, is provided at no cost to the parents of the child.

Child Find (OAC 3301-51-03)

Policy

The educational agency ensures all children from birth through age 21 suspected of being a child with a disability and in need of special education, are identified, located, and evaluated. This includes:

- Homeless children or wards of the state
- Highly mobile children, including migrant children
- Children who are advancing from grade to grade
- Children with disabilities attending nonpublic schools, regardless of the severity of their disability, are identified, located, and evaluated as required by the IDEA

Procedure

THE EDUCATIONAL AGENCY:

When aware of a child between the ages of birth to age 3 who has or may have a disability, the educational agency either:

- Refers the child directly to the county agency responsible for implementing Early Intervention services under Part C of the IDEA, **or**
- Provides the parents with the referral information to make the referral themselves.

THE SCHOOL DISTRICT:

Annually reports data to be examined by the Department to determine if significant disproportionality based on race and ethnicity is occurring in the school district with respect to:

- The identification of children as children with disabilities
- The educational placement of a child with a disability
- The incidence, duration, and type of disciplinary removals from educational placement, including suspensions and expulsions

Confidentiality (OAC 3301-51-04)

Policy

Each educational agency ensures it provides adequate notice to fully inform the parents about the confidentiality requirements of IDEA Part B Confidentiality, including:

- A description of the notice given in the native languages of the various population groups in the educational agency, county, or other area served
- A description of the children on whom personally identifiable information is maintained, including:
    - The types of information sought
    - The methods the State intends to use in gathering the information (including the sources from whom information is gathered)
    - The uses to be made of the information
- A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information
- A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Right and Privacy Act (FERPA) and implementing regulations

Each educational agency ensures that parental consent is obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies, unless the information is contained in education records, and the disclosure is authorized without parental consent.

The educational agency ensures that the parent's consent is **in writing, signed, and dated** and must:

- Specify the records to be disclosed
- State the purpose of the disclosure
- Identify the party or class of parties to whom the disclosure may be made

Procedure

EACH EDUCATIONAL AGENCY:

Protects the confidentiality of personally identifiable information during use, collection, storage, retention, disclosure, and destruction of information;[1]

Assumes responsibility for ensuring the confidentiality of any personally identifiable information;

Ensures all persons collecting or using personally identifiable information receive training or instruction regarding the policies and procedures of the educational agency; and

Maintains for public inspection a current listing of the names and positions of those employees who may have access to personally identifiable information.

[1] 34 C.F.R. 300.610 to 300.628, the Family Educational Rights and Privacy Act of 1974, August 1974, (FERPA) and its regulations at 34 CFR, Part 99

REQUIRED PARENTAL CONSENT

Understands that parental consent is not required before personally identifiable information is released to officials of participating agencies for the purposes of meeting a requirement of confidentiality[2].

Parental consent, or the consent of an eligible child who has reached the age of majority under Ohio law, is obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

DISCIPLINARY RECORDS

When a child transfers from one educational agency to another, the sending educational agency ensures:

- The transmission of any of the child's records includes both the child's current IEP
- Any statement of current or previous disciplinary action that has been taken against the child is transmitted to the same extent that the disciplinary information for a child who does not have a disability is transmitted
    - The statement required shall specify the circumstances that resulted in the disciplinary action and provide a description of the disciplinary action taken if the disciplinary action was taken because of a special circumstance.

The record shall include the following:

- Any information that is relevant to the safety of the child and other individuals involved with the child
- A description of any other behavior engaged in by the child that required disciplinary action, and a description of the disciplinary action taken

An educational agency transmits copies of the records only to the extent that the transmission is permitted by FERPA, even if that transmission is to another educational agency.

An educational agency reporting a crime committed by a child with a disability ensures that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

PARENTAL REQUEST TO AMEND EDUCATION RECORDS

The educational agency ensures that a parent can request education records be amended if the parent believes that the education record is inaccurate, misleading, or violates the privacy or other rights of the child.

The educational agency ensures that a decision on whether to amend the information is made within a reasonable period of time of receipt of the request.

If the educational agency decides to refuse to amend the information in accordance with the request, the educational agency ensures the parent is informed of the refusal and advises the parent of the right to a hearing.

[2] 34 CFR 300.610 Confidentiality

HEARING FOR EDUCATION RECORDS

Provides, on parental request, an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

A hearing held under this rule must be conducted according to the procedures in 34 C.F.R. 99.22. The records hearing shall be held within a reasonable period of time after the educational agency has received the request.

DESTRUCTION OF EDUCATION RECORDS

Notifies parents when personally identifiable information is collected, maintained, or is no longer needed to provide educational services to the child.

Ensures the information is destroyed at the request of the parents. However, a permanent record of a student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed shall be maintained without time limitation.

PARENTAL ACCESS RIGHTS

Permits parents to inspect and review any education records relating to their children that are collected, maintained, or used by the educational agency. The educational agency complies with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing or resolution session and in no case more than forty-five days after the request has been made.

The parent has a right to:

- Make a reasonable request for explanations and interpretations of the records and to receive a response from the participating educational agency within a reasonable time
- Request that the educational agency provide copies of the records if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records
- Have a representative of the parent inspect and review the records

Presumes that the parent has authority to inspect and review records relating to the parent's child, unless the educational agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

Ensures that all children's information is protected by allowing the parents to inspect and review only the information relating to their child or be informed of that specific information when an education record includes information on more than one child.

CHILDREN'S RIGHTS

Has policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

When the child reaches the age of majority, the rights regarding education records must also be transferred to the student.

PERSONNEL ACCESS TO EDUCATION RECORDS

The participating educational agency keeps a record of parties obtaining access to education records collected, maintained, or used (except access by parents and authorized employees of the participating educational agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

FEES

All special education records must be transferred to the new educational agency or nonpublic school regardless of fees owed to the educational agency.

Each participating agency may charge a fee for copies of records that are made for parents under this rule if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

A participating agency shall not charge a fee to search for or to retrieve information under this rule.

SCHOOL DISTRICT OF RESIDENCE:

If a child is enrolled, or is going to enroll, in a nonpublic school that is not located in the school district of the parent's residence, parental consent is obtained before any personally identifiable information about the child is released between officials in the school district where the nonpublic school is located and officials in the school district of the parent's residence.

Procedural Safeguards (OAC 3301-51-05)

Policy

The school district of residence ensures that children with disabilities, their parents, and educational agencies are provided an opportunity to resolve disputes regarding identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education (FAPE).

Procedure

THE EDUCATIONAL AGENCY:

PRIOR WRITTEN NOTICE

The educational agency ensures a prior written notice:

- Is provided to the parents within thirty days, any time a prior written notice is required
- Provides the educational agency's proposed actions or refusal to act regarding the student's disability identification, evaluation or educational placement and/or provision of FAPE
- Is provided to the parent prior to implementing any changes regarding its proposals or refusals to initiate services
- Is provided to the parents prior to a change of placement that is a result of a disciplinary action
- Is written in understandable language to the general public
- Is provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so
- Is completed fully

The educational agency ensures the prior written notice includes:

- A description of the action proposed or refused by the educational agency
- An explanation of why the educational agency proposes or refuses to take the action
- A description of each evaluation procedure, assessment, record, or report the educational agency used as a basis for the proposed or refused action
- A statement that the parents of a child with a disability have protection under the procedural safeguards 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
- A description of other options that the IEP team considered and the reasons why those options were rejected
- A description of other factors that are relevant to the school district's proposal or refusal
- An educational agency's contact information for parents to obtain assistance in understanding the provisions of this rule

If the native language or other mode of communication of the parent is not a written language, the educational agency provides written evidence that it took steps to ensure that:

- The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication

- The parent understands the content of the notice

OPPORTUNITY TO EXAMINE EDUCATION RECORDS

Affords the parent of a child with a disability an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.

PARENT PARTICIPATION IN MEETINGS

Ensures the parent of a child with a disability is afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

Provides the parent invitation notice consistent with the parent participation requirements to ensure that parents of children with disabilities have the opportunity to participate in meetings.

A meeting does not include:

- Informal or unscheduled conversations involving school district personnel
- Conversations on issues such as teaching methodology, lesson plans, or coordination of service provision
- Preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting

PARENT INVOLVEMENT IN PLACEMENT DECISIONS

Ensures that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the school district must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

A placement decision may be made by a group without the involvement of a parent, if the school district is unable to obtain the parent's participation in the decision. In this case, the school district must have a record of its attempts to ensure their involvement.

INDEPENDENT EDUCATION EVALUATION AT PUBLIC EXPENSE

An independent education evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the educational agency responsible for the education of the child. The IEE may be conducted at public expense.[3] "Public expense" means that the school district of residence either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

An IEE at public expense occurs after a parent disagrees with an evaluation completed by the educational agency. A parent is entitled to only one IEE at public expense each time the educational agency conducts an evaluation with which the parent disagrees, even if the parent had signed the evaluation team report (ETR) in agreement.

[3] The parent can get a parent-paid IEE at any time.

Each educational agency must provide parents, upon request for an IEE at public expense, information about where an IEE may be obtained, and the educational agency's criteria applicable for an IEE.

The educational agency's IEE criteria must include the location of the evaluation and the qualifications of the examiner. The criteria must be the same criteria that the educational agency uses when it initiates an evaluation, and consistent with the parent's right to an IEE.

An educational agency may not impose conditions or timelines related to obtaining an IEE, except for the criteria described above.

If a parent requests an IEE, the educational agency must, without unnecessary delay, either

- File for a due process hearing to show that its evaluation is appropriate, or
- Provide the IEE, unless the educational agency demonstrates in a hearing that the evaluation obtained by the parent did not meet the educational agency's criteria.

If the educational agency files a due process complaint, and the final hearing officer's decision is that the district's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

The educational agency may ask why the parent objects to its evaluation. However, the educational agency may not require the parent to provide an explanation nor unreasonably delay either providing the IEE or filing a due process complaint to defend the educational agency's evaluation.

PARENT INITIATED EVALUATIONS

If the parent shares a private evaluation and the evaluation meets the IEE criteria:

- The educational agency must consider the evaluation in any decision regarding the provision of FAPE to the child.
- The evaluation may be presented by a party as evidence at a hearing on a due process complaint.

THE SCHOOL DISTRICT:

Provides every parent a copy of "A Guide to Parents Rights in Special Education," at minimum:

- To the parents of a child with a disability one time per school year
- Upon the initial referral or parent's request for evaluation, or
- Upon receipt of the first due process complaint in the current school year
- In accordance with the discipline procedures, and
- Upon request by a parent.

Makes reasonable efforts to obtain the informed consent from the parent in writing for an initial evaluation and re-evaluation to determine whether the child is a child with a disability.

Ensures a parent:

- is fully informed of all information relevant to the action the district intends to take
- receives that information in the parent's native language, or other primary mode of communication, and in understandable terms

- understands and agrees in writing to the district's intended action to be carried out by the consent. Whenever applicable, the consent must describe the action to be taken and list any records to be released and to whom
- understands that the granting of consent is voluntary and can be revoked at any time. If the parent revokes consent, the revocation starts on the date the consent was revoked

Understands that the parental consent for initial evaluation does not mean consent for initial provision of special education and related services.

If the child is a ward of the state and is not residing with the child's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

- The school district cannot discover the whereabouts of the parent of the child despite reasonable efforts to do so
- The rights of the parent of the child have been terminated in accordance with state law, or
- The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

The school district does not violate its child find and evaluation obligation if it declines to pursue the evaluation.

PARENTAL CONSENT FOR REEVALUATION

Each school district ensures informed parental consent is obtained prior to conducting any reevaluation of a child with a disability.

If the parent refuses to consent to the reevaluation, the school district of residence may, but is not required to, pursue the reevaluation by using the consent override procedures — including the mediation procedures or the due process procedures.

The school district of residence does not violate its obligation to the Administrative Code for child find and evaluation if it declines to pursue the reevaluation.

The informed parental consent need not be obtained if the school district can demonstrate that:

- It made reasonable efforts to obtain such consent, and
- The child's parent has failed to respond.

PARENTAL CONSENT FOR CHANGE OF PLACEMENT

A change of placement is a change from one option on the continuum of alternative placements to another, that affects the student's least restrictive environment (LRE).

Informed parental consent is obtained before making a change of placement of a child with a disability.

Informed parental consent does not have to be obtained before:

- A change of placement if the district of residence can demonstrate that it made reasonable efforts to obtain consent and the parent has failed to respond, or
- The change of placement is the result of a disciplinary action.

REVOCATION OF PARENTAL CONSENT

If the parent of a child revokes consent in writing for the continued provision of special education and related services, the school district shall not:

- Continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services
- Use mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services shall be provided to the child
- Be held in violation of the requirement to make FAPE available to the child for the failure to provide the child with further special education and related services, and
- Be required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.

PARENTAL CONSENT FOR REEVALUATIONS

The school district ensures informed parental consent is obtained to reevaluate.

The school district of residence does not violate its obligation under child find and reevaluations if it declines to pursue the due process hearing or mediation for the reevaluation.

Parental consent is needed for a functional behavioral assessment (FBA).

THE SCHOOL DISTRICT OF RESIDENCE

If the parent of a child does not provide consent for initial evaluation or reevaluation, or the parent fails to respond to a request to provide consent, the school district of residence may, but is not required to, pursue the initial evaluation of the child by using the consent override procedures of mediation or filing a request for a due process hearing.

PARENTAL CONSENT FOR SERVICES

The school district of residence ensures reasonable efforts to obtain informed consent from the parent are made for the initial provision of special education and related services to the child.

If the parent of the child refuses or fails to respond to a request to provide consent to the initial provision of special education and related services, the school district of residence will not:

- Use the due process procedures including the mediation procedures in order to obtain an agreement or a ruling that services may be provided to the child
- Be held in violation of the requirement to make FAPE available to the child, and
- Be required to convene an IEP team meeting or develop an IEP.

SURROGATE PARENTS

The idea of a surrogate parent was established to ensure that children with special education needs who do not have parental representation have the same protections as all other children eligible for special education services.

The surrogate parent has the right to participate just as a parent would, as defined in IDEA and Ohio Administrative Code, in all matters relating to special education decisions.

A school district of residence creates a surrogate parent selection process that includes how to:

- Determine whether a child needs a surrogate parent, and
- Assign a surrogate parent to the child.

The school district of residence ensures that a person selected as a surrogate parent:

- Is not an employee of the Department, the school district, or any other agency that is involved in the education or care of the child
- Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents
- Has knowledge and skills that ensure adequate representation of the child, and
- Has successfully completed the Department's parent training prior to acting on behalf of the child.

A surrogate parent is required to be appointed by the district of residence superintendent under the following circumstances:

- No parent can be identified
- The educational agency, after reasonable efforts, cannot locate a parent
- The child is a ward of the state under the laws of Ohio, or
- The child is an unaccompanied homeless youth as defined in Section 725 (6) of the McKinney-Vento Homeless Assistance Act.

In Ohio, a foster parent is not considered a "parent." Therefore, the superintendent of the district of residence may only appoint a foster parent as a surrogate parent if the foster parent meets the criteria and completes the surrogate parent training.

Whenever a child is placed in child protection custody and the parents have retained legal rights to make educational decisions and can be contacted by the educational agency to act as the parent on behalf of their child in the special education process, the educational agency must treat the parent as the educational decision maker. The educational agency cannot appoint a surrogate parent for a child when there is another person in the child's life who qualifies as a parent under IDEA and whose rights to make educational decisions for the child have not been terminated.

In the case of a child who is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, and the judge's appointee must meet the abovementioned criteria.

If a surrogate parent is appointed by a judge overseeing the child's case, upon the request of the judge, the school district of residence will confirm that the person appointed meets the requirements.

If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent."

In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to the requirements for selecting a surrogate parent until a surrogate parent can be appointed that meets all of the abovementioned requirements.

In the case of a child who has reached the age of majority in the state of Ohio, the child may request a surrogate parent.

Assignment of surrogate parents is as follows:

- A surrogate parent shall be assigned as soon as possible but no later than 30 days from the date that it is determined that the child needs the surrogate.
- The school district of residence maintains the ultimate responsibility for the assignment of a surrogate parent for all students with disabilities residing in the district. If requested by the school district of residence and mutually agreed upon, the school district of attendance, county board of developmental disabilities (county board of DD), or other educational agency may appoint the surrogate parent.

The surrogate parent will:

- Represent the child in all matters relating to the identification, evaluation and educational placement of the child and the provision of FAPE to the child
- Review a child's educational records as needed to make informed special education decisions for the child
- When appropriate, provide consent to evaluation and re-evaluation
- Agree or disagree to the IEP, evaluation team report, and educational placement changes
- Disagree with or dispute the recommendations of the educational agency by requesting mediation, filing a formal written complaint, or by requesting a due process hearing

Evaluation (OAC 3301-51-06)

Policy

The educational agency ensures a referral process is in place to determine whether a child is a child with a disability.

The school district of residence ensures that all initial evaluations are conducted and reevaluations are completed for children residing within the district using the Department's required evaluation team report form (PR-06).

Procedure

EDUCATIONAL AGENCY/SCHOOL DISTRICT/SCHOOL DISTRICT OF RESIDENCE

INTERVENTIONS

Each educational agency uses a multi-disciplinary team to determine appropriate interventions to resolve concerns for any preschool or school-age child who is performing below grade-level standards. An educational agency ensures they do not use interventions to delay unnecessarily a child's evaluation and eligibility determination for special education services. The intervention and the evaluation can occur concurrently. If such interventions have not been implemented prior to referral for evaluation, appropriate interventions should be implemented during the same sixty-day time frame during which the school district conducts a full and individual evaluation.

REQUEST/REFERRAL FOR EVALUATION

Either a parent of a child or an educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

An educational agency will, within 30 days of receipt of a request for an evaluation, either obtain parental consent for an initial evaluation or provide to the parent a prior written notice stating that the educational agency does not suspect a disability and will not conduct an evaluation.

Screening for instructional purposes is not an evaluation. If a teacher or a specialist screens a child for instructional strategies for curriculum implementation, this screening is not an evaluation for special education and related services.

EVALUATION PLANNING

As part of the initial evaluation, and as part of any reevaluation, the evaluation team shall complete the evaluation planning form which guides the evaluation process. Information gathered through the evaluation process will be summarized in an evaluation team report (ETR).

EVALUATION TEAM

A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, and the education needs of the child. The qualified professionals must be based on the student's needs and information being reviewed.

"Evaluation team for a child suspected of having a specific learning disability" means the parents and a group of qualified professionals, which must include:

- The child's regular teacher, or

- If the child does not have a regular education teacher, a regular classroom teacher qualified to teach a child of the child's age, or
- For a child of less than school-age, an individual qualified by the Department to teach a child of the child's age, and
- At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial teacher, and
- A representative of the school district of residence.

At a minimum, the representative of the school district must meet the following requirements:

- Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child
- Qualified to provide or supervise the provision of instruction in the preschool general education curriculum, if applicable
- Authorized to make decisions about the use of school district resources for special education and related services
- Qualified to interpret the instructional implications of evaluation results.

CONDUCTING A REVIEW

The evaluation team may conduct a review of existing evaluation data without a meeting.

SOURCE OF DATA

The educational agency must administer such assessments and other evaluation measures as needed to produce the data identified from the review of existing evaluation data.

INITIAL EVALUATION

The school district of residence ensures an evaluation is conducted before the initial provision of special education and related services. Either a parent of a child or an educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

Within 30 days of receipt of a request for an evaluation, the district either obtains parental consent for an initial evaluation or provides to the parent prior written notice stating that the school district does not suspect a disability and will not be conducting an evaluation.

The initial evaluation:

- Must be conducted within 60 days of receiving parental consent for the evaluation
- Must consist of procedures to determine:
    - If the child is a child with a disability as defined in the definition section of the Operating Standards[4]
    - The educational needs of the child

TIMELINES

- The educational agency provides parents its intention to evaluate or not evaluate on a prior written notice. If the educational agency intends to evaluate, it must obtain consent from the parent within 30 days.
- Once the educational agency receives parental consent to evaluate, the evaluation must be completed within 60 days.

[4] Ohio Administrative Code 3301-51-10(B)(10)

TIMELINE EXCEPTIONS

The 60-day time frame does not apply to a school district if:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation, or
- A child enrolls in a new school district of residence after the relevant time frame begins and prior to a determination by the child's previous school district of residence as to whether the child is a child with a disability as defined in this rule.

This exemption only applies if the school district of residence is making sufficient progress to ensure a prompt completion of the initial evaluation, and the parent and school district agree to a specific time when the evaluation will be completed.

CHILDREN WHO TRANSFER EDUCATIONAL AGENCIES IN THE SAME STATE

An educational agency has 30 days from the date the prior educational agency's evaluation was received to either:

- Accept the evaluation from the prior educational agency, or
- Obtain consent for a reevaluation. A reevaluation under this section must be conducted within 60 days of parent consent.

The educational agency has a process for accepting the evaluation or obtaining consent for an initial evaluation when a child transfers from an out of state school.

EVALUATION PROCEDURES

The educational agency ensures prior written notice is provided to the parents of a child with a disability that describes any evaluation procedures the school district proposes to conduct.

The educational agency uses the evaluation planning form.

In conducting the evaluation, the educational agency must use:

- A variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining:
    - Whether the child is a child with a disability as described in the definition section of the Operating Standards
    - The child's special education and related services, that enable the child to be involved in and progress in the general education curriculum (or for a preschool child to participate in appropriate activities)
- More than a single source of information 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
- Technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical or developmental factors

THE EDUCATIONAL AGENCY ENSURES:

Assessments and other evaluation materials used to assess a child:

- Are selected and administered so as not to be discriminatory on a racial or cultural basis
- Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information about what the child

knows and can do academically, developmentally and functionally, unless it is clearly not feasible to do so
- Are used for the purposes for which the assessments or measures are valid and reliable
- Are administered by trained and knowledgeable personnel
- Are administered in accordance with any instructions provided by the producer of the assessments

Assessment 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.

Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment 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).

A 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. Preschool children must be assessed in the following developmental areas: adaptive behavior, cognition, communication, hearing, vision, sensory/motor function, social-emotional functioning, and behavioral function.

For assessments of children with disabilities who transfer from one educational agency to another educational agency in the same school year during an evaluation, the prior and subsequent educational agencies must coordinate to complete the evaluation as expeditiously as possible.

In evaluating each child with a disability, 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.

The assessment reports provide relevant information for professionals to determine the educational needs of the child.

MEDICAL CONSULTATION

A medical consultation is suggested for preschool or school-age children on a continuing basis, especially when school authorities observe that there has been a change in the child's behavior or educational functioning, or when new symptoms are detected.

The evaluation for preschool age children shall include the following specialized assessments:
- In cases where the disability is primarily the result of a congenital or acquired physical disability, a physical examination is to be completed by a licensed doctor of medicine or doctor of osteopathy.
- Vision examination is to be conducted by an eye care specialist in cases where the disability is primarily the result of a visual impairment.
- An audiological examination is to be completed by a certified or licensed audiologist in cases where the disability is primarily the result of a hearing impairment.

The educational agency is responsible for paying if it is requesting medical consultation because this is a fulfillment of its obligations to provide FAPE.

ADDITIONAL REQUIREMENTS FOR EVALUATIONS

Review of existing evaluation data on the child includes:

- Evaluations and information provided by the parents of the child
- Current classroom-based, local, or state assessments and classroom-based observations in multiple situations such as subject areas, settings, and with different instructors
- Observations by teachers and related services providers but the observation must be conducted by someone other than the teacher delivering the instruction
- Data about the child's progress in the general curriculum, or, for the preschool-age child, data pertaining to the child's growth and development
- Data from previous interventions, including:
    - Interventions that are designed to meet students' needs
    - For the preschool child, data from early intervention, community, or preschool program providers
- Any relevant trend data beyond the past twelve (12) months, including the review of current and previous IEPs

Identify any additional data needed, based on the review and the input from the child's parents to:

- Determine whether the child is a child with a disability, and the educational needs of the child; or in the case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child
- Consider the present levels of academic achievement and related developmental needs of the child, and whether the child:
    - Needs special education and related services, or
    - Continues to need special education and related services, in the case of a reevaluation of a child, and
- Determine whether any additions or modifications are needed to enable the child to:
    - Meet the measurable annual goals in the IEP
    - Participate, as appropriate, in the general education curriculum

If the evaluation team or the IEP team determines that no additional data is needed to determine the child’s eligibility or educational needs, the educational agency must notify the parents of:

- The determination and the reasons for the determination
- The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child’s educational needs

DETERMINATION OF ELIGIBILITY

Upon completion of the administration of assessments and other evaluation measures:

- The evaluation team and the parent of the child determines whether the child is a child with a disability and the educational needs of the child
- The educational agency provides a copy of the evaluation team report (documentation of determination of eligibility) prior to the next IEP meeting and in no case later than 14 days from the date of eligibility determination; and at no cost to the parent

EVALUATION TEAM REPORT

Upon completion of the administration of assessments and other evaluation measures, the evaluation team must meet to review the components of the written evaluation report and to create the evaluation team report (ETR) which shall include:

- The individual evaluator's assessment
- The team summary
- If applicable, the specific learning disability documentation for determination
- Eligibility determination
- After the evaluation team meeting, the participants of the meeting must include names, titles and signatures, including the parent, and an indication of whether or not they are in agreement with the eligibility determination
- A statement of disagreement by any team member who is not in agreement with the team's determination of disability

PROCEDURES FOR DETERMINING ELIGIBILITY AND EDUCATIONAL NEED

In interpreting the evaluation data for eligibility determination and the educational needs, each educational agency must:

- Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior
- Ensure the information obtained from all of these sources is documented and carefully considered

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 within 30 days of the child's eligibility determination.

SPECIAL RULE FOR ELIGIBILITY DETERMINATION

A child cannot be determined to be a child with a disability if the determinant factor is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction, or
- Lack of appropriate instruction in math, or
- Limited English proficiency.

CHANGE IN ELIGIBILITY

- An evaluation must be conducted prior to changing a child's eligibility or determining the child is no longer a child with a disability.
- An evaluation is not required if the child is graduating from secondary school with a regular high school diploma or due to age eligibility for provision of FAPE.
- Whenever a child's eligibility terminates due to graduation or aging out, a summary of academic achievement and functional performance must be provided prior to the child's graduation. It must include recommendations on how to assist the child in achieving the postsecondary goals.

SPECIFIC LEARNING DISABILITY (SLD)

The Department's criteria for determining whether a child has a specific learning disability ensures an educational agency:

- Does not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability
- Permits the use of a process based on the child's response to evidence-based intervention
- Permits the use of other alternative research-based procedures for determining whether a child has a specific learning disability

The educational agency ensures use of the state's criteria in determining whether a child has a SLD.

In addition, the educational agency must use the forms required by the Department, Evaluation Team Report PR-06, and complete Part 3: *Documentation for Determining the Existence of a Specific Learning Disability* of PR-06 when the educational agency suspects the child has a SLD.

Additional team members for SLD determination:
The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the following:

- The child's parents
- A team of qualified professionals
- At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher, **and**
- The child's regular teacher, **or**
- If the child does not have a regular education teacher, a regular classroom teacher qualified to teach a child of his or her age, **or**
- For a child of less than school age, an individual qualified to teach a child of his or her age.

Determining the existence of a specific learning disability
The school district must develop written procedures for the implementation of any method used to determine the existence of a SLD that, at a minimum, incorporate guidelines developed by the Department and as specified in this rule.

The team members may determine that a child has a specific learning disability if:

- The child does not achieve adequately for the child's age or to meet state-approved grade-level standards, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards, in one or more of the following areas:
    - Oral expression
    - Listening comprehension
    - Written expression
    - Basic reading skills
    - Reading fluency skills
    - Reading comprehension
    - Mathematics calculation
    - Mathematics problem solving
- The child does not make sufficient progress to meet age or state-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention in one or more of the areas identified above, **or**
- The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group (including parent, teachers, and related service providers) to be

relevant to the identification of a specific learning disability, using appropriate assessments, **and**

- The group determines that its findings are not primarily the result of the following:
    - A visual, hearing, or motor disability
    - An intellectual disability
    - Emotional disturbance
    - Cultural factors
    - Environmental or economic disadvantage, **or**
    - Limited English proficiency.

To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:

- Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents

The educational agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes, unless extended by mutual written agreement of the child's parents and a group of qualified professionals:

- If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction
- Whenever a child is referred for an evaluation

<u>Evidence-based interventions</u>

An evaluation may, but is not required to, utilize a process based on the child's response to evidence-based intervention to determine whether a child has a SLD. This process:

- Begins when sufficient data have been gathered and analyzed under conditions of targeted and intensive individualized intervention conditions, there is evidence of an inadequate response to intervention on the part of the child, and the group determines that the child's needs are unlikely to be met without certain specialized instruction in addition to the regular classroom instruction
- Employs interventions that are evidence-based and provided at appropriate levels of intensity, frequency, duration, and integrity, relative to the child's identified needs
- Is based on results of evidence-based, technically adequate assessment procedures that assess ongoing progress while the child is receiving evidence-based instruction, and that have been reported to the child's parents
- Includes the analysis of data to determine whether a disparity is present between actual and expected performance in both the child's rate of progress in developing skills and in the child's level of performance on measures assessing one or more of the academic areas
- May not be used to unnecessarily delay a child's evaluation for determining special education eligibility

Observation

The educational agency ensures that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

The group members in determining whether a child has a specific learning disability must decide to:

- Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, or
- Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained.

In the case of a child of preschool age, a group member must observe the child in an environment appropriate for a child of that age.

Specific documentation for the eligibility determination

For a child suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:

- Whether the child has a specific learning disability
- The basis for making the determination, including the justification that the determination has been made according to the eligibility process
- The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning
- The educationally relevant medical findings, if any
- Whether there is a determination of the existence of a specific learning disability
- If the child has participated in a process that assesses the child's response to evidence-based intervention:
    - The instructional strategies used and the student-centered data collected
    - The documentation that the child's parents were notified about:
        - The Department's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided
        - Strategies for increasing the child's rate of learning
        - The parents' right to request an evaluation

Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

ADDITIONAL PROCEDURES FOR IDENTIFYING CHILDREN WITH MULTIPLE DISABILITIES

The evaluation team or the IEP team, including the parents of the child, may determine the child has multiple disabilities if the child exhibits:

- A combination of two or more areas of disability, except for a combination that includes a specific learning disability
- A severe or profound deficit in communication or adaptive behavior documented through the use of individually administered standardized instruments which have been validated for the specific purpose of measuring communication or adaptive behavior

RE-EVALUATION TEAM

Re-evaluation team means the IEP team and other qualified professionals.

A school district of residence must ensure that a reevaluation of each child with a disability is conducted.

- If the educational agency determines that the child's educational or related services needs, including improved academic achievement and functional performance, warrant a reevaluation, **or**
- If the child's parent or teacher requests a reevaluation, **or**
- In order to make a change in the disability category.

A reevaluation must occur at least once every three years but may not occur more than once a year unless the parent and educational agency agree otherwise. The educational agency and the parent may agree not to conduct a reevaluation, and this decision must be documented in a prior written notice.

If the team, including parent, deem a full evaluation is not necessary, the optional form Agreement to Waive Reevaluation (OP-4) can be used, or the educational agency's own form.

Individualized Education Program (OAC 3301-51-07)

Policy

The educational agency ensures that an IEP is developed and implemented for each child with a disability and that services identified in the child's IEP are provided as agreed upon with the child's school district of residence.

Procedure

THE EDUCATIONAL AGENCY/SCHOOL DISTRICT/SCHOOL DISTRICT OF RESIDENCE:

CHILDREN ATTENDING OTHER EDUCATIONAL AGENCIES INCLUDING OTHER CARE FACILITIES

The school district of residence:

- Ensures the development and implementation of an IEP for each child with a disability residing in the school district regardless of which educational agency implements the IEP
- Is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising the IEP of a child with a disability
- Follows the same procedural safeguards as it does for all children with disabilities when providing special education services for a child with a disability in another educational agency
- Keeps on file a copy of the child's current evaluation team report and the IEP
- Ensures that a child with a disability who is placed in or referred to a nonpublic school or facility by a public school district is provided special education and related services, at no cost to the parents, and the child's education meets the applicable academic standards
- Ensures the child maintains all the rights of a child with a disability who is served by a public school district

The educational agency:

Ensures cooperation with other educational agencies that serve children with disabilities in institutions or other care facilities to ensure that:

- These children have access to a free appropriate public education in their least restrictive environment, a regular public-school setting, when appropriate and as specified in the IEP
- A child with a disability who is placed in or referred to a nonpublic school or other care facility by a public school district is provided:
    - Special education and related services at no cost to the parents and in conformance with an IEP education that meets the IEP requirements
    - An education that meets applicable academic and operating standards and the standards of the educational agency
    - The rights of a child with a disability who is served by a public school district

Develops a process to ensure:

- Prior to the child's placement or referral to a nonpublic school or facility, the educational agency must initiate and conduct a meeting to develop an IEP for the child.
- The educational agency must ensure that a representative of the nonpublic school or facility attends the meeting, whether via a virtual platform or a conference call.
- Any IEP meeting initiated and conducted by the nonpublic school or facility must include the parents and public school district representative.
- Parents and the public school district representative are involved in any decision and agree to any proposed changed in the IEP before those changes are implemented.
- Students' IEPs are implemented, appropriately developed to address the students' educational and behavioral needs and are written in compliance with state and federal regulations.
- The child's school district of residence is invited to the IEP team meetings. IEP team meetings should not occur without the school district or residence representation.

CONTENTS OF AN INDIVIDUALIZED EDUCATION PROGRAM

IEP contents must include the following:

- A statement that discusses the child's future:
    - The family and child's preferences and interests are an essential part of the planning process. The IEP team will document the planning information in the IEP.
- An acknowledgment of whether there are any special instructional factors.
- A statement of the child's present levels of academic achievement and functional performance, including:
    - How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children), or
    - For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.
- A statement of measurable annual goals, including academic and functional goals and benchmarks or short-term objectives designed to:
    - Meet the child's needs that resulted from the child's disability so that the child will be involved in and make progress in the general education curriculum
    - Meet each of the child's other educational needs that resulted from the child's disability
- A description of:
    - How the child's progress towards the annual goals will be measured
    - When periodic reports on the child's progress will be provided (such as using quarterly or other periodic reports, concurrent with the issuance of report cards)
    - How to align the alternate academic achievement standards in benchmarks or short-term objectives, for children who take the alternate assessment
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child
- A statement of the program modifications or supports for school personnel that will be provided to enable the child:
    - To advance appropriately toward attaining the annual goals

    - To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities
    - To be educated and participate with other children with disabilities and nondisabled children in the activities
- An explanation as to the reason the child will not participate with nondisabled children in the regular class and activities
- A statement of appropriate individualized accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments
- A statement based on the Alternate Assessment Participation Decision Making Tool completed by the IEP team that includes:
    - The reason the child cannot participate in the statewide or districtwide assessment of student achievement
    - The particular alternate assessment selected is appropriate for the child
- The projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications

DEVELOPMENT OF AN IEP

The required IEP form is the PR-07.

In developing each child's IEP, the IEP team must consider:

- The strengths of the child
- The concerns of the parents for enhancing the education of their child
- The results of the initial or most recent evaluation of the child
- The results of the child's performance on any state or district-wide assessment programs, as appropriate
- The academic, developmental and functional needs of the child

The IEP team must consider the following special factors:

- If the child's behavior impedes the child's learning or that of others, then consider the use of positive behavioral interventions and supports (PBIS) and other strategies to address that behavior.
- If the child has limited English proficiency, the child's language needs as those needs relate to the child's IEP
- If the child is blind or visually impaired:
    - Provide instruction in braille and the use of braille, unless the IEP team determines that based on the results of the evaluation, instruction in braille or the use of braille is not appropriate for the child
    - Conduct an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in braille or the use of braille)
    - Ensure that additional requirements for IEPs for children who are blind or visually impaired are implemented
- The communication needs of the child, and for a child who is deaf or hard of hearing, consider:
    - The child's language and communication needs

- Opportunities for direct communications with peers and professional personnel in the child's language and communication mode
- Academic level
- Full range of needs, including opportunities for direct instruction in the child's language and communication mode
- Whether the child needs assistive technology devices and services

Progress reports are provided to parents of a child with a disability at least as often as report cards are issued to all children. If the district provides interim reports to all children, progress reports must be provided to all parents of a child with a disability.

DETERMINING EXTENDED SCHOOL YEAR (ESY) SERVICES

ESY services must be provided only if a child's IEP team determines that the services are necessary for the provision of FAPE to the child.

The IEP team should consider if extended school year services are necessary to:

- Prevent significant regression of skills or knowledge retained by the child to seriously impede the child's progress toward their educational goals
- Avoid something more than adequately recoupable regression of skills or knowledge

Extended school year services signify special education and related services:

- Are provided to a child with a disability beyond the normal school year of the educational agency, in accordance with the child's IEP
- At no cost to the parents
- Meet the standards of the Department

Extended school year services:

- May happen at any time the school is not in session
- Are provided beyond the normal school year of the educational agency which includes both the days of the school year and the hours of the school day
- Are not the same as summer school, compensatory services or enrichment programs
- Shall not:
  - Limit extended school year services to particular categories of disability, or
  - Unilaterally limit the type, amount or duration of those services.

Consideration for the IEP team:

- Extended school year services as part of the IEP process for children transitioning from Part C services. An educational agency shall not require any child to have previous school experience to receive extended school year services. The IEP team can use the data from Part C services.
- If the child's third birthday is during a time the school is not in session, the IEP team is not going to begin services on or before the break.
- The IEP team must determine whether the time the student will need to re-learn the skills lost is excessive, particularly compared to the time it takes nondisabled students to regain skills lost during a school break.
- The IEP team may need to collect further data and reconvene later in the school year to determine if extended school year services are needed. The team would then enter the date on the IEP when it plans to reconvene to make the determination based on data collected.

- The IEP team should consider emerging skills as part of the IEP process for children who are exhibiting beginning skillsets.
- The IEP team must consider extended school year services as part of the IEP process for children transition from part C services. A school district shall not require any child to have previous school experience to receive extended school year services. Based upon data available from the part C system, the IEP team shall determine if extended school year services are required.

Denial of ESY can be a denial of FAPE.

POST-SECONDARY TRANSITION

If the child will be 14 years old before the end of this IEP, the educational agency must do the following:

- Notify the parent that the purpose of the meeting will be to consider postsecondary goals and transition services for the child.
- Invite the child to the meeting.
- Identify any other agency that will be invited to send a representative, if the parent consents.
- Identify the transition service needs of the child, including the child's courses of study (such as participation in advanced-placement courses or a vocational education program).
- Identify appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
- Review and update postsecondary goals annually.

The IEP team may decide to include the child at a younger age, if determined appropriate.

COMPONENTS OF THE POST-SECONDARY TRANSITION SECTION OF THE IEP

Prior to or by the 14th birthday, the child must complete an age-appropriate transition assessment and the IEP must include:

- Post-secondary training and education
- Competitive integrated employment
- Independent living, if applicable
- Appropriate measurable goals based on the age-appropriate assessment for:
    - Postsecondary training and education
    - Competitive integrated employment
    - Independent living (if assessment data supports the need)
- The courses of study
- The transition services/activities needed to assist the child in reaching those goals

FAILURE TO MEET TRANSITION OBJECTIVES

If a participating agency other than the educational agency fails to provide the transition services described in the IEP, the educational agency must reconvene the IEP team to identify alternative strategies to meet the transition objectives written in the IEP.

There is nothing in the Operating Standards that relieves any educational agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that

the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

NON-ACADEMIC AND EXTRACURRICULAR ACTIVITIES

All students with disabilities. including parentally-placed students in nonpublic schools, are afforded the opportunity to participate in any non-academic and extracurricular activities as their nondisabled peers.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

The educational agency ensures written least restrictive environment policies and procedures requirements are met.

The educational agency shall ensure that to the maximum extent appropriate, children with disabilities, including children in public or nonpublic institutions or other care facilities, are educated with children who are nondisabled.

Special classes, separate schooling, or other removal of children with disabilities from the regular education 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.

CONTINUUM OF ALTERNATIVE PLACEMENT

Each educational agency must ensure that a continuum of alternative placement is available to meet the needs of children with disabilities. The continuum of alternative placement may include instruction in one or more of these environments during the school day:

- Regular classes – general education with or without supplemental aids/services
- Special classes – resource room or self-contained classroom
- Special schools; separate schools
- Home instruction
- Hospitals, residential treatment, and institutions

Educational agencies ensure provisions are made for supplementary services (such as resource room or itinerant instruction) in conjunction with regular class placement.

EDUCATION PLACEMENT

In determining the educational placement of a child with a disability, including a preschool child with a disability, each educational agency must ensure that the placement decision is:

- Made by a group of qualified professionals, including the parents and other persons knowledgeable about the child
- Based on the interpretation of the evaluation data, and the placement options
- Made in conformity with the least restrictive environment provisions

The child's placement is:

- Determined at least annually
- Based on the child's IEP
- As close as possible to the child's home; unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that the child would attend if nondisabled. Location does not mean placement. For example, if an educational agency has one multiple disability classroom and it is not in the school building closest to the child's

home, that is not a change on the continuum. The services and access to general education peers are not changing.

In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that the child needs, and the child is not removed from being educated in an age-appropriate general education classroom solely because of modifications in the general education curriculum.

Placing a child on virtual school due to behavior is a change of placement because the child is receiving IEP services in an alternate setting.

STATEWIDE AND DISTRICTWIDE TESTING

The educational agency must have a procedure for testing all children with disabilities to ensure the provision of their accommodations as written in the IEP.

The educational agency ensures that students with disabilities are included in general state- and districtwide assessment programs. Federal laws provide clear expectations that states will align achievement assessments with academic content standards. In Ohio, these are the three ways to assess student achievement of academic content standards:

- Participation in the general assessment with universal or designated supports (most students)
- Participation in the general assessment with allowable accommodations (some students with disabilities and English learners)
- Participation in an alternate assessment (small number of students with the most significant cognitive disabilities)

Accommodations for students with disabilities must be documented on the IEPs. Other accessibility features are not required to be documented to be provided. However, if there is an accessibility feature that an IEP team wants to ensure a student receives, the IEP team should document the feature on the student's IEP.

IEP SIGNATURE

Only the initial IEP requires parents' signature to implement the IEP.

IEP annual reviews, revisions, and amendments do not require a parent's signature to implement the IEP, unless there is a change in placement. Ohio does not require a signature (section 15 of the IEP) but requires the parent to participate in the meetings/decisions. The parent would have signed the participant page of the IEP.

Initial IEP: A parent may give consent to the full IEP services, for partial IEP services, or refuse all services.

Annual review IEP: A parent may sign in agreement with the implementation of the IEP or sign in disagreement to specific services in the IEP.

The parent is required to provide consent for a change in placement.

INITIAL IEP

The initial IEP must be developed within 30 calendar days of the eligibility determination that the child needs special education and related services.

For an initial IEP, the parent must provide consent by signing to implement:

- The special education and related services as specified in the IEP, or
- Certain areas in the IEP, or
- Not initiating special education and related services as specified in the IEP.

Eye examination for initial IEPs

The educational agency in which the child is enrolled ensures that parents are notified that the child is required to undergo a comprehensive eye exam within three months of starting IEP services, unless the child underwent such an examination within the nine-month period immediately prior to being identified with disabilities.

No student shall be prohibited from initiating, receiving, or continuing to receive IEP services prescribed in the student's IEP because he or she has not undergone the required eye examination.

IEP TEAM MEMBERS

Required members of the IEP team include:

- The child's parents
- At least one general education teachers, if the child is or may be participating in the regular education environment
- At least one special education teacher of the child or, where appropriate, a special education provider of the child
- An educational agency may designate an educational agency member of the IEP team to serve as the educational agency representative. A representative of the educational agency who:
    - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities
    - Knows the general education curriculum
    - Knows about the availability of resources of the educational agency
- Someone who can interpret the instructional implications of the evaluation results, who may be one of the team noted previously
- Individuals who have knowledge or special expertise regarding the child, including related services personnel, can be invited based on the parents or educational agency determination
- The child must be invited to all IEP meetings starting at age 14 (if appropriate at a younger age)
- Note: The related service provider is not a required team member, unless the related service is the only specially designed instruction that the student receives. Then the related services provider takes the place of the intervention specialist as a required team member.

ADDITIONAL IEP TEAM MEMBERS FOR CHILD UNDER PART C (EARLY INTERVENTION)

At the request of the parent, an invitation to the initial IEP team meeting must be sent to the early intervention service coordinator or another representative to assist with the smooth transition of services.

IEP MEETINGS

Parent participation

The educational agency ensures that one or both parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including:

- Notifying the parents of the meeting in a reasonable time to ensure that they will have an opportunity to attend
- Scheduling the meeting at a mutually agreed upon time and place

Parent invitation

A notice to a parent regarding an IEP meeting includes the following:

- The purpose
- Time and location of the meeting
- Who will be in attendance:
    - A list of individuals invited, such as the early intervention service coordinator or other representatives of the Part C system at the initial IEP meeting
    - Individuals who have knowledge or special expertise about the child
- If the IEP will be in effect when the child turns 14, and if determined appropriate by the IEP team, the notice must indicate:
    - The child will be invited to the meeting
    - The purpose of the meeting must include:
        - The development of a statement of postsecondary transition services needs
        - Consideration of the postsecondary goals and transition services
    - Any other agency identified as a representative of the child

Other methods to ensure parents participation

If neither parent can attend an IEP team meeting, the educational agency uses other methods to ensure parent participation, including individual or conference telephone calls, virtual meetings consistent with and related to alternative means of meeting participation.

Conducting an IEP team meeting without a parent in attendance

The educational agency keeps a record of its attempts to arrange a mutually agreed upon time and place, such as:

- Detailed records of telephone calls made or attempted and the results of those calls
- Copies of correspondence sent to the parents and any responses received
- Detailed records of visits made to the parents' home or place of employment and the results of those visits

A meeting can be conducted without a parent in attendance if the abovementioned attempts have been unsuccessful.

General education teacher requirement

A general education teacher who is a member of a child's IEP team, must participate in the development of the IEP, including the determination of:

- Appropriate positive behavioral interventions and supports and other strategies for the child
- Supplementary aids and services, program modifications and support for school personnel

Secondary Transition services participants

- The educational agency invites a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.

- If the child does not attend the IEP team meeting, the educational agency takes other steps to ensure that the child's preferences and interests are considered.
- The educational agency invites a representative of any participating agency that is likely to be responsible for providing or paying for transition services with the consent of the parents or a child who has reached the age of majority.

IEP Team attendance and excusal

- All IEP team members are required to participate in the meetings.
- A member of the IEP team is not required to attend an IEP team meeting, in whole or in part, if the parent of a child with a disability and the educational agency agrees, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- A member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:
    - The parent and the educational agency consent to the excusal in writing
    - The member submits in writing their input into the development of the IEP to the parent and the IEP team prior to the meeting

Use of interpreters

The educational agency takes necessary measures to ensure that the parent understands the proceedings of the IEP team meeting, such as arranging for an interpreter for parents with deafness or whose native language is other than English or any other necessary accommodations.

IMPLEMENTATION OF IEPS

Each educational agency ensures the IEP is developed and implemented for each child with a disability, and the services identified in the child's IEP are provided as agreed upon with the child's school district of residence.

Each child identified as a child with a disability within its jurisdiction has an IEP on or before the child's third birthday and at the beginning of each subsequent school year.

The IEP shall be implemented as soon as possible following the IEP meeting or within 30 days of special education eligibility determination.

Accessibility of IEP to teachers and others

The educational agency ensures that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for implementing the IEP, and that each teacher and provider is informed of:

- The teacher's and provider's specific responsibilities related to implementing the child's IEP
- The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP

PROGRESS REPORT

IEP and transition progress reports must include:

- A description of progress toward the completion of the IEP goals and transition services provided to the parent at least as often as report cards are issued to all children

- If the school district provides interim reports to all children, progress reports are provided to all parents of a child with a disability concurrent with the issuance of progress reports for students without a disability.

REVIEW AND REVISION OF IEPS

The educational agency ensures the IEP team:

- Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved
- Revises the IEP, as appropriate, to address:
    - Any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate
    - The results of any reevaluation conducted
    - Information about the child provided to, or by, the parents
    - The child's anticipated needs or
    - Other matters

In conducting a review of the child's IEP, the IEP team must consider the special factors.

A regular education teacher of the child, as a member of the IEP team, must participate in the review and revision of the IEP of the child.

AMENDMENT AND MODIFICATION OF IEP

If changes are needed to be made to an IEP after the annual IEP review, the parent of a child with a disability and the educational agency may agree to not reconvene a full IEP team meeting for the purposes of making those changes to the IEP, but may develop a written document to amend or modify the child's current IEP.

If the IEP team amends or modifies the current IEP, the educational agency ensures that the child's full IEP team, teachers, and providers are informed of those changes.

The annual review date for the amended or modified IEP does not change. The review date will change upon a complete review and revision of the child's IEP.

After amending the IEP, the educational agency must send a copy of the amended IEP to the parent within 30 days of the date the IEP was amended.

IEP TRANSFERS

<u>IEPs for children who transfer school districts in the same state</u>

When a child with an IEP in effect transfers within Ohio and enrolls in a new educational agency within the same school year, the new educational agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous educational agency), until the new educational agency either:

- Adopts the child's IEP from the previous educational agency, or
- Develops and implements a new IEP that meets the requirements of the Operating Standards **within 30 days**.

IEPs for children who transfer from another state

When a child with an IEP that had been in effect in another state transfers to an educational agency in Ohio and enrolls within the same school year, the new educational agency (in consultation with the parents) ensures FAPE (including services comparable to those described in the child's IEP from the previous out of state school) is provided to the child, until the new educational agency decides if it needs to:

- Adopt the out of state IEP (if determined to meet Ohio requirements, or
- Conduct an initial evaluation (if determined to be necessary by the new school district), or
- Develop and implement a new IEP that meets the requirements of the Operating Standards.

TRANSFER OF RIGHTS AT AGE OF MAJORITY

When a child with a disability reaches the age of majority under Ohio law (eighteen years of age), all rights accorded to parents under Part B of the IDEA usually transfer to the child.

- By the child's 17th birthday, the IEP must include a statement that the child has been informed of the child's rights that will transfer to the child on reaching the age of majority (18 years old).
- The parent and the child must sign and date this section of the IEP.

For children who are incarcerated in an adult or juvenile state or local correctional institution, the educational agency must provide notice to the parent and child of the transfer of rights at age of majority.

All education rights that the parent had would transfer at age of majority to the child who is incarcerated in an adult or juvenile state or local correctional institution.

INCARCERATED YOUTH

The IEP team must amend the child's IEP to address placement at the juvenile detention center or adult jails and make amendments to the IEP as necessary to ensure FAPE is provided to the child.

TRANSMITTAL OF EDUCATION RECORDS BETWEEN EDUCATIONAL AGENCIES

The new educational agency must obtain the child's education records within 30 days of the child's enrollment, including the IEP and supporting documents, as well as any other records relating to the provision of special education or related services to the child, from the previous educational agency in which the child was enrolled.

All special education records must be transferred to the new educational agency or nonpublic school regardless of fees owed to the educational agency.

The previous educational agency must respond to the request for the education records within 30 days of the notification of the child's enrollment into the new educational agency.

Student Discipline

Policy

The school district of residence ensures that children with disabilities, their parents, and public agencies are provided an opportunity to resolve disputes regarding identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education (FAPE).

Procedure

THE EDUCATIONAL AGENCY:

REMOVALS

May remove a child with a disability who violates a code of student conduct from his or her current placement for not more than 10 consecutive school days. The regulation does not permit using repeated disciplinary removals of 10 school days or less as a means of avoiding the change in placement options.[5]

CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

For purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if:

- The removal is for more than 10 consecutive school days, **or**
- The child has been subjected to a series of removals that constitute a pattern because:
  - The series of removals total more than 10 school days in a school year
  - The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals and
  - Additional factors, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another

Determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

REMOVAL NOTIFICATION

Notifies parent of the decision to remove a child from his or her current placement on the date the educational agency makes the decision and provides the parent with the procedural safeguard notice.

Provides prior written notice to the parent of a child with a suspected or confirmed disability prior to a change in placement that is a result of a disciplinary action.

MANIFESTATION DETERMINATION

Conducts a manifestation determination review within 10 school days of any decision to change the child's placement because of a misconduct violation.

The educational agency and the relevant IEP team members, including parents, must:

[5] Federal register, vol 71 no. 156 page 46715

- Review all relevant information in the child's file, including the child's IEP, teacher's observations, and any relevant information provided by the parents
- Determine if the conduct in question was caused by the child's disability, or if it was the direct result of the educational agency's failure to implement the child's IEP

If the misconduct was determined to be a manifestation of the child's disability, the IEP team must:

- Conduct a functional behavioral assessment (FBA), **or**
- If an FBA was completed before the behavior that resulted in the change of placement occurred, review the behavior intervention plan (BIP) and modify as needed to address the behavior, and
- Return the child to their prior placement unless the team determined otherwise based on the BIP

If the change of placement is more than 10 days and the manifestation determination hearing concluded that the child's behavior which resulted in the violation was not related to the disability, then the educational agency can proceed as it would with a nondisabled child.

If the removal is a change of placement, the educational agency must provide the parent a prior written notice and the child's IEP team must determine:

- The appropriate services
- The interim alternative educational setting for the child to receive special education and related services

SERVICES

Must, for a child with a disability who has been removed from the child's current placement:

- Continue to provide educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP
- Conduct a functional behavioral assessment
- Provide behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur

The services required may be provided in an interim alternative educational setting.

After a child with a disability has been removed from the child's current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement under this rule, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

Is only required to provide services during periods of removal to a child with a disability who has been removed from the child's current placement for ten school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

Although not required, educational agencies are encouraged to provide services during such short-term removals to assist children with disabilities to continue to make progress toward their IEP goals

and prevent them from falling behind. (See OSEP's Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions July 19, 2022.)

SPECIAL CIRCUMSTANCES

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the Department of Education and Workforce or an educational agency
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an educational agency, or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an educational agency.

PROTECTIONS FOR CHILDREN NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

A child who has not been determined to be eligible for special education and related services but who has engaged in behavior that violated a code of student conduct may assert any of the protections provided under IDEA if the educational agency had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

AN EDUCATIONAL AGENCY'S BASIS OF KNOWLEDGE

An educational agency has knowledge that a child is a child with a disability before the behavior that precipitated the disciplinary action occurred, if:

- The parent of the child expressed concern in writing that the child is in need of special education and related services to:
    - A supervisory or administrative personnel of the appropriate educational agency, **or**
    - A teacher of the child
- The parent of the child requested an evaluation of the child, or
- The teacher of the child, or other personnel of the educational agency, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the educational agency or to other supervisory personnel of the educational agency.

An educational agency would not be deemed to have knowledge if the parent of the child:

- Did not allow an evaluation of the child, or
- Refused services, or
- After an evaluation, the child was determined to not be a child with a disability.

CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE

If an educational agency does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors.

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

The educational agency eligibility determination decision must take into consideration information from the evaluation conducted by the educational agency and information provided by the parents.

If the child is determined to be a child with a disability, the agency must provide special education and related services.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

May report a crime committed by a child with a disability to appropriate authorities or state law enforcement and judicial authorities.

Non-Public Schools (OAC 3301-51-08)

Policy

Each educational agency locates, identifies, and evaluates all children with disabilities who are enrolled by their parents in private schools, including religious, elementary schools, and secondary schools, located in the educational agency's geographical boundaries.

Each school district ensures equitable services and participation for eligible children who are attending a chartered or non-chartered nonpublic school located within the district's geographical boundaries.

The school district ensures timely and meaningful consultation with the chartered and non-chartered nonpublic school officials to determine if any children attending those nonpublic schools are eligible for equitable services.

Procedure

THE EDUCATIONAL AGENCY:

CHILD FIND FOR PARENTALLY PLACED NONPUBLIC SCHOOL CHILDREN WITH DISABILITIES

The child find process must be designed to ensure:

- The equitable participation of parentally placed private school children
- An accurate count of those eligible children

DISTRICT PLACEMENT IN NONPUBLIC SCHOOLS

Before a public school district places a child with a disability in, or refers a child to, a nonpublic school or facility, the district must initiate and conduct a meeting to develop an IEP for the child in accordance with the IEP rule.

The educational agency must ensure that a representative of the nonpublic school or facility attends the meeting. If the representative cannot attend, the educational agency must use other methods to ensure participation by the nonpublic school or facility, including individual or conference telephone calls or virtual meetings.

After a child with a disability enters a nonpublic school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the nonpublic school or facility at the discretion of the public educational agency.

If the nonpublic school or facility initiates and conducts these meetings, the public educational agency must ensure that the parents and an educational agency representative:

- Are involved in any decision about the child's IEP
- Agree to any proposed changes in the IEP before those changes are implemented

Even if a nonpublic school or facility implements a child's IEP, responsibility for compliance with this rule remains with the public educational agency and the Department.

CONSULTATION

To ensure timely and meaningful consultation, the school district where the nonpublic school is located must consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school children with disabilities during the design and development of special education and related services for the children regarding the child find process:

- How parentally placed nonpublic school children suspected of having a disability can participate equitably
- How parents, teachers, and nonpublic school officials will be informed of the process

In carrying out the requirements of child find, the educational agency must undertake activities similar to the activities undertaken for the educational agency's public-school children.

When conducting child find, evaluations and service activities, the educational agency where the nonpublic school is located must follow all the IDEA and the FERPA confidentiality requirements when serving children with disabilities attending chartered and non-chartered nonpublic schools.

OUT-OF-STATE PARENTALLY PLACED CHILDREN

Children from out of state who are parentally placed in an Ohio nonpublic school fall under the child find obligation. Each educational agency must fulfill its child find obligations for parentally placed children including religious, elementary schools and secondary schools located in the education agency’s geographical boundaries whose residence is in another state.

The child find process must be completed in a time period comparable to that for students attending public schools in the educational agency’s geographical boundaries.

The cost of child find requirements, including individual evaluations, may not be considered in the determination that the educational agency has met its obligation to expend proportionate share funds to provide equitable services.

EVALUATIONS

The public school district in which the nonpublic school is located is responsible for conducting the evaluations either directly or through contract.

District of residences are responsible for conducting the evaluations of homeschooled children.

IEP AND INDIVIDUALIZED SERVICES PLAN

Only the public school district in which the nonpublic school is located can develop an individual service plan (ISP). The public school district must initiate and conduct meetings to develop, review, and revise a services plan and ensure that a nonpublic school representative attends each meeting.

Consultation process

The consultation process among the school district where the nonpublic school is located, nonpublic school officials, and representatives of parents of parentally placed nonpublic school children with disabilities, including how the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

Provision of special education and related services

How, where, and by whom special education and related services will be provided for parentally placed nonpublic school children with disabilities, including a discussion of:

- The types of services, including direct services and alternate service delivery mechanisms
- How special education and related services will be apportioned if funds are insufficient to serve all parentally placed nonpublic school children
- How and when those decisions will be made
- Written explanation by the school district regarding services

If the school district where the nonpublic school is located disagrees with the views of the nonpublic school officials on the provision of services or the types of services (whether provided directly or through a contract), the school district where the nonpublic school is located shall provide to the nonpublic school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

The services plan must:

- Be developed to meet IEP requirements as outlined in the IEP rule and to the extent appropriate
- Be individually developed for each participating child using the services plan form, i.e., IEP form, included in the school districts' approved forms
- Be developed, reviewed, and revised consistent with the IEP requirements

Homeschooled and parentally placed children who accept the Jon Peterson Special Needs or Autism Scholarship give up the right to FAPE.

THE SCHOOL DISTRICT OF RESIDENCE

Is not required to pay for the cost of FAPE of a child with a disability at a nonpublic school or facility if:

- The school district of residence made FAPE available to the child in the public school, **and**
- The parents elected to place the child in the nonpublic school or facility.

Transportation (OAC 3301-51-10)

Policy

The public school district ensures transportation is provided for a child if transportation is written in the IEP as a related service.

The public school district ensures transportation is provided to a parentally placed nonpublic school child with a disability if it is necessary for the child to benefit from or participate in the services.

Procedure

School district means city, local, exempted village, educational service center, community school, STEM school, boarding school, or county board of developmental disabilities, for purposes of this rule.

Special transportation means vehicle transportation service required by the individualized education program of a child with disabilities or any applicable state or federal law

Children with disabilities in this rule refers to those ages 3-21.

THE SCHOOL DISTRICT

Ensures that:

- Transportation is provided to and from school, between schools, and in and around school buildings during normal school hours and outside of normal school hours if included on the child's individualized education program
- The school district establishes when the child's needs are such that information to ensure the safe transportation and well-being of the child is necessary to provide such transportation

Weekend travel on Saturday or Sunday for residential schools is permitted.

COMMUNITY SCHOOL:

A community school governing authority shall provide or arrange transportation free of any charge for any child with disabilities enrolled in the school for whom the child's individualized education program specifies transportation in accordance with section 3314.091 of the Revised Code.

PARENTALLY PLACED:

For transportation purposes, a child with disabilities that is parentally placed in a nonpublic school shall be entitled to transportation the same as any child without disabilities attending a nonpublic school in accordance with section 3327.01 of the Revised Code.

Comprehensive Coordinated Early Intervening Services

Policy

The school district ensures use of 15% of its IDEA Part B allocation for comprehensive coordinated early intervening services (CCEIS) if the Department determines that a district has significant disproportionality based on race or ethnicity with respect to the identification of children with disabilities, the identification of children in specific disability categories, the placement of children with disabilities in particular educational settings, or the taking of disciplinary actions.

Procedure

Comprehensive coordinated early intervening services include:

- Activities that include professional development, educational and behavioral evaluations, services and supports to the identified student population as described above
- A review and assessment of the factors contributing to the significant disproportionality, including a lack of access to scientifically based instruction; economic, cultural or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels, and
- A review of the policies, practices, or procedures contributing to the significant disproportionality, including a policy, practice, or procedure that results in a failure to identify, or the overidentification of, a racial or ethnic group (or groups).

When identified as significantly disproportionate, the district must use 15% of its IDEA Part B Allocation to serve children ages three through grade 12, particularly, but not exclusively, children in those groups identified as significantly disproportionate:

- Children who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment
- Children with disabilities, but not limited only to such children
- Preschool children

Funds must be expended within the period of availability of the fiscal year in which the funds were reserved. The amount budgeted for comprehensive coordinated early intervening services and the budget narrative of the use of funds must be documented in the district's IDEA Part B grant application for the fiscal year in which the funds were reserved.

Educational agencies that are mandated to budget and expend 15% of their IDEA Part B allocation for these services are obligated to track and report the following:

- The amount of the reserved funds that are expended within a fiscal year and any carryover of unexpended funds to the following fiscal year
- The number of students who receive comprehensive coordinated early intervening services

- Of those students who received comprehensive coordinated early intervening services, the number who subsequently received special education and related services within two years after receiving comprehensive coordinated early intervening services

Glossary

College Credit Plus (CCP)

CCP classes are college-level courses that permit students to earn college credit while earning credits to graduate from high school. CCP courses must meet certain standards to maintain college-level accreditation. Districts are not required to implement individualized education programs (IEPs) for CCP classes and college-level courses may not be permitted to implement every accommodation and modification listed in a student's IEP.

Destruction

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Educational Agency

- School districts, including school districts of service, open enrollment school districts, community schools
- The Ohio Department of Youth Services, and joint vocational school districts
- Juvenile justice facilities, educational service centers, county boards of developmental disabilities
- Any department; division; bureau; office; institution; board; commission; committee; authority; or other state or local agency, other than a school district or an agency administered by the Department of Developmental Disabilities, that provides or seeks to provide special education or related services to children with disabilities, unless Chapter 3323 of the Revised Code or a rule adopted by the state board of education specifies that another school district, other educational agency, or other agency, department, or entity is responsible for ensuring compliance with Part B of the IDEA.

Education Records

Records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution and covered under the definition of "education records" in 34 C.F.R. Part 99 (January 14, 2013) (the regulations implementing the Family Educational Rights and Privacy Act of 1974, August 1974, 20 U.S.C. 1232g (FERPA))

Free Appropriate Public Education (FAPE)

Free appropriate public education (FAPE) means students receive special education and related services that are provided at public expense, under public supervision and direction, and without charge; those services meet the standards of the Department; include an appropriate preschool, elementary school, or secondary school education; and are provided in conformity with a student's Individualized Education Program (IEP).

Individualized Education Program (IEP)

An IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting.

Initial Evaluation Team

The initial evaluation team includes the parents and a group of qualified professionals.

Informed Parental Consent

The parent:

- Has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, or other mode of communication
- Understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom
- Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

Least Restrictive Environment (LRE)

Children with disabilities must be educated in the same environment as children without disabilities as much as possible based on the children's needs. For specific requirements of LRE, see Ohio Administrative Code 3301-51-09.

Modification

- Changes what a student is taught or expected to learn
- Modifications to grade-level learning change the expectation to learn the full breadth and/or depth of content

Parent

- A biological or adoptive parent of a child (**Exception:** unless biological or adoptive parent lacks legal authority to make educational decision for the child)
- A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not if the child is a ward of the State)
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare, or
- A surrogate parent who has been appointed.

Participating Agency

Any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

Personally Identifiable Information

Information that contains:

- The name of the child, the child's parent, or other family member
- The address of the child
- A personal identifier, such as the child's social security number or student number, or
- A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

Public Expense

The district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent of the student.

Prior Written Notice

A written notice provided to the parent of the educational agency's proposals or refusal regarding initiating or changing the identification, evaluation or placement of the children.

Re-Evaluation Team

The re-evaluation team includes the IEP team and other qualified professionals.

Student Profiles

Summarize all current and relevant strengths, educational needs and performance levels of the child.

Transfer of student records

Requires schools to provide a transfer student's records to the new school within 5 days of the request. Schools can withhold records if a student owes $2,500 or more.