Frequently Asked Questions Related to Child Identification Obligations of AU-A and AU-R

Background

On March 13, 2025, the Colorado State Board of Education adopted changes to the Rules governing implementation of Colorado's Exceptional Children's Educational Act, 1 CCR, 301-8 (ECEA Rules). These changes are summarized in May 2025 Rule Change: Child Identification Obligations for CDEC Enrolled Children.

This change makes clear that preschool aged children attending Colorado Department of Early Childhood (CDEC) programs considered to be schools, including licensed child care centers, should be referred to the AU of attendance (AU-A) when there is a concern that the child may have a qualifying disability and need special education. Referrals to special education for children not enrolled in a public or private preschool should be made to the AU of residence (AU-R).

The following are Questions and Responses related to commonly asked questions since the changes took effect.

1. **Which types of early childhood settings are considered "school" in relation to responsibilities for fulfilling the requirements for the AU of attendance to complete the initial assessment for children enrolled in school?**

   ECEA rules do not specifically define "public and private school" in relation to a child attending a CDEC program. A licensed child care center is considered a school for the purposes of child find responsibilities, since it provides educational activities, is licensed by CDEC, and may be considered by an AU as a setting in which an IEP can be implemented. See ECEA Rules 4.02(1)(a)(ii) and 8.04(1) for additional information.

2. **Which AU is responsible for child find, including the initial evaluation, when a child is enrolled in a CDEC program (preschool or child care center)?**

   Preschool aged children attending CDEC programs considered to be schools, which includes licensed child care centers, should be referred to the AU of attendance when there is a concern that the child may have a qualifying disability and need special education.

3. **Which AU is responsible for child find, when a child is not enrolled in any CDEC program (preschool or child care center)?**

   Referrals to special education for children not enrolled in a CDEC program should be made to the AU of residence. ECEA Rules 4.02(1)(a)(ii) and 8.04(1).

4. **To which AU should a special education referral be made when a preschool aged child is attending a CDEC program (preschool or child care center) outside the family's district of residence and a disability is suspected?**

   The referral should be made to the AU of attendance. However, if the referral is made to the AU-R instead, the AU-R should work with the referral source, parent, and AU-A, to ensure the referral is made to the appropriate AU.

5. **Which AU is responsible for conducting the initial assessment and eligibility determination when a preschool child is attending a CDEC program (preschool or child care center) outside the family's district of residence and a disability is suspected?**

   The AU-A is responsible for the initial special education evaluation and eligibility determination. As part of the initial assessment, the AU of attendance shall invite the Special Education Director or designees of the AU of residence (8.04(1)) and (8.05(1)(a)). If the family enrolls the child in public school, the AU in which the child enrolls in public school (AUA or AUR) is responsible for FAPE.

6. **When a preschool child attends a CDEC program (preschool or child care center) outside the family's district of residence that is a private school and meets the requirements for proportionate share, what are the responsibilities of the AU-A and AU-R?**

   The AU where the private school is located is responsible for child find, including locating, identifying, and evaluating all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and must conduct an evaluation for purposes of determining whether the child could be eligible for equitable services.

7. **Is a child who attends a private school that meets the requirements of proportionate share entitled to FAPE?**

   There is no individual entitlement to FAPE outside of enrollment through the public school system. The AU in which the private school is located (AU-A) is responsible for Child Find and equitable services.

8. **To which AU should a special education referral be made when a child is attending a private faith based early childhood program outside of the family's district of residence and a disability is suspected?**

   The referral should be made to the AU of attendance. However, if the referral is made to the AU-R instead, the AU-R should work with the referral source, parent, and AU-A, to initiate an evaluation.

9. **When a preschool aged child attends a public charter school located outside of the family's district of residence, what are the responsibilities of the AU-R and the AU-A?**

   When the charter school and its authorizer or alternative administrative unit allows the charter school to provide initial evaluations, the charter school shall be responsible for conducting such evaluation. However, the AU of the charter school remains ultimately responsible for ensuring the initial assessment meets the requirements of ECEA 4.02 and 8.04.

10. **When the AU-A is responsible for the initial assessment but the AU-R is able to conduct the evaluation more quickly, may the AU-A and the AU-R make arrangements themselves to have the AU-R fulfill the initial assessment requirements?**

    Nothing in ECEA rule prohibits the AU-R from conducting the initial evaluation however the Rules are clear that the initial evaluation is the responsibility of the AU-A and should invite the AU-R. Rather than both AUs conducting separate activities, CDE encourages the AU-A and AU-R to work in collaboration to ensure that the initial evaluation and next steps are completed as quickly and seamlessly as possible for the family.

11. **Which AU is responsible for the initial evaluation and the offer of FAPE of a child transitioning from Part C?**

    The AU-R is responsible for initial evaluation responsibilities for all children transitioning from Part C. 4.03(1)(c). Since the child is not yet enrolled in public school, the AU-R is responsible for making an offer of FAPE if the child is eligible for special education.

12. **When a family or other referral source first contacts an AU-A or AU-R requesting an initial evaluation and that AU is not responsible for the initial evaluation, how should the AU proceed?**

    CDE recommends that the AU receiving the referral seek written permission from the family or referral source and then refer to the correct AU. It's important for the two AUs to work together to ensure a timely and seamless process for families.

13. **When a child attends a school district administered preschool outside of the family's district of residence through a public school choice process, is the AU-A responsible for identification, initial evaluation and the provision of FAPE?**

    Yes, when a child is enrolled in a public school district-administered preschool outside their district of residence, the AU-A is responsible for identification, initial evaluation and the provision of FAPE. 8.02(1)

CDE is responsible for ensuring that AUs meet the requirements of Part B of the IDEA and the ECEA. To fulfill its obligation, the CDE provides guidance to support AUs in implementing IDEA and ECEA requirements. This guidance is not binding and should not be construed as legal advice. AUs are encouraged to review their policies, procedures, and practices to ensure alignment with state and federal requirements and make changes, as needed. For legal advice, AUs should consult with their legal counsel.

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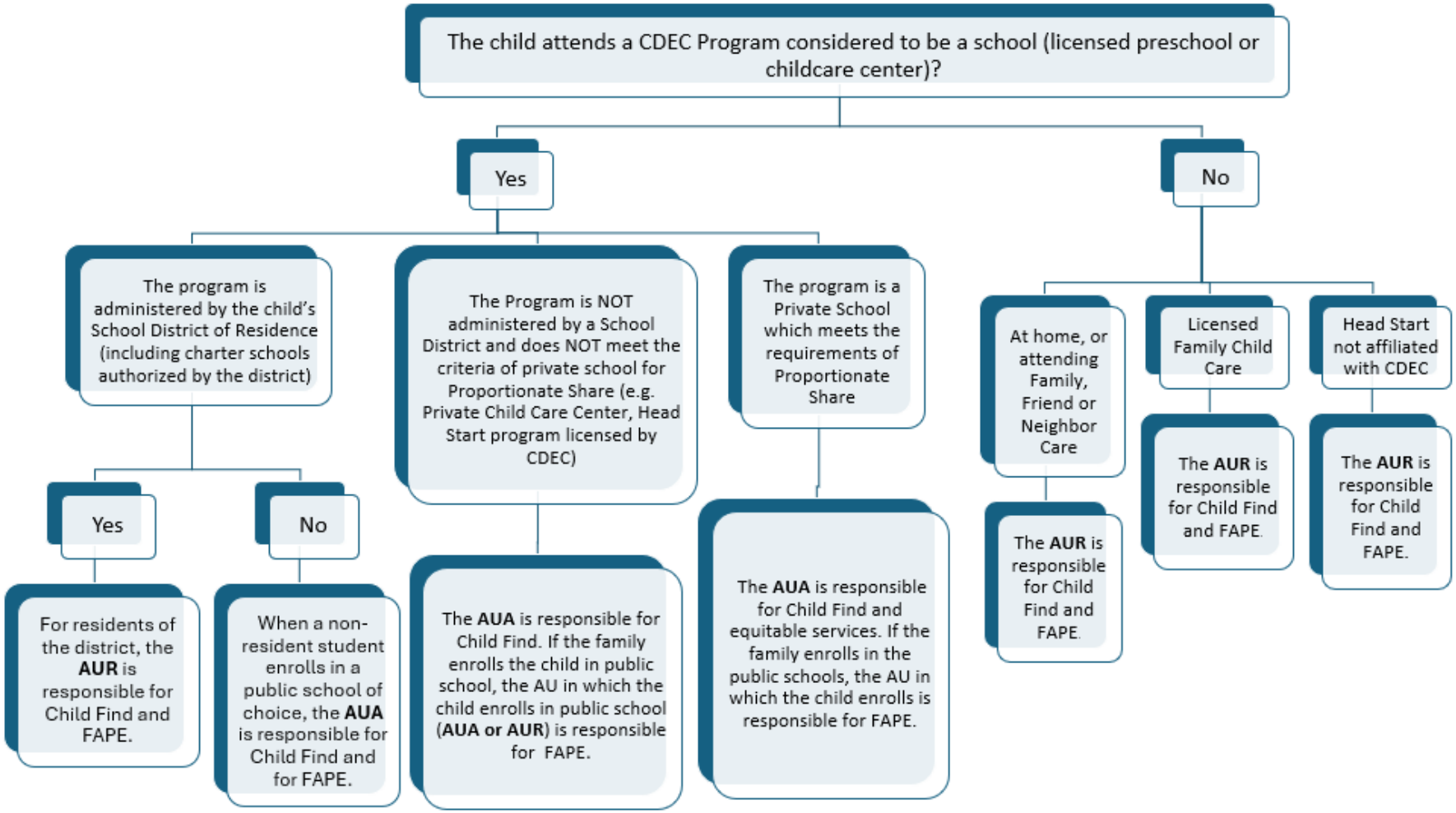
The child attends a CDEC Program considered to be a school (licensed preschool or childcare center)?
Yes
No
The program is administered by the child's School District of Residence (including charter schools authorized by the district)
The Program is NOT administered by a School District and does NOT meet the criteria of private school for Proportionate Share (e.g. Private Child Care Center, Head Start program licensed by CDEC)
The program is a Private School which meets the requirements of Proportionate Share
At home, or attending Family, Friend or Neighbor Care
Licensed Family Child Care
Head Start not affiliated with CDEC
Yes
No
For residents of the district, the AUR is responsible for Child Find and FAPE.
When a non-resident student enrolls in a public school of choice, the AUA is responsible for Child Find and for FAPE.
The AUA is responsible for Child Find. If the family enrolls the child in public school, the AU in which the child enrolls in public school (AUA or AUR) is responsible for FAPE.
The AUA is responsible for Child Find and equitable services. If the family enrolls in the public schools, the AU in which the child enrolls is responsible for FAPE.
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