



MONTANA EMPOWERMENT CENTER, INC.

Exceptional Children, Extraordinary Potential

MONTANA PARENT'S HANDBOOK TO SPECIAL EDUCATION



**A GUIDE TO UNDERSTANDING SPECIAL EDUCATION
FOR SCHOOL-AGE CHILDREN IN MONTANA**

Introduction

The Individuals with Disabilities Education Act (IDEA) makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children. The purpose of this publication is to help you, as a parent, understand the special education process. The information in this Handbook will enable you, as a member of your child's IEP team, to actively participate in your child's educational development from qualifying for services to developing their Individualized Education Program (IEP).

The process can be quite confusing to all families, from those who have no experience with special education to those utilizing special education services for their children for years. Rules and procedures change as your child gets older. Each state implements the law differently. The rules and regulations change as the Federal law is reauthorized every five years. We will present the relevant information for parents here in Montana. For example, the federal special education law serves school-aged children between the ages of 3 and 21. However, Montana law applies to children ages 3 - 20 (as long as the student has not turned 20 before September 10 of the new school year).

The information in this Handbook is designed to provide families with increased knowledge of their rights and responsibilities, and provide access to information, resources, and training to enable you, as parents, to make informed decisions about special education services for your children.

The information in this handbook will be limited to Part B of IDEA: Assistance for Education of All Children with Disabilities.

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Chapter 1

Education is a Right for All Children

The Education for All Handicapped Children Act (E.H.A. Public Law 94-142) was initially authorized in 1975 and guaranteed the right of ALL children to receive a "Free Appropriate Public Education" (FAPE). In 2004, the reauthorized law was called the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004).

The law means that no matter how complex the disability may be, every child is entitled to an education at no cost to the family. Children with disabilities also have the right to a quality, individually designed, special education program that will lead to appropriate outcomes unique to each student (such as college, jobs, and community relationships) when they reach adulthood.

ACCESS AND QUALITY EDUCATION GUARANTEED

Every child has the right to a Free Appropriate Public Education (FAPE).

- > Free means that parents of children in special education do not have to pay extra fees for their children to receive services.
- > Appropriate means that children in special education have the right to individualized educational services that help them make progress in their classes every year.

Appropriate services do not have to be the best services. Instead, special education must provide the necessary specialized instruction and appropriate accommodations to ensure your child can participate in the regular education curriculum to the greatest extent possible.

Public education means that the special education and related services are provided at public expense, under public supervision and direction, and meet the standards set by Montana's Board of Public Education and the Montana Office of Public Instruction (OPI).

SPECIAL HELP IS AVAILABLE BEGINNING AT AGE THREE

Parents are equal partners in their child's education. If your child needs special help at school, services may be available through special education. Special education is instruction designed to meet your child's unique needs.

Special education services are available for preschool children beginning at age 3 through age 5 and for school children 6 years old through 18 (In special circumstances may be served to age 20). Services may be provided through age 20 in Montana. If a district serves non-disabled students between 18 and 20 years old, then the district must also serve students with disabilities within that same age group.

Children who qualify for special education and related services receive what they need to succeed in school. Each child has a program made just for them. Some children study academic subjects in special education. Other children learn skills like taking care of themselves, living more independently, and managing their behavior. Still, others may need technology or simple accommodations, like shortened assignments or oral testing.

MULTI-TIERED SYSTEM OF SUPPORTS

Although not special education, your school may be using an intervention and support program called the Multi-Tiered System of Supports (MTSS) which provides instruction and interventions to all students at varying degrees of intensity based on student needs. It consists of three tiers or levels.

- > Tier 1 is core instruction. Every single student receives instruction in the core curriculum.
- > Tier 2 is targeted support for students that need more academic or behavioral assistance. Support is provided through small group instruction or in a computer lab.
- > Tier 3 is appropriate if the student is still struggling after getting assistance at the Tier 2 level. Tier 3 consists of an intensified level of instruction. Break-out groups are smaller, and the instruction is more specifically focused.

However, schools must ensure that evaluations for special education services are not delayed or denied because of the implementation of MTSS strategies.

STEPS IN THE SPECIAL EDUCATION PROCESS

IDEA requires that a set process is followed so that students who need special services are appropriately identified, and their parents can participate in making those decisions. The list below shows the basic steps in the process:

1. Referral for testing. A parent may make a written request to the school.
2. Written Parent Consent for testing.
3. Testing/Evaluation/ Assessment by the school.
4. Evaluation Report Team meeting: This is a meeting of parents and school staff to review the testing results, determine eligibility, and identify your child's educational needs.
5. Individualized Education Plan or Program (IEP): A plan to ensure that your child with an identified disability receives specialized instruction and related services to meet their individual educational needs.
6. Parent participation in the development of the IEP.
7. Parental consent for their child to receive special education services.
8. Program planning and placement.
9. Transition planning: Starting at age 16, to prepare the student for life after high school.
10. Monitoring of the IEP.
11. Annual review of the IEP.
12. Re-evaluation: Every three years, your child in special education shall be re-evaluated to determine if they continue to be eligible and in need of special education services. The re-evaluation can be waived if the parents and school agree.

PARENTS ARE AN EQUAL PARTNER IN THE SPECIAL EDUCATION PROCESS

The law says that school staff must include parents in every step of the special education process, including referral, assessment, program planning, placement, transition planning, and monitoring of the Individualized Education Program (IEP). As a parent, you have a responsibility and a right to attend meetings, take an active part in planning your child's program, and participate in your child's education.

CHILD FIND AND REFERRAL FOR EVALUATION

Early intervention programs and public schools are responsible for conducting Child Find activities, and the special education process begins with Child Find. Each public school district is required to locate, identify, and evaluate all school-aged children within the district who are suspected of having a disability. This includes homeless children, children who are wards of the state, children in juvenile detention facilities, children who are homeschooled, children in private schools, and children who have complex medical needs. Before a child can receive special education and related services, the child must be evaluated. Your local Child Find process will lead to an assessment by the Evaluation Team.

Anyone can refer a child who may need an evaluation to determine eligibility for special education and related services. The parent of a student may initiate a referral for evaluation. Most schools have a procedure for this that may include interventions prior to evaluating. However, interventions cannot delay or deny the request for evaluation. A request for an evaluation should be in writing and state the reasons for the referral.

HOMELESS

In addition to IDEA, there is federal legislation called the McKinney Vento Act. It requires local education agencies to ensure that every child and youth experiencing homelessness can enroll and be provided the opportunity to succeed in school, just as their peers living in more stable environments.

TESTING/ASSESSMENT/EVALUATION

Testing, assessment, and evaluation are different words for the same thing: the public school's process for evaluating your child and discovering your child's unique educational needs. As a parent, you can ask your school for an evaluation, and the district's special education personnel will help you plan your child's initial assessment. An assessment may include:

- > Individualized testing, which may include academic and intelligence testing.
- > Social-emotional or behavioral assessments.
- > Observations in different settings.
- > Review of records.
- > Collection of samples of your child's work.
- > Other types of information.

Before starting any evaluation, school staff will collaborate with you to develop a plan to evaluate your child. You must give your permission in writing before your child can be evaluated. The evaluations must be completed within 60 calendar days of the date when written permission was returned to the school. You will have an opportunity to contribute to the assessment by providing information about how your child acts at home and in the community. Your school may ask you to release your child's records and other relevant information, especially if another agency refers your child. You may also want to supply copies of results of evaluations done outside of school or letters from physicians and therapists.



Chapter 2

Evaluation Process

When the school district evaluation is completed, the results will be presented to a group called the Evaluation Report Team. The Evaluation Report Team includes you as a parent, a special education teacher, a regular education teacher, an administrator, persons qualified to interpret the test results and others who have contributed to the evaluation.

The Evaluation Team looks at the evaluation results and determines if your child is eligible for special education. To qualify for special education, your child must have a particular disability AND demonstrate a need for specialized instruction. These standards are written into regulations that the Evaluation Team will use to determine whether your child meets the criteria to be identified as a child with disabilities under Federal and State law.

ELIGIBILITY FOR PART B (CHILDREN AGES 3-18) SPECIAL EDUCATION SERVICES

To be eligible for Part B special education, a child must have a disability and a need for special education services. The eligibility categories for special education include:

- Autism
- Deaf-Blindness
- Deafness
- Developmental Delay (DD) (ages 3-8)
- Emotional Disturbance (ED)
- Hearing Impairment
- Cognitive Delay (CD)
- Orthopedic Impairment
- Other Health Impairment (OHI)
- Specific Learning Disability (SLD)
- Speech or Language Impairment
- Traumatic Brain Injury (TBI)
- Visual Impairment, including Blindness

The above disability categories include those listed in the IDEA, 34 CFR 300.8(c), as well as the categories recognized by the State of Montana. A.R.M. 10.16.3010-3022. Multiple disabilities is a term the state uses to describe a student with more than one of the above disability categories. Once the Team determines that your child is eligible for special education, your child's disability category is kept confidential. The terms are not used in the classroom or when talking to or about your child; they are used only to describe a disability, not to describe your child.

INDEPENDENT EDUCATIONAL EVALUATION (IEE)

After members of the school staff share the evaluation results, you can decide if the results match your view of your child. If you disagree with the Evaluation results, you can request that a qualified person complete an Independent Educational Evaluation (IEE) outside the school district.

The school district must pay for the IEE unless the district disagrees about the need for another evaluation. If the district disagrees, then the district can ask for a due process hearing and maintain that its evaluation was appropriate and that it should not have to pay for the independent educational evaluation. For more information about managing disputes, complaints, or disagreements, see Chapter 6: Dispute Resolution.

The Evaluation Report (ER) team and IEP team must consider the results whenever an independent evaluation has been completed.

CONSENT FOR SPECIAL EDUCATION SERVICES

You have the right to withhold your consent if you do not want your child to receive special education and related services. The school district cannot force you to accept those services. However, a refusal releases the district from any obligation to provide special education services.

LEAST RESTRICTIVE ENVIRONMENT

Every child in special education has the right to be educated in a way that is considered as normal as possible. IDEA 2004 calls this placing the child in the Least Restrictive Environment (LRE). For many children with disabilities, the least restrictive environment is the school that the child would attend if they did not have a disability, in a regular classroom, and using the curriculum offered to all students. If a child can be successful in the regular classroom with supplementary aids and services, then the child has the right to be in the regular classroom. Removal from the regular classroom should occur only if it is necessary to meet the child's educational needs.

The school district must have choices available for your child's placement or location where special education services are provided. These may include one, or a combination of the following:

- > Regular classroom with additional support services.
- > Regular classroom with direct services from special education personnel.
- > Regular education environment with self-contained classroom support.

No matter where your child receives special education services, every child in special education has the right to spend as much time as possible with other children who do not have disabilities.



Chapter 3

IEP Individualized Education Program

If everyone agrees with the results of the evaluation, the Team will move forward with writing an Individualized Education Program (IEP) within 30 calendar days of the date the child was determined eligible. An IEP is a plan that describes the individualized special instruction and the supports and related services your child with a disability needs to succeed in school. The IEP is the cornerstone of quality education for your child with a disability.

The school district has an obligation to ensure one, or both, of the parents are at each meeting, or are given the chance to be at the meeting. As a parent, you must be given enough notice to plan to attend the meeting. The meeting must be at a convenient time and place for you and the school. If you cannot be at the meeting, the school must allow you to add your ideas by phone, video, in a written or email letter, or reschedule the meeting. However, if you do not show up for the meeting, or contact the school and all reasonable attempts to contact you have been made, the IEP team may proceed without you.

MEMBERS OF THE IEP TEAM

The members of the Team must include:

- > At least one parent/guardian.
- > At least one regular education teacher if the student attends any regular education classes or if the student will be attending any regular education classes during this IEP's time frame.
- > At least one special education teacher.
- > Someone who is qualified to supervise services (an administrator).
- > Someone who is knowledgeable about the general curriculum.
- > Someone who is knowledgeable about the availability of resources.
- > An individual who can interpret the instructional implications of the evaluation results.
- > The student (when appropriate).

In most cases, the regular education teacher, special education teacher, and administrator will be knowledgeable about the general curriculum and availability of resources and will be able to interpret evaluation results. Other people may be involved in writing the IEP if they know your child and have something to contribute to the IEP. As parents, you can invite other persons who have expertise or knowledge of your child. This can include friends, relatives, childcare, and healthcare providers. This Team is critical to the success of your child's education. You, as a parent, are central to the Team because there are things that only you know about your child.

Parents have the right to participate in meetings with school personnel to discuss and make decisions about the identification, evaluation, placement, and the provisions for a Free Appropriate Public Education (FAPE) for their child.

THE IEP MEETING

The IEP meeting must be held at a time and place that is convenient for both you and the school staff. You should receive written notice within a reasonable time before the meeting so you have time to prepare. Your suggestions for your child's IEP will be important during the meeting. Bring your educational concerns and ideas for what you think should be in your child's goals.

CONTENTS OF THE IEP

Every child with a disability who needs special education must have a written Individualized Education Program (IEP). The IEP describes all the services needed for the child's special education program.

The law requires that every IEP include the following parts:

- > Preferences, Interests, Strengths and Educational Concerns: What does your child do well and in what areas does your child need help?
- > Consideration of Special Factors: Does your child have behavior difficulties, communication needs, or a need for assistive technology? Is your child an English language learner, or blind or visually impaired? If so, these must be addressed in the IEP.
- > Present Level of Academic Achievement and Functional Performance (PLAAFP): How is your child currently doing academically and behaviorally?
- > Annual Goals: What can your child accomplish in a specific area during the next school year?

- > Related Services: What support services, if any, does your child need to benefit from special education?
- > Delivery of Services: When will services begin? How long will they last? How frequently will they occur? How will your child's success or lack of success be monitored?
- > Placement: Where will your child receive services? Is the placement in the least restrictive environment?
- > Supplemental Aids and Services: Does your child have all the accommodations and modifications necessary to be successful in the general education classroom?
- > Extended School Year: Does your child need continuing services during the summer to avoid regression or problems with recoupment?
- > Re-evaluation: Your child's need for services can be re-evaluated every three years unless the IEP team agrees that it is not necessary.
- > Transition: Beginning at age 16, What plans are you, your child, and the school district considering for graduation and beyond?
- > Signature Lines: Have you, as the parent, signed that you participated in the IEP? Have you signed the IEP indicating approval of the entire IEP, or have you signed indicating approval of the IEP with certain exceptions?

Keep in mind that the goals on your child's IEP must help your child make progress in the general curriculum. The general curriculum is the subjects and skills that all children are learning at a particular grade level. The IEP must also address your child's educational needs that result from their disability.

RELATED SERVICES TO HELP CHILDREN LEARN

For some children, special education services are not enough to help them learn. These children also need support services called "related services." Common related services include:

- Audiology.
- Speech Therapy.
- Psychological services and assessment.
- Physical Therapy.
- Occupational Therapy.
- Special Transportation.
- Counseling (including rehabilitation counseling).
- Social Work Services.
- Orientation and mobility.
- School nursing.
- Other services, as needed.

Your child has a right to these related services if they are necessary to help them learn. However, a student cannot receive just related services. Related services are used only when combined with special education.

SPECIAL HEALTH CARE NEEDS

Students in special education who have special health care needs may have an Individual Health Care Plan attached to their IEP. The health care plan outlines specific health care that must occur during the school day. It should include information about medications the student may be taking and procedures to follow if there is a medical emergency during the school day or at a school event.



Chapter 4

Key IEP Concepts

The IEP is most effective when it clearly spells out the supplementary aids, services, accommodations, and changes to the curriculum that may be necessary to allow children to participate fully in their educational programs. In the IEP document, there are specific places where the IEP supports can be listed.

SPECIAL FACTORS IN THE IEP

In developing the IEP, the Team is required to consider the following special factors and, if appropriate, to include them in the IEP:

Behaviors – These may include distractibility, hyperactivity, anger outbursts, disengagement/shutting down and/or impulsivity. In the case of a child whose behavior impedes their learning or that of others, the Team must consider strategies, including a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP) containing strategies and supports to address the behavior.

Communication – The Team must consider your child's language and communication needs and determine how they will be provided opportunities for direct communication with peers and professional personnel in their mode of communication. The IEP should include direct instruction in their language and communication mode.

Assistive Technology – Assistive technology includes items, equipment, or devices used to increase, maintain, or improve the functional abilities of your child and is another source of help for children with disabilities.

Types of assistive technology devices may include devices for access, environmental control, augmentative communication, assistive listening, visual aids, mobility, or computer-based instruction. Assistive technology must be considered for any child receiving special education and related services. If you have concerns that your child might benefit from assistive technology, you can ask the school for an assessment.

English Language Learner – If a child is an English Language Learner, the Team must consider the language needs of the child as they relate to the services outlined in the IEP

Instruction in Braille – In the case of a child who is blind or visually impaired, the IEP Team must provide for Braille instruction as part of the IEP unless the Team determines that instruction in Braille is not appropriate for a particular child.

Orientation and Mobility – If a child is blind or visually impaired, the IEP Team must consider the orientation and mobility needs of the child.

Although Deafness is not mentioned as a special factor, communication needs should be considered for the IEP

SUPPLEMENTARY AIDS AND SERVICES

Supplementary aids and services are accommodations made for your child to participate in the regular classroom and participate in extracurricular and other non-academic activities. These accommodations might include having tests read aloud, shortened assignments, extended time on tests, or receiving class notes from the teacher. Having an aide or a paraprofessional help your child in the classroom might also be a supplementary service. While IDEA does not require assigning a specific teaching assistant to any child, the school district must ensure that enough assistance is available to meet your child's needs.

PROGRAM MODIFICATIONS

Program modifications are changes made in how your child learns. They may include completing different or less homework problems than peers or getting graded on a different standard than peers.

SUPPORTS FOR SCHOOL PERSONNEL

Support for school personnel refers to the specific support a teacher, social worker, or specialist may need. Examples of teacher support might include training, special equipment (for example, software), or a teaching assistant.

TRANSITION PLANNING AND SERVICES

In the IDEA, transition refers to the movement of a special education student from high school into post-secondary education, employment, or adult services. Transition planning must begin when a student turns 16 years of age. If the student turns 16 during an IEP year, transition planning must be a part of that IEP. Planning for a successful transition involves determining what skills and services your child will need to pursue their goals after graduation.

- > Transition planning can begin at age 14 if the IEP team agrees that is appropriate.
- > The student must be invited to the transition IEP meeting.
- > Transition planning includes the student, parents, teachers, school administrators, related services personnel, and outside agencies that may provide services during or after graduation.
- > The Transition section of the IEP must include age-appropriate assessments in training, education, employment, and, if appropriate, independent living.
- > Measurable post-secondary goals are written for education or training, employment, and, if appropriate, independent living.
- > All sections of the Transition Plan should be updated each year at the annual IEP review.
- > Transition Planning assists students in understanding their disability and how to make informed choices for themselves.

As part of the transition process, school personnel must invite to the IEP meeting a representative of any other agency who is likely to provide, or pay for, future transition services for students in need of adult services after graduation.

An example of such an agency is Montana Vocational Rehabilitation and Blind Services (VRBS). This agency helps students explore and choose a career that matches both the skills and needs of

students with disabilities. VRBS can provide financial assistance for training, education, and other costs associated with entering the workplace.

Vocational Rehabilitation also offers the Pre-Employment Transition Services (Pre-ETS) Program, which collaborates closely with the school on programs designed to prepare the student for post-graduation life, such as job exploration counseling, workplace readiness training, counseling on post-secondary programs, and instruction on self-advocacy.

For more information on transition and transition services, please contact MEC at 1-877-870-1190.

AGE OF MAJORITY

The right of consent for the IEP belongs to the parent until the child reaches age 18. The student's IEP must include a statement that the student has been informed of their rights under IDEA and that these rights will be transferred to the student at age 18. At that point, the student assumes the rights previously given to the parent, regardless of the student's disabilities. If the student has limited cognitive ability, the parents may consider guardianship or supported decision-making. Adult students (18 years old) have the right to consent or withhold consent for the IEP. Public school personnel will tell you about this transfer of parental rights at least one year before your child turns 18. Even after the student turns 18, they may request that their parents be included in the IEP meeting as team members.

PARTICIPATION IN STATE AND SCHOOL DISTRICT ASSESSMENTS

IDEA requires that special education students be included in assessments so that it is possible to determine how special education students are responding in relation to the general curriculum. Some students receiving special education services will not need accommodations when taking standardized achievement tests, but some students may receive accommodations that are outlined in their IEP, for example, more time, directions read aloud, smaller groups, extra breaks.

PLACEMENT CONSIDERATIONS

Where students will receive their educational programs must be based on their needs, not upon administrative convenience or parental preference. The clear preference of IDEA is for students with disabilities to participate in the general curriculum and receive their instruction in the regular classroom. Removal of a special education student from the regular classroom should occur only when such removal is necessary for the student's benefit. When children are going to receive all or part of their instruction in an environment other than the regular education setting, the IEP must contain an explanation of why that is necessary.

TRANSFER STUDENTS

When a student with an IEP enrolls in a new school, that school district must continue to provide a free appropriate public education, including services comparable to those in the current IEP. The school district, with parental input, must either accept or amend the current IEP or develop a new IEP.

EXTENDED SCHOOL YEAR (ESY)

Extended school year (ESY) services are special education and related services provided to a student with disabilities beyond the regular school year if the IEP team determines that ESY services are necessary. The standard for this determination is the regression/recoupment analysis. This analysis includes estimating:

- > How much of what a student learned is lost when the student is not in school during scheduled breaks.
- > How much time it will take the student to regain their previous level of performance upon returning to school.

The IEP team may consider several additional factors in considering whether there has been a regression/recoupment of skills, including:

- > The nature and severity of the disability and the ability of the parents to provide the educational structure in the home.
- > Behavioral and physical impairments.
- > The ability of the student to interact with peers.
- > The student's vocational needs.
- > The availability of alternative resources.
- > Whether there are emerging skills. For example, when a student is about to master a concept or a new level in a core subject.

Extended school year services are provided to a child with a disability beyond the typical school year in accordance with the child's IEP and at no cost to the parents of the child.

GETTING HELP WITH THE IEP

The Individualized Education Program (IEP) for a student in special education is an important document. You should not sign the IEP unless you understand it and are sure that it contains what you want it to say. If you do not agree with some parts of the IEP, you have the option of signing with exceptions. This allows the school to implement the IEP sections you are in agreement with. Then, another IEP meeting will be scheduled to discuss the areas that you disagree with. If you need time to read the entire IEP or share the IEP with your child's other parent, you can take the unsigned document home, making sure to return it to the school as soon as possible. You should always sign in the participation section of the IEP. If you need help with the IEP, you can also take the unsigned document home and seek assistance from Montana Empowerment Center, Inc. (MEC) at 1-877-870-1190.

MONITORING THE IEP

Once an IEP has been developed and signed, the school district must give you a copy of the IEP at no cost. An IEP must be implemented by the school district as soon as the IEP is signed unless otherwise specified. After the IEP is in place, it's essential to monitor your child's progress to determine whether the services are being delivered and ensure they are making progress from their specialized program.

You must be regularly informed of your child's progress, especially on the progress report dates specified in the IEP. You should expect a progress report as often as the school informs parents of nondisabled children about their progress. Progress reports must provide information including data about the child's progress toward their annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the IEP year. The special education that schools provide to students must be reasonably calculated to enable a child to make appropriate progress in view of the child's circumstances.

School districts must make a good faith effort to assist the child in achieving the goals or objectives on the IEP.

If you find that the IEP is not being followed, services are not being delivered, or your child is not making reasonable progress, you can ask for an IEP meeting to review and, if appropriate, revise the Individualized Education Program.

A child's IEP must be reviewed at least once a year. If you would like to review your child's IEP sooner than one year, you can ask for an IEP team meeting at any time. Your child's teacher may also request a meeting to review and, when needed, revise the IEP.



Chapter 5

Important Features of IDEA 2004

PARENT REVOCATION OF CONSENT

A parent can withdraw consent previously given for their child to receive special education services. It must be done in writing, and while the school may disagree, it has no right to use the dispute resolution procedures to challenge the decision to revoke. However, a parent can reconsider and ask for special education services, but it will require restarting the evaluation process to determine eligibility.

MANAGING BEHAVIOR

When a student is identified as having behaviors impeding their learning or the learning of others, the behavior must be addressed in the IEP. The IEP team could request a Functional Behavior Assessment (FBA). The FBA gathers data on when and where the behavior occurs, what may happen before the behavior, and other things that affect the behavior to determine the reasons for the behavior and ways to correct the behavior.

The information from the FBA can be used to create a Behavior Intervention Plan (BIP), which is a written plan providing positive interventions and strategies for the student to develop socially appropriate behaviors and to diminish patterns of behavior that interfere with learning.

AVERSIVE TREATMENT PLAN

An aversive treatment plan using physical restraint, removal, and isolation may be appropriate for a student who exhibits behaviors that pose a risk of physical harm to the student or others, or risk of considerable property damage; or significantly disruptive or dangerous behaviors that cannot be modified using positive behavioral interventions.

If physical restraint is used, the school staff involved should have training in appropriate restraint procedures. If an isolation room is used, the student must be under direct and constant visual observation by a designated staff person. The parent must be notified when either restraint or isolation has been used. The aversive treatment plan must be included in and attached to the IEP. Parents must be informed that their consent to the IEP includes consent to the aversive treatment plan.

Aversive treatment must be designed to address the child's behavioral needs, be approved by the IEP team, with parental consent and implemented by staff trained in physical restraint, and may not be used as a substitute for positive behavior interventions.

DISCIPLINING YOUR CHILD IN SPECIAL EDUCATION

Special education students are subject to the school district's discipline policies unless their individualized education plans specifically outline a different discipline system related to your child's individual behavior plan. Your child with disabilities may not be punished for behavior out of their control and part of their disability. If your child has behaviors that interfere with their learning or the learning of other students, a behavior intervention plan should be noted in the IEP and attached to the IEP.

A student with a disability who violates a school code of conduct may be subject to disciplinary action. However, before a school district can suspend or expel your child for more than 10 school days who is receiving special education services, the school must hold a manifestation determination meeting within 10 school days of the incident to determine whether the conduct is a manifestation of the disability. In other words, the conduct is a characteristic of the disability.

If the members of the IEP Team determine that the conduct was a manifestation of your child's disability, the IEP Team must either:

1. Conduct a functional behavior assessment and implement a behavioral intervention plan for the child; or
2. If a behavioral intervention plan already has been developed, review the behavior intervention plan, and modify it, as necessary, to address the behavior.

If the conduct was a manifestation of the disability, the school district must return your child to the placement from which your child was removed unless you and the district agree to a change of placement as part of the modification of the behavior intervention plan.

If the behavior was not a manifestation of your child's disability and the disciplinary change of placement would exceed ten school days in a row, school personnel may apply the disciplinary procedures to your child with a disability in the same manner as it would to children without disabilities, except that the school must provide special education services and a FAPE to your child in an interim alternative educational setting.

There are three special circumstances in which a school district can suspend or expel a student with disabilities without regard to whether the behavior is a manifestation of the disability. Your child with disabilities may be subject to disciplinary procedures, long-term suspension, or expulsion, used with students who do not have disabilities if your child does one or more of the following:

- a. Possesses or uses illegal drugs, sells, or solicits the sale of a controlled substance, while at school or a school function,
- b. Possesses or uses a weapon at school or at a school function, or
- c. Inflicts “serious bodily injury” at school or a school function.

Serious Bodily Injury is any injury involving substantial risk of death; extreme physical pain; sustained and obvious disfigurement; or sustained loss or impairment of the function of a bodily member, organ, or mental faculty.

Under these 3 special circumstances, your child may be removed to an Interim Educational Setting (IES) for not more than 45 school days unless the parents and school district agree otherwise. Parents and schools should make every effort using the IEP team process to determine whether other placements exist that both the parents and the school district can agree upon. If this attempt fails and the student is transferred to an IES that the parent believes is not appropriate, the parent may file a due process complaint asking that the child be transferred to an appropriate IES. It is preferable for parents and schools to work together; however, if these efforts fail, parents have a legal recourse to protect their child’s rights.

PRIVATE SCHOOLS AND HOME SCHOOLS

Private schools and homeschools are not required to provide special education services. Public school districts have the responsibility of Child Find. Child Find mandates that all public school districts locate, identify, and evaluate all children with disabilities ages 3 through 18 who live within their legal boundaries. This includes children suspected of having a disability, those enrolled in private schools and home schools, children in correctional facilities, homeless children, and those with complex medical needs who may need special education.

Parents of a child in a private school or a homeschool can request an evaluation from either the school district where their child lives or the school district where the private school is located. Parents have a right to request an Independent Education Evaluation if they disagree with the evaluation done by the school district.

If your child is eligible for special education services, the school district will enter into a service plan with you to deliver services at a designated location. Your private school or home school child is not entitled to an IEP or FAPE. If the student is identified as needing services, the student will be included in the Child Count for Private Schools done in October of each year, so services may not start until the following school year.

CONFIDENTIALITY

You have a right to expect that your child’s school records will be kept confidential. No one should see your child’s records except those implementing or monitoring their program. You have the right to review all of your child’s school records and request the records be changed if you see errors in them.

Chapter 6

Dispute Resolution

DISAGREEMENTS

Parents and school staff may disagree about some aspects of your child's special education program. When there is a disagreement, the best thing to do is work things out informally.

For assistance with informal mediation, contact Montana Empowerment Center, Inc (MEC) at 1-877-870-1190 or the Early Assistance Program at the Office of Public Instruction (OPI) at 1(406) 444-5664. If you are still unable to resolve the issue, you have additional options, as explained in the following paragraphs.

FACILITATION

Both the parents and the school can agree to make a written request to OPI to have a neutral facilitator appointed who can attend an IEP meeting to assist the parties in resolving their disputes. The facilitator does not make decisions but keeps the parties focused on reaching a resolution.

For assistance, contact the Early Assistance Program, within the Office of Public Instruction, at 1(406) 444-5664.
www.opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution

MEDIATION

If you have a disagreement with your school district over any issue relating to special education, both you and the school district can agree to make a written request to OPI for mediation. OPI will then appoint an impartial mediator who will meet with the parties to assist them in communicating with each other to reach a mutually agreeable resolution that is then written and signed by the parties.

For assistance, contact the Early Assistance Program, within the Office of Public Instruction, at 1(406) 444-5664.
www.opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution

COMPLAINTS

If you think your school district is violating state or federal special education law, you can file a complaint with the Office of Public Instruction, stating what you believe to be a violation of the law. After the school district responds, OPI will conduct an investigation and make a decision within 60 days of the filing of the complaint.

For more information, including a copy of the complaint form, contact the OPI Early Assistance Program at 1-406-444-5664 or the OPI Dispute Resolution Office for Special Education at 1-406-444-2046.
www.opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution

DUE PROCESS HEARING

When there is disagreement, and early assistance and mediation have not been helpful, parents (or school districts) can choose to ask for a due process hearing. This request is made to the Superintendent of Public Instruction. Due process hearings are like formal court proceedings with an impartial due process hearing officer presiding. Both sides can present evidence and call witnesses. Parents should consider having an attorney to assist them with this process.

After a due process complaint is filed, the parties are first required to participate in a resolution session to resolve the dispute prior to having a hearing. If the parties cannot agree, then the dispute proceeds to a hearing, and after all the evidence is submitted, the hearing officer will decide. For more information, please contact the OPI Dispute Resolution Office for Special Education at 406-444-2046.
www.opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution

REVIEW YOUR RIGHTS

KNOW YOUR PROCEDURAL RIGHTS

Procedural Safeguards are a vital part of the IDEA. They ensure parent participation in the special education process and protect your child's right to a free appropriate public education (FAPE).

Parents have the right to confidentiality and the right to inspect and review all of their child's educational records.

Parents have the right to participate in meetings related to the identification, evaluation or placement and the provision of FAPE to their child:

Parental consent means that you have been fully informed in your native language or in your mode of communication of all the information about the actions you have been asked to give your consent.

Parents have the right to receive Prior Written Notice (PWN) on matters relating to their child's identification, evaluation, and placement.

Parents have the right to receive a copy of the procedural safeguards at least once a year and with other specific actions.

Parents have the right to get an Independent Educational Evaluation (IEE). If your child is evaluated and you think the evaluation is not adequate or you disagree with the decision of the evaluation team, you may request an IEE at the school's expense.

Parents have the right to sign approval or refuse to sign and approve the IEP or to sign their approval "with exceptions." Whether you approve the IEP or not, be sure to sign in the section "IEP Meeting Participants" to show your participation in the IEP meeting.

Parents have the right to be notified, at least one year before it happens, of the "transfer of parental rights." When your child turns 18 and reaches the age of majority, the right to consent to the IEP and any other legal contract belongs to the child.

Parents have the right to request help to resolve disputes. See the OPI Early Assistance Program above.

Parents have the right to use the Dispute Resolutions Procedures under IDEA and the State of Montana to resolve any disputes with the school district. See Dispute Resolution above.

FINDING OUT MORE ABOUT YOUR RIGHTS

If you have questions about your rights in the special education process, you can contact Montana Empowerment Center, Inc. (MEC) at 1-877-870-1190. Family Outreach Liaisons at MEC can explain your rights and help you collaborate with your school district.

PRIOR WRITTEN NOTICE

The purpose of Prior Written Notice (PWN) is for the school district to notify you of the reasons for a proposed action, allowing you reasonable time to consider the action to be taken. PWN is also for the school district to notify you of the reasons for refusing to take an action you have requested. If you disagree with the proposed action or the refusal to act, the PWN will describe the protections you have in the procedural safeguards, including the dispute resolution procedures.

The school district must give the parent written notice (PWN) within a reasonable time before it begins, changes, or refuses to begin or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. Some examples include:

- > Identifying a child as a child with a disability or changing your child's eligibility category from one disability to another.
- > Developing an IEP for your child or changing your child's IEP.
- > Placing your child in a special education program or changing your child's special education placement.
- > Evaluating or re-evaluating your child to determine if they have a qualifying disability.
- > Changing or destroying information in district files that personally identify your child.
- > Determining whether your child's disability was the reason for misbehavior that requires disciplinary action resulting in a change of placement.

The notice must be written in the parent's native language and be easily understood. You have the right to have the notice translated orally, presented in your mode of communication, or given to you by other means such as email.

GLOSSARY OF SPECIAL EDUCATION TERMS

Academic achievement standards – Level of skill or performance your child shows about what they know and can do in reading, math, and science. In Montana, most students take the Montana Comprehensive Assessment System (MontCAS) statewide assessments to determine their knowledge and proficiency of the state academic content standards. There are four levels of achievement: exceeds standards, meets standards, partially meets standards, and does not meet standards. For a student to be competent on a particular state assessment, the student must receive an achievement level of “meets or exceeds standards.”

Academic standards – The grade-level learning expectations for all students. The Montana K-12 Academic Standards are statements adopted by the state office of public instruction to identify what all students in a particular grade are expected to know and do by the end of that grade. Montana standards are set for areas such as English Language Arts (includes reading), math, science, social studies, the arts, and physical education. These are sometimes called “grade-level content standards.” They guide educators in choosing general education courses of study for each school district.

Accommodation – A change in the timing, formatting, setting, scheduling, response, or presentation for students with a disability to complete the same assignment or test as other students. This accommodation does not alter in any significant way what the test or assignment measures. Accommodations are based upon the individual needs of the student.

Adaptive Device – Any piece of equipment that assists the child to do regular daily living activities such as reading, eating, walking, and listening.

Age of Majority – The right of consent for the IEP transfers from the parents to the student at age 18.

Alternate academic achievement standards – Standards with substantially different expectations for student mastery of grade-level content. The alternative assessment, Multi-State Alternate Assessment (MSAA), is available for children with cognitive functioning significantly below age expectations.

Annual Goals – Statements about specific academic and non-academic targets for a child. Nonacademic refers to a child’s physical, behavioral, occupational or social goals. These goals are measured, evaluated, and rewritten as needed and are a required component of the Individualized Education Program (IEP).

Appropriate – Suitable or fitting. The Individuals with Disabilities Education Act (IDEA) specifies the procedures for determining what the appropriate education for a child with disabilities is. Evaluations are done by the district to identify the child’s needs and strengths. From those needs and strengths, the IEP team will decide the appropriate educational goals and services so the student can make meaningful educational progress. The IEP team must consider outside evaluations or assessments.

Assistive Technology Device – Any item or piece of equipment, whether store-bought, changed, or customized, used to increase, maintain, or improve the functional capabilities of a child. The district completes evaluations to identify the child’s needs and strengths. The IEP team will decide the appropriate assistive technology device for the child to make meaningful educational progress based on their needs and strengths. The IEP team must consider outside evaluations.

Assistive Technology Service – Any service that directly helps a child choose, acquire, or use an assistive technology device. The term includes:

- > Evaluating the needs of a child, including a functional evaluation of the child in the child's usual environment.
- > Purchasing, leasing, or providing an assistive technology device for a child. Getting the device, choosing, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing an assistive technology device.
- > Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those used with existing education plans and programs.
- > Training or technical assistance for a child or, if appropriate, training, or technical assistance for that child's family.
- > Training or technical assistance for professionals, including people providing education, employers, or other people who are significantly involved in the education of a child.
- > Services on surgically implanted devices are excluded.

Augmentative and Alternative Communication (AAC) – A way for children to communicate when they do not have the ability to use verbal speech or writing. AAC systems are designed to help children express their thoughts, needs and ideas. AAC is used by those with a wide range of speech and language impairments due to conditions such as cerebral palsy, autism, spinal muscular atrophy, and head injuries. AAC can range from a set of picture symbols on a communication board to a computer system that is programmed to speak with words or messages.

Autism (ASD) – A developmental disability that significantly affects verbal and nonverbal communication and social interaction, which is generally evident before three years of age, and negatively affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental changes or changes in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is negatively affected primarily because the child has a serious emotional disturbance.

Behavioral Intervention Plan (BIP) – Also known as Behavior support Plan or Positive Behavior Intervention Plan. A plan that teaches replacement behaviors, provides consequences and positively reinforces desired behaviors.

Child with a Disability – This means a child evaluated in accordance with IDEA as having a developmental disability through age 8. A child evaluated in accordance with IDEA as having an intellectual/cognitive disability, a hearing impairment, a speech or language impairment, a visual impairment, a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, a traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities through age 18, and needs special education and related services.

Cognitive Delay (CD) – A condition characterized by significantly below average general intellectual functioning existing at the same time as deficits in adaptive behavior and occurs during the child's developmental period that negatively affects a child's educational performance. This means that the child has a lower-than-average I.Q. and shows delays in behavioral development that significantly reduce the child's ability to succeed in school.

Complaint – Also referred to as a state complaint. The document parents must send to the school district and the Office of Public Instruction (OPI) to file a complaint. It has information about the child and a description of the alleged violation. The violation must be related to the school district violating the Individuals with Disabilities Education Act (IDEA) or Montana laws.

Consent – Also referred to as “informed consent” and “parental consent” Saying yes or giving permission. Consent means that you understand and agree in writing to the activity, such as an evaluation plan or an IEP. Schools must give you all necessary information connected to an activity for which consent is needed in your native language or communication mode. Giving consent is voluntary, and you may change your mind or take back consent at any time. However, if you revoke consent, the activity between the time you gave your consent and took back your consent remains legal.

Deaf-Blindness (DB) – The combination of hearing, visual and speech impairments that cause severe communication problems and other developmental and educational problems. The child’s needs could not be met by special education programs designed for a child who only has deafness or a child who only has blindness.

Deafness (DE) – A hearing impairment so severe that the child’s ability to process language through hearing, with or without amplification, is significantly impaired and negatively affects the child’s educational performance.

Developmental Delay (DD) – A student who is 3 to 8 years old who, through both developmental assessments and observation, is determined to be two or more standard deviations below the norm in any one of the following areas of development (or 1.5 standard deviations below the norm in two or more areas):

- > Adaptive Functioning Skills
- > Communication Development
- > Social and Emotional Development
- > Cognitive Development
- > Physical Development

Disability – A condition characterized by limited functioning that delays typical development as the result of a physical or sensory impairment or difficulty in learning or social adjustment.

Due Process – Legal steps and proceedings conducted according to established rules and principles; designed to protect individuals’ constitutional and legal rights.

Due Process Complaint – The document parents must send to the school district, the Office of Public Instruction (OPI), and the Superintendent of Public Instruction to file or request a due process hearing. It has information on the child and a description of the alleged violation. The violation must be related to the identification, evaluation, or educational placement of a child or the providing of a free appropriate public education (FAPE) to the child. The written complaint must include a possible solution to the problem. The complaint lets the school district know that the parent requests a hearing to resolve these issues. If a school files for due process, it also must send a Due Process Complaint to the parents, OPI, and the Superintendent of Public Instruction.

Due Process Hearing – When a parent or school files a Due Process Complaint for a hearing under IDEA, the hearing is called a “due process hearing.”

Emotional Disturbance (ED) – A condition exhibiting one or more of the following characteristics, to a marked degree, in more than one setting, and over an extended period of time, that adversely affects educational performance:

- > Inability to learn that cannot be explained by intellectual, sensory, or health factors.
- > Inability to build or keep average interpersonal relationships with peers and teachers.
- > Shows unusual behaviors or feelings under normal circumstances.
- > Shows a general widespread mood of unhappiness or depression; or often develops physical symptoms or fears about personal problems or school problems.

The term does not include being unable to cope socially, unless it is also found that the child is emotionally disturbed.

Evaluation Report Team (ER) – A group made up of professionals who have different areas of knowledge, parents, and the student, if appropriate. The group meets to decide if a child is eligible for special education and is in need of special education and related services.

Extended School Year (ESY) – Extended school year services are special education and related services provided to a child beyond the typical 180-day school year. Extended school year services are provided to prevent a significant loss of learned skills, including behavior skills or emerging skills, and avoid a long recoupment period for these skills. ESY is different from summer school, which districts may or may not offer to all students.

Free Appropriate Public Education (FAPE) – Special education and related services that:

- > Are provided at public expense under public supervision and direction and without cost to the parents.
- > Meet the accreditation standards of the board of public education, the special education requirements of the superintendent of public instruction, and the requirements of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA).
- > Include preschool, elementary school, and high school education; and
- > Are provided in conformity with an individualized education program that meets the requirements of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA).

Functional Behavioral Assessment (FBA) – Refers to a group of behavior assessments used to determine observable and measurable behaviors of concern; identifies events and situations which predict when the target behavior will and will not occur; identifies what functions the behaviors appear to serve, and determines replacement behaviors. This information can be used to create a Positive Behavior Plan (PBP) or Behavior Intervention Plan (BIP) to help the child improve their behavior.

General Education Curriculum – The curriculum used to teach children in the school district. The curriculum includes lessons, materials, and activities routinely used by the general population of students in the school and is aligned with state grade-level academic standards. The curriculum teaches students the knowledge and skills to meet the standards.

Hearing Impairment (HI) – an impairment in hearing, whether permanent or fluctuating, adversely affecting a child's educational performance but does not meet the definition of deafness.

Inclusion – Also called inclusive education, and happens when children are educated with their grade-level peers in the general education setting by implementing a strategic plan to support the child.

Independent Educational Evaluation (IEE) – An evaluation obtained by a parent at public expense (paid for by the school district) from an evaluator independent of the local school district who possesses the state-required credentials when the parent disagrees with an evaluation conducted or obtained by the school district.

Individuals with Disabilities Education Act (IDEA) – The 2004 federal law guaranteeing the rights of children with disabilities to a free appropriate public education (FAPE) program. The law states that no matter how complex the disability may be, every child is entitled to an education at no cost to the family and that children with disabilities also have the right to quality, individually designed, special education that will lead to appropriate outcomes for them, such as college, employment, and community relationships when they reach adulthood.

Individualized Education Program (IEP) – A written document required by the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) for every child with a disability; includes statements of present levels of academic achievement and functional performance (PLAAFP), measurable and meaningful annual goals, short-term instructional objectives if appropriate, specific educational services needed, regular education program participation, evaluation procedures, and must be created by parents and educational personnel. The IEP is designed to allow your child to advance towards meeting measurable and meaningful annual IEP Goals, be involved in and make progress in the general curriculum, guide the staff in providing services, and record the services the school district has committed to providing.

Learning Disability – See Specific Learning Disability below.

Least Restrictive Environment (LRE) – The educational setting that most closely resembles the regular school program and meets the child's special educational needs, including any necessary supports, in as typical a school environment as possible. For many students with disabilities, the regular classroom is the LRE; however, the LRE is a relative concept and must be determined by the IEP team annually and on an individual basis.

Manifestation Determination – A review of the relationship between a student's misconduct and disability conducted by the IEP Team and other qualified personnel. A manifestation determination is required by the IDEA whenever school officials seek to discipline a student in a manner that would result in a change of placement, suspension, or expulsion of more than 10 school days.

Mediation – A voluntary process bringing parties together with an impartial mediator to collaborate in an attempt to resolve a disagreement. Parents and school districts may utilize mediation at any time to resolve a disagreement.

Modification – A change in class work, homework, or testing that lowers the level of difficulty or focus of class work, homework, or a test.

Multi-Tiered Systems of Support (MTSS) – A multi-step framework that schools use to provide instruction and support that promotes both academic and behavioral success for all children. Individual student's progress is monitored, and results are used to make decisions about further instruction and interventions. The instruction and interventions are provided to all students at varying intensity levels based on student needs. The goal is to prevent problems and intervene early for student success. MTSS focuses on academic, behavioral, social, and emotional success. All students and staff in the school are part of the MTSS process.

Orthopedic Impairment (OI) – A severe orthopedic disability adversely affecting a child’s educational performance. The term includes, but is not limited to, impairments caused by congenital anomaly, for example, clubfoot, spina bifida, or cerebral palsy; impairments caused by disease, for example, poliomyelitis, or bone tuberculosis, and impairments from other causes, for example, fractures or burns that cause tissue to harden or shorten, amputation, or acquired cerebral palsy.

Other Health Impairment (OHI) – A condition characterized by limited strength, vitality, or alertness because of chronic or acute health problems, such as a heart condition, attention deficit disorder, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, and mental health disorders that adversely affects a child’s educational performance.

Parent – A child’s legal parent or the person acting in that role. The parent may be the biological or adoptive parent, a long-term foster parent, a legal guardian, a surrogate parent, or the student if they are age eighteen and older. A legal guardian is a person appointed through court procedures. The school appoints a surrogate parent through special education procedures to represent the child in special education service decisions. Parents who do not have legal custody but whose parental rights have not been terminated still retain their rights to receive information from the school, participate in program planning, and attend school meetings unless the court determines otherwise.

Part B – The portion of IDEA that applies to services provided to children with disabilities ages 3 through 21 (age 19 or, in some cases, age 20 in Montana).

Part C – The portion of IDEA that applies to services provided to children from birth to age 3.

Personally Identifiable Information – Information that contains the name of the child, the child’s parent, or other family members, the address of the child, 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.

Positive Behavior Plan (PBP) – A plan developed by a team of educators, parents, and the child, if appropriate to help the child maintain expected behavior in school settings. The PBP includes positive intervention strategies that all school personnel can use and skills that the child can learn.

Post-Secondary Goals – The goals the student has set to achieve after leaving high school.

Pre-Employment Transition Services (Pre-ETS) – Are activities that provide an early start to job exploration for students with disabilities ages 14-21. Pre-ETS assist students with transitioning from public school to post-secondary education or employment. Vocational Rehabilitation and Blind Services (VRBS) collaborates with schools to deliver Pre-ETS to students. Services may include job exploration counseling, work-based learning experiences, counseling on post-secondary programs, workplace readiness training, and instruction in self-advocacy.

Present Levels of Academic Achievement and Functional Performance (PLAAFP) – An explanation that describes academic achievement and functional performance, provides the basis for measurable annual goals, and states how the disability affects involvement and progress in the regular curriculum. For preschool students, how it impacts their involvement in age-appropriate activities.

Related Services – The developmental, corrective, and other supportive services necessary for a child

to benefit from special education. Related Services include special transportation, speech-language services, audiology, psychological services, physical and occupational therapy, school health services, counseling, and medical services for diagnostic and evaluation purposes, social work services, parent counseling, parent training, and teacher training.

Resource Room – A classroom where students spend part of their school day and receive individualized special education services and supports.

Review of Existing Evaluation Data (REED) – A fact-finding data review method used to define an appropriate IEP reevaluation for a student and establishes whether additional information is needed to determine:

- > The student's continued disability, if any.
- > The student's present levels of academic achievement and functional performance, and educational needs.
- > Whether the child needs specially designed instruction and related services, and if the specially designed instruction and related services should be modified to assist with meeting annual goals and participation in the general education curriculum.

If the review reveals that additional information is needed, the IEP team will explain the reasons and collect the necessary information to complete a reevaluation.

Section 504 of the Rehabilitation Act – From the Rehabilitation Act of 1973, "Section 504" states that no program or activity receiving federal funds can exclude, deny benefit to, or discriminate against any person based on disability.

Special Education – Instruction that is specially designed to meet the student's unique needs. The instruction is individually planned, specialized, intensive, and outcome-oriented. When practiced most effectively, special education is characterized by the systematic use of research-based instructional methods, the application of which is guided by frequent measures of student performance and function. Special education is extra assistance a student receives to improve their present level of academic achievement and functional performance.

Specific Learning Disability (SLD) – A disorder in one or more of the basic psychological processes involved in understanding or using language, spoken, or written, that manifests itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes, but is not limited to, such conditions as perceptual disabilities, dyslexia, and developmental aphasia. The term does not include children with learning problems primarily due to visual, hearing, or motor disabilities; cognitive delay; or environmental, cultural, or economic disadvantages.

Speech-Language Impairment (SLI) – A communication disorder, such as stuttering, impaired articulation, impaired fluency, or language or voice impairment that adversely affects a student's interpersonal communication or educational performance.

Supplementary Aids and Services – Any aids, services, or other supports provided in regular education classes or other education-related settings, including extracurricular and non-academic settings, to enable a child with a disability to be educated with nondisabled children to the maximum extent possible. Examples include large print textbooks, a sign language interpreter, shortened assignments, and paraprofessional services.

Transition – The movement of a special education student from preschool to elementary, elementary school to middle school, from middle school to high school, and from high school into post-secondary education, employment, or adult services.

Transition Services – An additional section is added to the IEP when the child turns 16. These services help the student transition through high school into post-school activities based on the individual child's needs. They take into account the child's strengths, preferences, and interests. These services include instruction, related services, community experiences, vocational rehabilitation services, employment experiences, and, if appropriate, acquisition of daily living skills. Transition Services make it possible for students to move into post-secondary education, vocational education, integrated employment-including supported employment, continuing and adult education, adult services, independent living, and community participation.

Traumatic Brain Injury (TBI) – An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

Visual Impairment (VI) – A visual impairment that, even after correction, adversely affects a child's educational performance. The term includes both partial blindness and blindness.

Vocational Education – Educational programs focused on preparing the student for paid or unpaid employment or to prepare them for a specific career.

Vocational Rehabilitation and Blind Services (VRBS) – The agency that provides additional education, training, or items needed for employment, based on the student's strengths, preferences, and interests.

Appendix A

Sample Letters

Letter Requesting an Evaluation (or re-evaluation) for Special Education Services

Your Name(s)
Address
Town, MT 59000
concerned.parent@gmail.com (Best email address)

Date
Principal
School Name
Town, MT

Dear Mr./Ms. _____:

On behalf of our child, (name), we are concerned that they has certain education needs and deficits that adversely affect their educational performance to the degree that our child needs special education and related services. These concerns include: (Describe your concerns; for example, is not making progress; having behaviors at school, falling behind in their classwork, does not understand what they are learning in school, or has a new medical diagnosis that we think affects learning).

As a result, we are requesting a comprehensive special education evaluation be completed. It is our understanding that we must sign a consent to evaluate form for this process to begin. Please make that form available as soon as possible. We look forward to hearing from you within the week.

Sincerely,

Signature(s)
Your printed name(s)
406-XXX-XXXX (Best phone number to contact you during the daytime)
concerned.parent@gmail.com (Best email address)

Sample Letters

Letter Requesting a Parent-Teacher Conference

Your Name(s)
Address
Town, MT 59000
concerned.parent@gmail.com (Best email address)

Date
Teacher,
School Name
Town, MT
Dear Mr./Ms. _____:

We would like to arrange a private conference with you to discuss our child (name's) progress. We have some concerns and questions about what we can do to support (name's) learning (State the areas of concern; for example, math, reading, social skills, behaviors).

We would like to meet as soon as possible. Times we could meet with you are: (Provide a few dates and times that are convenient).

Please call or email (put in your preferred phone number and email address) to confirm a meeting date and time. If we are not available, please leave a message. We hope to hear from you this week. We look forward to talking with you and we appreciate your help.

Sincerely,

Signature(s)
Your printed Name(s)
406-XXX-XXXX (Best phone number to contact you during the daytime)
concerned.parent@gmail.com (Best email address)

Sample Letters

Letter Requesting an IEP Team Meeting

Your Name(s)
Address
Town, MT 59000
concerned.parent@gmail.com (Best email address)

Date

Principal or Special Education Case Manager
School Name
Town, MT

Dear Mr./Ms. _____:

Our son/daughter, (name) is an eligible student currently receiving special education services as part of an (IEP). We realize an IEP is typically reviewed annually, but we feel we need to review (name's) plan and progress sooner than that. We would like to discuss some concerns with the team that may warrant making changes in the IEP. We have concerns about (State your concerns; for example, is not making progress; having behaviors at school, falling behind in their classwork, does not understand what they are learning in school).

We would appreciate having this meeting within the next two weeks so that necessary changes can be made in a timely manner. Times we could meet with the team are: (Provide a few dates and times that are convenient).

Thank you for your help in this matter. We look forward to seeing you and the other IEP team members soon.

Sincerely,
Signature(s)
Your printed name(s)
406-XXX-XXXX (Best phone number to contact you during the daytime)
concerned.parent@gmail.com (Best Email)

Appendix B

Resources

Montana's Part C Montana Milestones – Montana's comprehensive system of early intervention services and supports for families who have infants or toddlers, from birth to age 3 who have significant developmental delays or disabilities or have been diagnosed with an established condition associated with significant delays in development. <https://dphhs.mt.gov/ecfsd/childcare/montanamilestones>

Family Support Services Advisory Council (FSSAC) – Advises and assists the Developmental Disabilities Program on the implementation of birth to age 3 (Part C) services statewide. <https://dphhs.mt.gov/ecfsd/childcare/montanamilestones/fssac>

REGIONAL RESOURCES

The following agencies serve different regions in the state. For a detailed map, visit this site on the web: dphhs.mt.gov/assets/ecfsd/PartC/ECSBPartC.pdf

Region 1- Developmental Educational Assistance Program (DEAP), Miles City
1 (406) 234-6034 • 1 (800) 224-6034 • www.deapmt.org

Region 2- Benchmark Human Services, Great Falls
1 (406) 403-0087 • 1 (866) 235-4700 • benchmarkhs.com/services/childrens-services/

Region 3- Early Childhood Intervention (E.C.I.), Billings
1 (406) 247-3800 • ecibillings.org/

Region 4- Family Outreach, Helena
1 (406) 443-7370 • familyoutreach.org

Region 5- Child Development Center (CDC), Missoula
1 (406) 549-6413 • 1 (800) 914-4779 • www.childdevcenter.org

STATE RESOURCES

Alternatives to Guardianship
transition.ruralinstitute.umt.edu/

Children's Special Health Services
1 (800) 762-9891 • dphhs.mt.gov/ecfsd/cshs

Developmental Services Division
1 (406) 444-2995 • dphhs.mt.gov/dsd

Disability Rights Montana (DRM) - Protecting and advocating for the human, legal and civil rights of Montanans with disabilities while advancing dignity, equality, and self-determination.
1 (800) 245-4743 • www.disabilityrightsmt.org/

Early Assistance Program, Office of Public Instruction (O.P.I.) Dispute Resolution

1 (406) 444-5664

opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution

Healthy Montana Kids (H.M.K.), Children's Health Insurance Plan

1 (888) 706-1535 ▪ dphhs.mt.gov/HMK

Montana Child Care Resource & Referral Network

1 (406) 422-9915 ▪ www.mtchildcare.org/

Montana Coalition of Home Educators

www.mtche.org

Montana Empowerment Center, Inc. (MEC) - Montana's Parent Training and Information Center provides information, training and support to families, individuals, and professionals statewide.

1 (877) 870-1190 ▪ www.mtempowermentcenter.org

Montana Head Start Association ▪ mtheadstart.org

Montana School for Deaf & Blind Children

1 (406) 771-6000 ▪ 1 (800) 882-6732 ▪ Videophone: 1 (406) 205-0016 ▪ www.msdbmustangs.org

Montana Yellow Pages for Kids with Disabilities

www.yellowpagesforkids.com/help/mt.htm

MonTech - Provides technology, support, and services that improve the quality of life for Montanans with disabilities. 1 (406) 243-5751 ▪ www.montech.ruralinstitute.umd.edu

NAMI (National Alliance on Mental Illness) Montana

www.namimt.org

Office of Public Instruction (OPI)

1 (406) 444-3680 ▪ opi.mt.gov

Special Education, Office of Public Instruction (O.P.I.)

opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education

NATIONAL RESOURCES

Center for Appropriate Dispute Resolution in Special Education (CADRE)

1 (541) 359-4210 ▪ www.cadeworks.org

National Alliance on Mental Illness (NAMI)

<https://nami.org/Home>

U.S. Department of Education

www.ed.gov/parents

APPENDIX C

Summary of IDEA Services for Children

Please note that your child may be referred for evaluation and may qualify for services at any age.

Age: Birth to Age 3 (Part C Services)

Service: Home-based Early Intervention

How to qualify?

If you suspect a disability or delay

- > Contact your local early intervention agency (see Appendix A)
Please note that some school districts have preschool screenings at this age and will refer to the Early Intervention Agency if needed.
- > Sign consent for assessment
- > The early intervention agency will conduct an assessment.
- > The early intervention agency will determine eligibility based on assessment results.

If your child qualifies for early intervention services

- > You and the early intervention agency will determine appropriate services within the Individualized Family Service Plan (IFSP). These services can include but are not limited to parent and family education or counseling, speech and audiology services, physical and occupational therapy, home visits, transportation, and related costs.
- > Before age 3, transition to preschool special education services begins.

Age: 3-5 years old (Part B 619 Services)

Service: School-Based Preschool Special Education

How to qualify?

If you suspect a disability or delay

- > Contact your local school district.
- > Sign consent for assessment.
- > School personnel will conduct an assessment.
- > You and the school personnel will review the assessment results and determine eligibility for preschool special education services within an Evaluation Report (ER) Team meeting.

If the ER Team determines that your child qualifies for and would benefit from preschool special education services

- > You and the school district personnel will convene an Individualized Education Program (IEP) meeting within 30 days of the ER Team's decision to:
 - Design an appropriate special education program.
 - Determine placement.
 - Determine any needed related services.
- > Upon your consent and approval, the IEP is implemented.
- > The IEP can be reviewed at any time as your child's needs change and must be reviewed annually.
- > Before age 6, transition to kindergarten and first grade begins.

Age: 6-18 (20) years old (Part B Services)

Service: School-Based Special Education

How to qualify?

If you suspect a disability or delay

- > Contact your local school district.
- > Sign consent for assessment.
- > School personnel will conduct an assessment.
- > You and the school personnel will review the assessment results and determine eligibility for special education services within an Evaluation Report (ER) Team meeting.

If the ER Team determines that your child qualifies for and would benefit from special education services

- > You and the school district personnel will convene an Individualized Education Program (IEP) meeting within 30 days of the ER Team's decision to:
 - Develop the IEP
 - Upon your consent and approval, the IEP is implemented.
- > Monitor and review IEP
- > Re-evaluation, when needed.
- > Transition planning to adulthood may begin at any time but must begin by age 16.
Graduation and transition to adulthood.

MONTANA PARENT'S HANDBOOK TO SPECIAL EDUCATION

The Montana Parent's Handbook to Special Education discusses several topics to help parents, teachers, and other professionals understand the Montana special education process, including:

- > Definitions of "special education" and other common terms
- > Necessary steps to qualifying for services
- > How to design and monitor an appropriate educational program for a child
- > Recognizing and protecting parents' and children's rights in special education
- > Valuable state and national resources

This newly revised guide provides essential information for families who have no experience advocating for appropriate special education, as well as those families who have been utilizing special education services for their children for years.

The Montana Empowerment Center, Inc. (MEC) is a private, nonprofit Montana organization founded in 2020 by parents of children with disabilities. M.E.C. provides resources, training, and support for individuals with disabilities, their families, and the professionals who serve them. MEC services are available throughout Montana and are free to individuals with disabilities and their families. Please contact us if you enjoyed this Handbook and would like more information about MEC.



MONTANA EMPOWERMENT CENTER, INC.

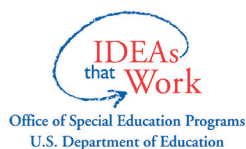
Montana's Parent Training and Information Center

1-877-870-1190

1601 2nd Ave North Suite 232, Great Falls, MT 59403

www.mtempowermentcenter.org

info@mtempowermentcenter.org



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Montana Parent's Handbook to Special Education

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