

CHAPTER 1: OVERVIEW – TABLE OF CONTENTS

Chapter Contents

Section 1.	Child Find	<u>2</u>
Section 2.	Procedural Safeguards	<u>3</u>
Section 3.	Student Eligibility under the IDEA	<u>3</u>
Section 4.	Free Appropriate Public Education (FAPE)	<u>3</u>
Section 5.	District Local Education Agency (LEA) Programs and Services	<u>4</u>
	A. Educational Programs and Services	<u>4</u>
	B. Physical Education	<u>4</u>
	C. Nonacademic and Extracurricular Services and Activities	<u>4</u>
Section 6.	Individualized Education Program (IEP)	<u>4</u>
Section 7.	Least Restrictive Environment (LRE)	<u>5</u>
Section 8.	Summary of Activities that May Lead to Special Education Services	<u>5</u>
	A. Tiered General Education Interventions	<u>5</u>
	B. Referral to Consider a Special Education Evaluation	<u>6</u>
	C. Written Notice and Written Consent	<u>6</u>
	D. Evaluation and Eligibility Determination	<u>6</u>
	E. IEP Development and Implementation	<u>7</u>
	F. Review and Revision of IEP and Placement Decision	<u>8</u>
	G. Reevaluation	<u>9</u>
	H. Discontinuation of Services	<u>9</u>

CHAPTER 1: OVERVIEW

Three (3) federal laws have been passed to ensure educational opportunities for individuals with disabilities:

- the Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- the Americans with Disabilities Act of 1990 (ADA)

The ~~last-most recent~~ reauthorization of the IDEA was in 2004 and aligned the law with the Elementary and Secondary Education Act of 2001. In 2015, the Every Student Succeeds Act (ESSA) was passed. Revisions to the IDEA regulations were issued in 2007, 2008, 2013, ~~and 2014, 2015, 2016, and 2017 with additional regulatory changes to the IDEA currently pending.~~ The IDEA preserves the basic structure and civil rights of previous reauthorizations and emphasizes both *access* to education and *improved results* for students with disabilities based on data and public accountability.

This Manual represents Idaho's interpretation of IDEA and, in combination with guidance issued by the Department, outlines procedural requirements for the implementation of IDEA in Idaho. This Manual provides information regarding district and charter responsibilities under the IDEA and relevant Idaho legal requirements.

Section 1. Child Find

~~Each The~~ district or charter is a local education agency (LEA) and is required to ~~is responsible for~~ establishing and implementing an ongoing Child Find system. Child Find activities are conducted to create public awareness of special education programs; to advise the public of the rights of students; and to alert community residents of the need for identifying and serving students with disabilities from the age of three (3) through ~~the semester in which they turn~~ the age of twenty-one (21) inclusive, until the day prior to the student's twenty-second (22nd) birthday.

The ~~district~~ LEA is also responsible for coordinating with the Department of Health and Welfare regarding the Child Find system for children ages birth through two (2) years. The Child Find system includes children with disabilities who are homeless, as defined by the McKinney-Vento Homeless Assistance Act (see Glossary), wards of the state, or attending private schools, regardless of the severity of the disability.

See Chapter 3 for more information on Child Find.

Section 2. Procedural Safeguards

A parent/adult student has specific procedural safeguards assured by the IDEA and state law. The ~~district~~ LEA provides a document titled *Procedural Safeguards Notice* to parents/adult students. ~~The *Procedural Safeguards Notice* that~~ contains a full explanation of special education rights.

See Chapter 11 for more information on procedural safeguards.

Section 3. Student Eligibility under the IDEA

To be eligible for services under the IDEA, a student must have a disability that:

1. meets the Idaho ~~state disability~~ eligibility criteria as established in this manual;
2. adversely affects educational performance; and
3. results in the need for specially designed instruction ~~and related services~~.

The process used to make this ~~decision determination~~ is ~~an evaluation to determine special education eligibility~~ called “~~eligibility evaluation~~.” During ~~this process~~ ~~an eligibility evaluation~~, an evaluation team (which includes educators and the parent/adult student) reviews information from multiple sources including, but not limited to, general education interventions, formal and informal assessments, and progress in the general ~~education curriculum~~ ~~in making the eligibility determination~~.

See Chapter 4 for more information on eligibility and evaluation.

Section 4. Free Appropriate Public Education (FAPE)

The ~~district (LEA)~~ is required to ensure that a free appropriate public education (FAPE) is available to students ~~who reside~~ ~~residing in~~ or enrolled in the ~~district~~ LEA and are eligible for special education. FAPE is individually determined for each student that qualifies for special education. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. A definition of each of these terms can be found in the glossary.

See Chapter 2 for more information on FAPE.

Section 5. ~~District~~ LEA Programs and Services

The ~~district~~ LEA shall ensure that the same array of academic, nonacademic, and extracurricular activities and services is available to students with disabilities as is available to students without disabilities.

A. Educational Programs and Services

The ~~district~~ LEA shall take steps to ensure that students with disabilities have access to the variety of educational programs and services that are available to all other students served by the ~~district~~LEA. These may include art, music, industrial arts, ~~consumer and homemaking education, vocational education~~ career technical education, and any other programs in which students without disabilities participate.

B. Physical Education

Physical education services, specially designed if necessary, shall be made available to every student with a disability receiving FAPE, unless the ~~district~~ LEA enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

C. Nonacademic and Extracurricular Services and Activities

The ~~district~~ LEA shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's Individualized Education Program (IEP) team, to provide nonacademic and extracurricular services and activities in a manner that affords students with disabilities equal opportunity to participate in those services and activities. This includes counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the ~~district~~LEA, referrals to agencies that provide assistance to persons with disabilities, and employment of students, including both employment by the ~~district~~-LEA and assistance in making outside employment available.

Section 6. Individualized Education Program (IEP)

The IEP is a document that outlines how a particular student with a disability will receive a ~~free appropriate public education~~ (FAPE) in the ~~least restrictive environment~~ (LRE). It is a working document that can be amended as the student's needs change. The IEP is created collaboratively by ~~required~~ IEP team members, including parents, the student, if appropriate, ~~the student's teachers~~, and other ~~district~~ LEA personnel.

See Chapter 5 for more information on IEP development.

Section 7. Least Restrictive Environment (LRE)

The IDEA states that, to the maximum extent appropriate, students with disabilities are to be educated with students who are not disabled. The IEP team determines what constitutes LRE for the individual student. ~~This includes considering that~~ LRE requirements include ensuring ~~that~~ a continuum of alternative placements is available to meet the needs of children with disabilities and for special education and related services.

See Chapter 6 for more information on LRE.

Section 8. Summary of Activities That May Lead to Special Education Services

This section describes the steps that may lead to special education services. The activities ~~that are~~ within each step are often sequential, but ~~could~~ ~~may~~ occur simultaneously. The process might occur in a different sequence for emergency or interim placements. ~~A flowchart of these steps is provided at the end of this chapter.~~

A. ~~Tiered~~ General Education Interventions (carried out by the problem-solving team)

A general education problem-solving team, ~~which may be referred to as a Response to Intervention (RTI) team or Multi-Tiered Systems of Support (MTSS) team,~~ addresses student learning needs and ensures that referrals to consider special education are appropriate.

The general education problem-solving process ~~may~~ ~~shall~~ include ~~comprehensive-early intervening-intervention~~ services based on whole-school approaches such as: a ~~three~~-tiered model using scientifically based reading (and other content area) programs, positive behavior supports, and a response-to-intervention system.

~~Accommodations and~~ instructional and/or behavioral interventions shall be attempted during the problem-solving process. These ~~accommodations and~~ ~~tiered interventions~~ shall be of sufficient scope and duration to determine the effects on the student's educational performance and shall be clearly documented.

If the student shows adequate progress with ~~tiered~~ general education interventions ~~and accommodations~~, a referral to consider a special education evaluation may be unnecessary. However, if ~~tiered~~ general education interventions ~~and accommodations~~ need to be provided

on an ongoing basis or if the student shows limited or no progress *and* the student's performance is significantly discrepant from peers, a referral to consider a special education evaluation may be warranted. Also, a parent of a student may initiate a referral for special education at any time. ~~and a~~ **district LEA** may not deny that referral simply because the student ~~had~~ **has** not gone through the **tiered** general education intervention process.

See Chapter 4 for more information on problem-solving activities ~~and the three-tiered model~~.

B. Referral to Consider a Special Education Evaluation

Following the problem-solving team's review of the student's response to general education interventions, **and/or** if the team suspects that the student has a disability and may be in need of special education, the problem-solving team shall initiate a referral to consider a special education evaluation. The purpose of this referral is to bring a student to the attention of an evaluation team so that it can determine whether to conduct a special education evaluation.

A referral for a special education evaluation marks the point at which procedural safeguards are provided to the parent. The parent/adult student shall be involved in decisions once **the a written** referral **to consider a special education evaluation process has begun** ~~has been made to the evaluation team to consider a special education evaluation~~.

The evaluation team shall review existing data, which may include progress monitoring data ~~from the student's IEP, and/or clinical~~ assessments and information provided by the parent/adult student. **The evaluation team, and shall** document the review process, ~~to and consider~~ **determine** the need for further assessment. The evaluation team ~~will procure~~ **shall obtain** ~~the necessary~~ written consents **prior to conducting for additional** an initial evaluation **and for subsequent** assessments **used to determine eligibility**.

See Chapter 3 for more information on the referral process to consider a special education evaluation and who can make a referral.

C. Written Notice and Written Consent (completed by an evaluation team)

Before administering assessments as part of the special education evaluation, written notice shall be provided to the parent/adult student along with the procedural safeguards and written consent shall be ~~requested~~ **obtained** from the parent/adult student. The ~~district~~ **LEA** may use a single form that meets the requirements of written notice and consent for assessment. In addition, if the evaluation team needs information for an evaluation from a non-educational agency or an individual, such as a doctor, written consent for the release of information shall be obtained from the parent/adult student.

See Chapter 4 and Chapter 11 for more information.

D. Evaluation and Eligibility Determination (completed by evaluation team)

After receiving consent, the evaluation team shall schedule assessments and ensure they are conducted. The evaluation must be sufficiently comprehensive to identify all of the child's special education and related services needs. Next, the evaluation team reviews the assessment data, the response to general education targeted interventions, and parent/adult student input and recommendations to determine whether the student is eligible for special education services. ~~Then~~ the evaluation team ~~then~~ compiles an *Eligibility Report* using data collected from individual assessments and provides the parent/adult student with a copy of the report. The eligibility report shall address, to the extent required, the general education ~~instruction provided~~ ~~classroom~~, targeted interventions previously employed, and the student's response to those interventions.

For children transferring from the Infant Toddler Program (ITP), eligibility shall be determined and an IEP ~~developed~~ or Individual Family Services Plan (IFSP) ~~developed and implemented~~ ~~adopted~~ by the child's third (3rd) birthday. ~~See Chapter 5 for guidance on expectations.~~ If a child turns three (3) during the summer, and the child does not require Extended School Year (ESY) services, ~~the IEP team shall determine when~~ special education and related services ~~will~~ ~~may~~ begin, ~~which may be~~ in the new school year ~~if the parent and LEA agree.~~

See Chapter 5 for guidance on IEPs for children from ITP.

For children ages three (3) through twenty-one (21) ~~inclusive, until the day prior to the student's twenty-second (22nd) birthday,~~ the time between receiving consent for an initial evaluation and/or assessments and determining eligibility cannot exceed sixty (60) calendar days, ~~excluding periods when regular school is not in session for five (5) or more consecutive school days (IDAPA 08.02.03.109.03),~~ with the exception of ITP referrals which must be completed by the child's third (3rd) birthday. ~~The parent and district may agree, in writing, to extend the sixty (60) day period.~~ In unusual circumstances, the timeline may be extended beyond the sixty (60) day period.

See Chapter 4 for guidance on timeline exceptions.

If the student is ~~found~~ not eligible for special education, the ~~district~~ LEA shall provide ~~written notice~~ *Written Notice* to the parent/adult student that the evaluation data does not indicate eligibility under the IDEA ~~even though the parent is a member of the team that determines eligibility.~~ The ~~district~~ LEA shall maintain documentation in ~~permanent~~ the student's educational records.

If the parent/adult student disagrees ~~in whole or in part~~ with the ~~district's~~ LEA's evaluation and/or the eligibility determination, he or she has the right to request ~~SDE~~ Idaho Department of Education mediation, file a due process hearing challenging the decision, or seek an

independent educational evaluation (IEE). See Chapter 11 for more information.

E. IEP Development and Implementation (completed by IEP team)

The following activities are included in the development and implementation of the IEP:

1. Conduct an IEP team meeting to develop and implement an IEP within thirty (30) calendar days of a determination that the student is eligible for special education and related services. For eligible students, the IEP can be developed at the same meeting at which eligibility is determined if all required IEP team members are present and agree to proceed.
2. After determining goals and services, determine the student's placement in the LRE in which the IEP can be implemented. ~~For those goals that are aligned to the alternate academic achievement standards, objectives and benchmarks shall be written.~~
3. Obtain documentation indicating participation in the IEP team meeting.
4. Obtain initial consent in writing from the parent/adult student for the initial provision of special education services.
5. Provide copies of the IEP to the parent/adult student and other participants, as appropriate.
6. Provide written notice to the parent/adult student ~~before implementing the IEP if the provision of FAPE or the educational placement is proposed to change or if the team refused to make a change based on the parent's request to address proposals or refusals to initiate or change the identification, evaluation, or education placement of the student, or the provision of FAPE to the student.~~
7. Make arrangements for IEP services by informing staff of their specific responsibilities under the IEP.
8. Implement the IEP as soon as possible, but no later than within thirty (30) days of eligibility determination. ~~(See Chapter 4 for guidance on timeline exceptions.)~~
9. Provide the parent/adult student with periodic reports of the student's progress towards IEP goals ~~(such as quarterly or other periodic reports, at a minimum, concurrent with the issuance of report cards).~~

See Chapter 5 for more information on IEP development.

F. Review and Revision of IEP and Placement Decision (completed by IEP team)

1. Send the parent/adult student a *Procedural Safeguards Notice* with an invitation to attend an IEP team meeting (required at least once annually).
2. Convene an IEP team meeting under these circumstances:
 - a. when changes in the IEP are requested or if the student is not making progress. In addition, the IDEA allows changes to the IEP without an IEP team meeting between the annual review dates if the **district LEA** and parent agree; and
 - b. at least annually to develop a new IEP
3. Provide a copy of the ~~revised~~ **amended** IEP to the parent and the adult student when an IEP is amended or rewritten. In addition, written notice is required if the **district LEA** is proposing to change or refusing to change the educational placement or the provision of FAPE.
4. Under Idaho regulations, the parent/adult student has the right to file a written objection to an IEP program change or placement change. If, within ten (10) calendar days of receiving written notice from the **district LEA**, the parent/adult student files a written objection, the **district LEA** shall not implement the change(s) to which the parent/adult student objects **for 15 calendar days**. See Chapter 11 for more information.

See Chapter 5 for more information on IEP reviews.

G. Reevaluation (completed by evaluation team)

Reevaluations are conducted by the evaluation team. A reevaluation shall be completed as follows: (a) at least every three years, (b) when requested by the student's teacher or the parent/adult student, and (c) whenever conditions warrant. ~~Approximately one month before conducting the reevaluation, the district shall inform the parent/adult student that a reevaluation is due. The parent/adult student and district may agree in writing that a three-year reevaluation is not necessary. In addition, a~~ reevaluation need not be conducted more than once per year unless the **district LEA** and the parents agree.

The evaluation team shall include the following activities in the reevaluation process:

1. Invite the parent/adult student to participate in the review of existing data and to determine what additional data, if any, is needed as part of the reevaluation. Unless the parent/adult student requests that the evaluation team members meet as a group in a formal meeting, data can be gathered from individual team members at

various times using a variety of methods.

2. Obtain written consent from the parent/adult student if ~~additional~~ assessments shall be conducted. After gaining consent, ensure the completion of assessments and eligibility reports. The IDEA does not require consent for a reevaluation if the ~~district~~ LEA has made documented attempts to ~~get~~ obtain consent and the parent has not responded.
3. If the evaluation team determines that ~~additional~~ assessments are not needed to make an eligibility determination, provide ~~written notice~~ *Written Notice* to the parent/adult student of this decision and of the parent's/adult student's right to request assessments.
4. Prepare an *Eligibility Report* that details the eligibility requirements for the student, even when no new assessments are conducted. The report shall address each required eligibility component.
5. *Make an eligibility determination as a team.* Provide the parent/adult student with a *final* copy of the *Eligibility Report*.
6. Determine whether revisions to the IEP are necessary and implement an IEP, if the student continues to be eligible. If the student is not eligible, follow procedures to discontinue services.

See Chapter 4 for more information on reevaluation.

H. Discontinuation of Services

Provide ~~prior written notice~~ *Written Notice* to the parent/adult student informing them of the discontinuation of services when:

1. The evaluation team determines the student no longer meets eligibility requirements for special education services; or
2. The student meets the ~~district~~ LEA and State requirements that apply to all students for receipt of a regular high school diploma; or
3. The student ~~reaches their twenty-second (22nd) birthday~~ ~~completes the semester in which he or she reaches the age of twenty-one (21) years;~~ or
4. Parent/adult student revokes consent for special education services.

When a student exits from special education as a result of graduating or aging out, the ~~district~~ LEA shall provide the student with a summary of his or her academic achievement and

functional performance, along with recommendations on how to assist the student in meeting postsecondary goals.

See Chapter 7 for more information on the discontinuation of services.

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