

**Procedure 2161-P(1): Special Education - Special Education Procedure**

**Status:** ADOPTED

**Original Adopted Date:** 05/10/2018 | **Last Revised Date:** 11/19/2019 | **Last Reviewed Date:** 11/19/2019

Special Education

Yaak School is a member of CM Coop and as such follows Coops Procedure. The Director shall place the annual application on the agenda of a regular meeting of the Board, for action prior to submission to the state educational agency for final approval.

Child Find

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

The District's plan will contain procedures for identifying suspected disabled students in private schools as identified in 34 C.F.R. 530.130 and 530.131(t), students who are home schooled, homeless children, as well as public facilities located within the geographic boundaries of the District. These procedures shall include screening and development criteria for further assessment. The plan must include locating, identifying, and evaluating highly mobile children with disabilities and children who are suspected of being a child with a disability and in need of special education, even though the child is and has been advancing from grade to grade. The District's Child Find Plan must set forth the following:

1. Procedures used to annually inform the public of all child find activities, for children zero through twenty-one;
2. Identity of the special education coordinator;
3. Procedures used for collecting, maintaining, and reporting data on child identification;
4. Procedures for Child Find Activities (including audiological, health, speech/language, and visual screening and review of data or records for students who have been or are being considered for retention, delayed admittance, long-term suspension or expulsion or waiver of learner outcomes) in each of the following age groups:

A. Infants and Toddlers (Birth through Age 2)

Procedures for referral of infants and toddlers to the appropriate early intervention agency, or procedures for conducting child find.

B. Preschool (Ages 3 through 5)

Part C Transition planning conferences; frequency and location of screenings; coordination with other agencies; follow-up procedures for referral and evaluation; and procedures for responding to individual referrals.

C. In-School (Ages 6 through 18)

Referral procedures, including teacher assistance teams, parent referrals, and referrals from other sources; and follow-up procedures for referral and evaluation.

D. Post-School (Ages 19 through 21)

Individuals who have not graduated from high school with a regular diploma and who were not previously identified. Describe coordination efforts with other agencies.

E. Private Schools (This includes home schools.)

Child find procedures addressing the provisions of A.R.M. 10.16.3125(1); follow up procedures for referral and evaluation.

F. Homeless Children

G. Dyslexia

The School District shall establish procedures to ensure that all resident children with disabilities, including specific learning disabilities resulting from dyslexia, are identified and evaluated for special education and related services as early as possible. The screening instrument must be administered to:

- A) A child in the first year that the child is admitted to a school of the district up to grade 2; and
- B) A child who has not been previously screened by the district and who fails to meet grade-level reading benchmarks in any grade;

The screening instrument shall be administered by an individual with an understanding of, and training to identify, signs of dyslexia designed to assess developmentally appropriate phonological and phonemic awareness skills.

If a screening suggests that a child may have dyslexia or a medical professional diagnosis a child with dyslexia, the child's school district shall take steps to identify the specific needs of the child and implement best practice interventions to address those needs. This process may lead to consideration of the child's qualification as a child with a disability under this policy.

#### Procedures for Evaluation and Determination of Eligibility

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

10.16.3320 - Referral;

10.60.103 - Identification of Children with Disabilities; 10.16.3321 - Comprehensive Educational Evaluation Process;

#### Procedural Safeguards and Parental Notification

The District implements the procedural safeguard procedures as identified in 34 C.F.R. 300.500 - 300.530.

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

- Upon initial referral or parent request for evaluation;
- Upon receipt of the first state complaint under 34 CFR 300.151 through 300.153 and upon receipt of the first due process complaint under 34 CFR 300.507 in a school year;
- In accordance with the discipline procedures in 34 CFR 300.530(h) (... on the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must... provide the parents the procedural safeguards notice); and
- Upon request by a parent.

A public agency also may place a current copy of the procedural safeguard notice on its internet website, if a website exists. [34 CFR 300.504(a) and (b)] [20 U.S.C. 1415(d)(l)]

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

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

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

### Evaluation of Eligibility

Evaluation of eligibility for special education services will be consistent with the requirements of 34 C.F.R. 300.301 through 300.311 regarding Procedures for Evaluation and Determination of Eligibility; and shall also comply with A.R.M. 10.16.3321.

### Individualized Education Programs

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

### Independent Education Evaluations

The parents of a child with a disability have the right to obtain an independent educational evaluation of the child in accordance with law. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the District at District expense.

If the parents request an independent educational evaluation, the District will provide information about where an independent educational evaluation may be obtained and the criteria applicable for independent educational evaluations. The District may also ask for the parent's reason why he or she objects to the public evaluation.

A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. If the parent obtains an independent educational evaluation at District expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation will be handled in accordance with law.

If an independent educational evaluation is at District expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation.

### Least Restrictive Environment

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular class occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.

Educational placement decisions are made in accordance with A.R.M. 10.16.3340 and the requirements of 34 C.F.R. 300.114- 300.120, and a continuum of alternate placements is available as required in 34 C.F.R. 300.551.

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

Children with a disability placed in or referred to a private school or facility by the District, or other appropriate agency, shall receive special education and related services in accordance with the requirements and procedures of 34 C.F.R. 300.145 through 300.147 and A.R.M. 10.16.3122. As set forth under 34 C.F.R. 300.137, children with a disability placed in or referred to a private school or facility by parents do not have an individual right to special education and related services at the District's expense. When services are provided to children with disabilities

placed by parents in private schools, the services will be in accordance with the requirements and procedures of 34. C.F.R. 300.130 through 300.144, and 300.148.

### Impartial Due Process Hearing

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

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

#### A. Confidentiality of Information

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

10.16.3560.

**B. Access Rights**

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

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

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

**D. Safeguards**

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

**E. Destruction of Information**

The District will inform parents five (5) years after the termination of special education services that personally identifiable information is no longer needed for program purposes. Medicaid reimbursement records must be retained for a period of at least six years and three months from the date on which the service was rendered or until any dispute or litigation concerning the services is resolved, whichever is later. The parent will be advised that such information may be

important to establish eligibility for certain adult benefits. At the parent's request, the record information shall either be destroyed or made available to the parent or to the student if eighteen

(18) years or older. Reasonable effort shall be made to provide the parent with notification sixty

(60) days prior to taking any action on destruction of records. Unless consent has been received from the parent to destroy the record, confidential information will be retained for five (5) years beyond legal school age.

**F. Children's Rights**

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

**Discipline**

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

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<b>Administrative Rules of Montana References</b>	<b>Description</b>
10.16.3122	Local Educational Agency Responsibility for Students with Disabilities
10.16.3220	Program Narrative
10.16.3321	Comprehensive Educational Evaluation Process

**Administrative Rules of Montana References**

10.16.3340  
10.16.3346  
10.16.3560  
10.60.103  
37.85.414

**Description**

Individualized Education Program and Placement Decisions  
Aversive Treatment Procedures  
Special Education Records  
Identification of Children with Disabilities  
Maintenance of Records and Auditing (Medicaid)

**Montana Code Annotated References**

20-1-213  
20-7-469  
Title 20, Chapter 7, part 4

**Description**

Transfer of School Records  
Dyslexia-definition-screening-intervention  
Special Education for Exceptional Children

**United States Code References**

29 USC 701, et seq  
42 USC 12101, et seq.  
Title 20, Chapter 33, Subchapter I

**Description**

Section 504 of the Rehabilitation Act  
Title II of the Americans with Disabilities Act of 1990  
Individuals with Disabilities Education Act

**Code of Federal Regulations References**

34 CFR 300.1, et seq.

**Description**

Individuals with Disabilities Education Act

**Cross References**

1005FE  
1610  
1610-P(1)  
3141  
3141-F(1)  
3210  
8425  
8425-P(1)

**Description**

[Proficiency-Based ANB](#)  
[Goals and Objectives](#)  
[Goals and Objectives - Philosophy of Education, Mission Statement and Objectives](#)  
[Nonresident Student Attendance](#)  
[Nonresident Student Attendance - Application Form](#)  
[Equal Educational Opportunity, Nondiscrimination and Sex Equity](#)  
[Service Animals](#)  
[Service Animals - Service Animal Allowance Procedure](#)