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3 **INSTRUCTION**

2161

4  
5 Special Education

6  
7 The District will provide a free appropriate public education and necessary related services to all  
8 children with disabilities residing within the District, as required under the Individuals with  
9 Disabilities Education Act (IDEA), provisions of Montana law, and the Americans with  
10 Disabilities Act.

11  
12 For students eligible for services under IDEA, the District will follow procedures for  
13 identification, evaluation, placement, and delivery of service to children with disabilities, as  
14 provided in the current *Montana State Plan under Part B of IDEA*.

15  
16 The District may maintain membership in one or more cooperative associations which may assist  
17 in fulfilling the District's obligations to its disabled students.  
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21 Legal Reference: Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.  
22 Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.  
23 § 20-7-Part Four, MCA Special Education for Exceptional Children  
24

25 Policy History:

26 Adopted on:

27 Revised on:

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4  
5 Special Education

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7 The Superintendent shall place the annual application on the agenda of a regular meeting of the  
8 Board, for action prior to submission to the state educational agency for final approval.  
9

10 Child Find

11  
12 The District shall be responsible for the coordination and management of locating, identifying,  
13 and evaluating all disabled children ages zero (-0-) through twenty-one (21). Appropriate staff  
14 will design the District's Child Find plan in compliance with all state and federal requirements  
15 and with assistance from special education personnel who are delegated responsibility for  
16 implementing the plan.  
17

18 The District's plan will contain procedures for identifying suspected disabled students in private  
19 schools as identified in 34 C.F.R. 530.130 and 530.131(f), students who are home schooled, as  
20 well as public facilities located within the geographic boundaries of the District. These  
21 procedures shall include screening and development criteria for further assessment. The plan  
22 must include locating, identifying, and evaluating highly mobile children with disabilities and  
23 children who are suspected of being a child with a disability and in need of special education,  
24 even though the child is and has been advancing from grade to grade. The District's Child Find  
25 Plan must set forth the following:  
26

- 27 1. Procedures used to annually inform the public of all child find activities, for children zero  
28 through twenty-one;  
29 2. Identity of the special education coordinator;  
30 3. Procedures used for collecting, maintaining, and reporting data on child identification;  
31 4. Procedures for Child Find Activities (including audiological, health, speech/language,  
32 and visual screening and review of data or records for students who have been or are  
33 being considered for retention, delayed admittance, long-term suspension or expulsion or  
34 waiver of learner outcomes) in each of the following age groups:  
35 A. Infants and Toddlers (Birth through Age 2)  
36 Procedures for referral of infants and toddlers to the appropriate early intervention  
37 agency, or procedures for conducting child find.  
38 B. Preschool (Ages 3 through 5)  
39 Part C Transition planning conferences; frequency and location of screenings;  
40 coordination with other agencies; follow-up procedures for referral and  
41 evaluation; and procedures for responding to individual referrals.  
42 C. In-School (Ages 6 through 18)  
43 Referral procedures, including teacher assistance teams, parent referrals, and  
44 referrals from other sources; and follow-up procedures for referral and evaluation.  
45 D. Post-School (Ages 19 through 21)  
46

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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.

#### 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 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 web site exists. [34 CFR 300.504(a) and (b)] [20 U.S.C. 1415(d)(1)]

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

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2 referral promptly to the attention of the Child Study Team.  
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4 The District shall give written notice to the parent of its recommendation to evaluate or not to  
5 evaluate the student. The parent will be fully informed concerning the reasons for which the  
6 consent to evaluate is sought. Written parental consent will be obtained before conducting the  
7 initial evaluation or before reevaluating the student.  
8

9 The recommendation to conduct an initial evaluation or reevaluation shall be presented to the  
10 parents in their native language or another mode of communication appropriate to the parent. An  
11 explanation of all the procedural safeguards shall be made available to the parents when their  
12 consent for evaluation is sought. These safeguards will include a statement of the parents' rights  
13 relative to granting the consent.  
14

#### 15 Evaluation of Eligibility 16

17 Evaluation of eligibility for special education services will be consistent with the requirements of  
18 34 C.F.R. 300.301 through 300.311 regarding Procedures for Evaluation and Determination of  
19 Eligibility; and shall also comply with A.R.M. 10.16.3321.  
20

#### 21 Individualized Education Programs 22

23 The District develops, implements, reviews, and revises individualized education programs (IEP)  
24 in accordance with the requirements and procedures of 34 C.F.R. 300.320-300.328.  
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#### 26 Least Restrictive Environment 27

28 To the maximum extent appropriate, children with disabilities, including children in public or  
29 private institutions or other care facilities, are educated with children who are nondisabled, and  
30 special classes, separate schooling, or other removal of children with disabilities from the regular  
31 class occurs only if the nature or severity of the disability is such that education in regular  
32 classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.  
33 Educational placement decisions are made in accordance with A.R.M. 10.16.3340 and the  
34 requirements of 34 C.F.R. 300.114 - 300.120, and a continuum of alternate placements is  
35 available as required in 34 C.F.R. 300.551.  
36

#### 37 Children in Private Schools/Out-of District Placement 38

39 Children with a disability placed in or referred to a private school or facility by the District, or  
40 other appropriate agency, shall receive special education and related services in accordance with  
41 the requirements and procedures of 34 C.F.R. 300.145 through 300.147 and A.R.M. 10.16.3122.  
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43 As set forth under 34 C.F.R. 300.137, children with a disability placed in or referred to a private  
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1 school or facility by parents do not have an individual right to special education and related  
2 services at the District's expense. When services are provided to children with disabilities placed  
3 by parents in private schools, the services will be in accordance with the requirements and  
4 procedures of 34 C.F.R. 300.130 through 300.144 and 300.148.

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6 Impartial Due Process Hearing

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

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11 Special Education Records and Confidentiality of Personally Identifiable Information

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13 A. Confidentiality of Information

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15 The District follows the provisions under the Family Educational Rights and Privacy Act and  
16 implements the procedures in 34 C.F.R. 300.610-300.627, § 20-1-213, MCA, and A.R.M.  
17 10.16.3560.

18  
19 B. Access Rights

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

28  
29 C. List of Types and Locations of Information.

30  
31 A list of the records maintained on disabled students shall be available in the District office.  
32 Disabled student records shall be located in the resource room, where they are available for  
33 review by authorized District personnel, parents, and adult students. Special education teachers  
34 will maintain an IEP file in their classrooms. These records will be maintained under the direct  
35 supervision of the teacher and will be located in a locked file cabinet. A record-of-access sheet  
36 in each special education file will specify the District personnel who have a legitimate interest in  
37 viewing these records.

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39 D. Safeguards

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

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46 E. Destruction of Information

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2 The District will inform parents five (5) years after the termination of special education services  
3 that personally identifiable information is no longer needed for program purposes. The parent  
4 will be advised that such information may be important to establish eligibility for certain adult  
5 benefits. At the parent's request, the record information shall either be destroyed or made  
6 available to the parent or to the student if eighteen (18) years or older. Reasonable effort shall be  
7 made to provide the parent with notification sixty (60) days prior to taking any action on  
8 destruction of records. Unless consent has been received from the parent to destroy the record,  
9 confidential information will be retained for five (5) years beyond legal school age.

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11 F. Children's Rights

12  
13 Privacy rights shall be transferred from the parent to an adult student at the time the student  
14 attains eighteen (18) years of age, unless some form of legal guardianship has been designated  
15 due to the severity of the disabling condition.

16  
17 Discipline

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19 Students with disabilities may be suspended from school the same as students without disabilities  
20 for the same infractions or violations for up to ten (10) consecutive school days. Students with  
21 disabilities may be suspended for additional periods of not longer than ten (10) consecutive  
22 school days for separate, unrelated incidents, so long as such removals do not constitute a change  
23 in the student's educational placement. However, for any additional days of removal over and  
24 above ten (10) school days in the same school year, the District will provide educational services  
25 to a disabled student, which will be determined in consultation with at least one of the child's  
26 teachers, determining the location in which services will be provided. The District will  
27 implement the disciplinary procedures in accord with the requirements of CFR 300.530 -  
28 300.537.

29  
30 Legal Reference: 34 CFR 300.1, et seq. Individuals with Disabilities Act (IDEA)  
31 § 20-1-213, MCA Transfer of school records  
32 10.16.3122 ARM Local Educational Agency Responsibility for  
33 Students with Disabilities  
34 10.16.3129 ARM Parental Involvement  
35 10.16.3220 ARM Program Narrative  
36 10.16.3321 ARM Comprehensive Educational Evaluation Process  
37 10.16.3322 ARM Composition of a Child Study Team  
38 10.16.3340 ARM Individualized Education Program and Placement  
39 Decisions  
40 10.16.3342 ARM Transfer Students: Intrastate and Interstate  
41 10.16.3560 ARM Special Education Records  
42 10.60.103 ARM Identification of Children with Disabilities

43 Procedure History:

44 Promulgated on:

45 Revised on: 9/18/07