

POLICY IHB

Board of Education Las Cruces Public Schools

Related Entries: IHB-R

Responsible Office: Associate Superintendent For Instruction

SPECIAL EDUCATION AND RELATED SERVICES FOR ELIGIBLE STUDENTS

I. PURPOSE

To ensure Las Cruces Public Schools operates in compliance with all laws and regulations regarding exceptional students.

II. BACKGROUND

Each eligible special education student in the district will be afforded a full educational opportunity. This goal will be met consistent with the state's goals through ensuring the provision of a Free and Appropriate Public Education (FAPE), complying with federal regulations, state and local procedures, and improving performance goal indicators.

III. DEFINITIONS

1. *Child Find* means each public agency shall adopt and implement policies and procedures to ensure that all children with disabilities who reside within the agency's educational jurisdiction, including children with disabilities attending private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, detention and correctional facilities, children who are schooled at home, highly mobile children, children who reside on Indian reservations and children who are advancing from grade to grade, regardless of severity of their disability, and who are in need of special education and related services, are located, evaluated and identified in compliance with all applicable requirements of 34 CFR Secs. 300.131, 300.301-306 and these or other department rules and standards. For preschool children, child find screenings shall serve as interventions under Subsection B of 6.31.2.10 NMAC.
2. *FAPE* means Free and Appropriate Public Education.
3. *IEP* means Individual Education Plan.
4. *CFR* means Code of Federal Regulations.
5. *NMAC* means New Mexico Administrative Code.
6. *Manifestation Determination* means the evaluation of the relationship between a student's disability and act of misconduct that must be undertaken when a

school district proposes to take specified serious disciplinary actions against the student.

7. *LEA* means Local Educational Agency.
8. *IFSP* means Individualized Family Services Plan.
9. *FEOG* means Full Education Opportunity Goal. The school district has a goal of providing a full educational opportunity for all children with disabilities, birth through age 21, consistent with the state's full educational opportunity goal.

IV. POSITION

A. CHILD FIND

The Child Find program will implement policies and procedures to ensure that all children with disabilities who reside within Las Cruces Public Schools' jurisdiction are located, evaluated and identified, in compliance with all applicable requirements of 34 CFR Secs. 300.111, 300.131, 300.301-306 and these or other department rules and standards. For preschool children, child find screenings shall serve as interventions under Subsection B of 6.31.2.10 NMAC, including children with disabilities attending private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, detention and correctional facilities; children who are schooled at home; highly mobile children; children who reside on Native American reservations and children who are advancing from grade to grade, regardless of the severity of their disability, and who are in need of special education and related services.

B. PROCEDURAL SAFEGUARDS

1. Parent Rights: The Special Education Department will provide parents of an exceptional student or one being considered for special education services, a copy of the department's procedural safeguards, which meet the requirements of 34 CFR Secs. 300.500-300.536 and NMAC 6.31.2.13.
2. Prior Written Notice: Written notice that meets the requirements of 34 CFR Sec. 300.503 must be given to the parents of a child with a disability a reasonable time before the district.
 - a. Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
 - b. Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

3. **Mediation and Resolution Process:** Parents will be offered formal mediation or a resolution IEP as an option to a due process hearing as outlines in 34 CFR Secs. 300.506 and 300.510 and NMAC 6.31.2.13.
4. **Impartial Due Process Hearing:** The Special Education Department will afford the parents of an exceptional student the opportunity for an impartial due process hearing upon any proposed action or refusal to identify, evaluate, or provide educational placement or a free appropriate public education for students as outlined in 34 CFR Secs. 300.511-300.515 and NMAC 6.31.2.13.
5. **Surrogate Parents:**
 - a. The school district will ensure that a qualified surrogate parent is appointed in compliance with 34 CFR Sec. 300.519 when needed to protect the rights of a child with a disability who is within the school district's educational jurisdiction. A surrogate parent need not be appointed if a person who qualifies as a parent under 34 CFR Sec. 300.30(b) and Paragraph 13 of Subsection B of 6.31.2.7 NMAC can be identified.
 - b. Pursuant to 34 CFR Sec. 300.519 and NMAC 6.31.2.7, a surrogate parent may represent the child in all matters relating to the identification, evaluation and educational placement of the child and the provision of FAPE to the child.
6. **Foster Parents:** A foster parent who meets all requirements of 34 CFR Sec. 300.30 may be treated as the child's parent pursuant to that regulation. A foster parent who does not meet those requirements but meets all requirements of 34 CFR Sec. 300.519 may be appointed as a surrogate parent if Las Cruces Public Schools, which is responsible for the appointment, deems such action appropriate.
7. **Independent Educational Evaluation:** The school district adheres to 34 v CFR Sec. 300.502 and NMAC 6.31.2.7 as they pertain to the parent's right to obtain an independent educational evaluation.
 - a. Independent evaluations will be considered in any decision made with respect to a free and appropriate public education to the student.
 - b. Whenever an independent evaluation is obtained at the school district's 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 used by the school district when it initiates an evaluation.

C. EVALUATIONS AND RE-EVALUATIONS

1. The school district will conduct a full and individual initial evaluation, in accordance with 34 CFR Secs. 300.305 and 300.306 and NMAC 6.31.2.10, before the initial provision of special education and related services to a child with a disability under this part.
2. The school district will ensure that a re-evaluation of each child with a disability is conducted in accordance with Secs. 300.304-300.311 and NMAC 6.31.2.10.
3. The school district will conduct an initial evaluation for potentially gifted students, in accordance with NMAC 6.31.2.12, Subsection D and E, before the initial provision of gifted services.

D. DISABILITIES/EXCEPTIONALITIES

Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in 34 CFR Sec. 300.8 and Paragraph 2 of Subsection B of 6.31.2.7 NMAC. The determination shall be made in compliance with all applicable requirements of 34 CFR Sec. 300.306 and these or other department rules and standards; and, for a child suspected of having a specific learning disability, in compliance with the additional procedures of 34 CFR Secs. 300.307-300.311 and these or other department rules, policies and standards.

E. EDUCATIONAL SERVICES FOR GIFTED CHILDREN

All definitions, policies, procedures, assurances, procedural safeguards, and services identified in 6.31.2. NMAC for school-aged children with disabilities apply to school-aged gifted children within the educational jurisdiction of the school district, including children in the charter schools within the school district, except:

1. The requirements of 6.31.2.8-6.31.2.10 NMAC and Subsections J, K and L of 6.31.2.11 NMAC regarding Child Find, evaluations and services for private school children with disabilities, children with disabilities in state-supported educational programs, children with disabilities in detention and correctional facilities, and children with disabilities who are schooled at home;
2. The requirements of 34 CFR Secs. 300.530-300.536, Subsection I of 6.31.2.13 NMAC and 6.11.2.11 NMAC regarding disciplinary changes of placement for children with disabilities; and
3. The requirements of 34 CFR Secs. 300.43, 300.320(b) and 6.31.2.11(G)(2) regarding transition planning. Students identified as gifted must meet the

requirements of Subsection B of 22-13-1.1 NMSA 1978, which is the next step plan for students without disabilities.

F. INDIVIDUAL EDUCATION PLANS, PARENT PARTICIPATION

1. **Individual Education Plans (IEP):** The school district shall provide the parent with an IEP, which is a written statement for each child with a disability/exceptionality that is developed, reviewed and revised in a meeting in accordance with 34 CFR Secs. 300.320-300.324, and v 6.31.2.7 that must include a statement of the child's present levels of academic achievement and functional performance;
 - a. A statement of measurable annual goals, including academic and functional goals;
 - b. A description of the child's progress toward meeting the annual goals and when periodic reports on the progress the child is making toward meeting the annual goals will be provided;
 - c. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided;
 - d. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular education environment;
 - e. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments;
 - f. The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications;
 - g. State rules require the development of measurable post-school goals beginning not later than the first IEP to be in effect when the child turns 14, or younger, if determined appropriate by the IEP team, and updated annually thereafter. Pursuant to 34 CFR Sec. 300.320(b), the IEP must include:
 - i. post-secondary goals
 - ii. transition services
 - iii. transfer of rights

2. **Extended School Year:** The school district will insure that Extended School Year (ESY) services are available as necessary to provide FAPE as required by 34 CFR Sec. 300.106; ESY services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with 34 CFR Sec. 300.320 through 300.324, that the services are necessary for the provisions of FAPE to the child. It is not the purpose of ESY to enhance the present levels of functional and academic performance exhibited by students with disabilities at the end of the regular school year.
3. **Parent Participation:** Parents are required under Individuals with Disabilities Education Act 34 CFR Sec 300.322 and 300.501 and NMAC 6.31.2.13 to be an integral part of the IEP. The school district ensures this participation by:
 - a. Examination of records
 - b. Parent and student participation at meetings
 - c. Notice of meetings
 - d. Notice of agency actions proposed and refused
 - e. Notice of procedural safeguards
 - f. Communication in the native language of the parent.

G. LEAST RESTRICTIVE ENVIRONMENT

Services will be provided in the least restrictive environment as recommended by the IEP team that meets the requirements of 34 CFR Secs. 300.114-300.120 and the NMAC 6.31.2.11.

H. DISCIPLINE

1. Removal:
 - a. School district personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536) in accordance with 34 CFR Sec. 300.530 and NMAC 6.31.2.11 subsection F.
 - b. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during

any subsequent days of removal, the public agency must provide services in accordance with 34 CFR Sec. 300.530 and NMAC 6.31.2.11 subsection F.

2. **Manifestation Determination:** The school district must conduct a manifestation determination when there is a decision to change the placement (a removal of more than 10 days in a school year) of a child with a disability because of a violation of a code of student conduct. The LEA, the parent, and relevant members of the child's IEP team must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question:
 - a. was caused by, or had a direct and substantial relationship to, the child's disability; or
 - b. was the direct result of the LEA's failure to implement the IEP. Manifestation determinations in accordance with 34 CFR Sec. 300.530 (e) and NMAC 6.31.2.11 subsection F.

I. GENERAL ADMINISTRATION, FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE), AND FULL EDUCATION OPPORTUNITY GOAL (FEOG).

1. The school district will provide special education and related services which will:
 - a. Ensure that all children with disabilities, ages three-21, have available to them a FAPE that emphasizes special education and related services designed to meet their individual needs and prepare them for employment and independent living as required by 34 CFR Secs. 300.101 through 300.110 and NMAC 6.31.2.8.
 - b. Ensure that all the rights of children with disabilities and their parents are protected as required by 34 CFR Secs. 300.500-300.536 and NMAC 6.31.2.13.
 - c. Assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities.
 - d. Assess and ensure the effectiveness of efforts to educate children with disabilities.
2. The school district will provide FAPE and will establish and provide full educational opportunities to meet the school district's FEOG for all students ages three-21 having special needs as defined by New Mexico and federal laws and regulations pertaining to special education. The school district will ensure that an IEP, or an IFSP that meets the

requirements of NMAC 6.31.2.11, is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR Secs. 300.320-300.324. The school district will ensure that an IEP that meets the requirements of NMAC 6.31.2.12 is developed, reviewed, revised and implemented for each identified gifted child.

J. SPECIAL EDUCATION FEDERAL PROGRAMS

The school district will maintain on file with the New Mexico Public Education Department, federal program general assurances. The general assurances are incorporated within the school district's board policies. The individual program special assurances will be incorporated into the Special Education Handbook: "Policies and Procedures for the Provision of Special Education Services for Students with Disabilities and Gifted Students."

K. The Superintendent of Schools shall promulgate a regulation for the enforcement of this policy.

V. REVIEW AND REPORTING

This policy will be reviewed in accordance with the Board of Education policy review process.



Board of Education, President

September 20, 2011

Date Approved

History: Formerly Policy 390-398; revised 10.07.08; 09.20.11

Legal Reference: 34CFR300–Title 34: Education; Code of Federal Regulations; Chapter III office of Special Education and Rehabilitation Services, Department of Education; Part 300 – Assistance to States for the Education of Children with Disabilities; NMAC 6.31 – New Mexico Administrative Code; TITLE 6 Primary and Secondary Education; CHAPTER 31 Special Education; PART 2 Children with Disabilities/Gifted Children. The Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Education Amendments of 1972, Individuals with Disabilities Education Improvement Act of 2004, Educational Rights and Privacy Act of 1974, Audit Act NMSA 1978, Procurement Code NMSA 1978, The Single Audit Act of 1984, Education Department General Administration Regulations (EDGAR), Public School Finance Act of 1978, and New Mexico Administrative Code Title 6, Chapter 31, Part 2.