

3301-51-11

Preschool children eligible for special education requirements.

- (A) Preschool special education programs and related services operated by school districts, county boards of ~~mental retardation and~~ developmental disabilities (county boards of ~~MR/DDDD~~), and other education agencies shall be provided in accordance with this chapter of the Administrative Code.

(B) Interagency agreements

Each school district shall develop and annually review interagency agreements with all partners to ensure a free appropriate public education (FAPE) is provided to all preschool children ~~with disabilities who are eligible for special education services~~ between the ages of three through five residing in the school district. At a minimum, agreements with the following partners are required:

- (1) “Head Start” programs within the school district’s service delivery area that provide for:
 - (a) Service coordination for preschool children ~~with disabilities~~ who are eligible for special education services, three through five years of age, in a manner consistent with the state interagency agreement for service coordination with “Head Start”; and
 - (b) Transition of children eligible for special education and related services as a preschool child at age three.
- (2) The county ~~family and children first council~~ agency responsible for the “Help Me Grow” service delivery system that provides for the transition of children from early intervention services to preschool special education and related services at age three in a manner consistent with the state interagency agreement for service coordination with “Head Start”. The agreement must include, but is not limited to, the following requirements:
 - (a) A process by which strategies are evaluated for effectiveness and appropriate revisions to the agreement are made;
 - (b) A process by which “Help Me Grow” refers children who are forty-five days or less from their third birthdays and are suspected of having disabilities. These children must have an evaluation completed within sixty days of parental consent for evaluation, but an individualized education program (IEP) is not required by their third birthdays;
 - (c) Shared responsibilities for evaluating children suspected of having disabilities referred through “Help Me Grow” at least forty-six days

before their third birthdays but not more than ninety days before their third birthdays;

(d) Shared responsibilities for child find, including locating, evaluating, and identifying children with disabilities birth through age five; and

(e) Timelines and processes for sharing information about children who may be transitioning as a preschool child ~~with a disability~~ eligible for special education services from “Help Me Grow” early intervention services to special education and related services.

(3) County boards of ~~MR/DDDD~~ responsibilities for identification, service delivery, and ~~financial~~ funding to adequately serve preschool children ~~with disabilities~~ who are eligible for special education services three through five years of age.

(C) Eligibility

Each school district of residence must conduct a full and individual evaluation in accordance with rule 3301-51-06 of the Administrative Code before the initial provision of special education and related services to a preschool child ~~with a disability~~ eligible for special education services residing in the district.

(1) Sufficient information shall be obtained using a variety of information sources to confirm that a disability exists.

No single source of information, such as a single measure or score, shall be used to determine if a preschool child is eligible or not eligible for special education and related services. Eligibility for special education and related services as a preschool child shall be determined on the basis of multiple sources of information, including, but not limited to:

(a) Information from part C for children transitioning from early intervention services;

(b) Structured observations in more than one setting and in multiple activities;

(c) Information provided by the parent or caregiver; and

(d) Criterion-referenced and norm-referenced evaluations.

(2) Based on the variety of sources of information listed in paragraphs (C)(1)(a) to

(C)(1)(d) of this rule, a group of qualified professionals and the parent of the child shall determine if the child has a disability and is eligible for special education and related services as a preschool child ~~with a disability~~.

(3) The following developmental areas must be assessed with at least one source of information listed in paragraphs (C)(1)(a) to (C)(1)(d) of this rule:

- (a) Adaptive behavior;
- (b) Cognition;
- (c) Communication;
- (d) Hearing;
- (e) Vision;
- (f) Sensory/motor function;
- (g) Social-emotional functioning;
- (h) Behavioral functioning.

(4) A school district must ensure that sufficient resources are available to conduct evaluations during the summer months.

(5) A preschool child ~~with a disability~~ who is eligible for special education services is a child who has one of the following disabilities, as defined in rule 3301-51-01 of the Administrative Code, based upon the evidence required in paragraphs (C)(1) to (C)(3) of this rule, and who, by reason thereof, needs special education and related services:

- (a) Autism;
- (b) Cognitive disability;
- (c) Deaf-blindness;
- (d) Deafness;

- (e) Emotional disturbance;
 - (f) Hearing impairment;
 - (g) Multiple disabilities;
 - (h) Orthopedic impairment;
 - (i) Other health impairment;
 - (j) Specific learning impairment;
 - (k) Speech or language impairment;
 - (l) Traumatic brain injury;
 - (m) Visual impairment; or
 - (n) Developmental delay, as defined in paragraph (C)(6) of this rule.
- (6) A school district may choose to use the term “developmental delay” under the following conditions for children ages three through five who are experiencing developmental delays and who, by reason thereof, need special education and related services:
- (a) The applicability of the term shall be based upon the individual needs of the child as determined by the evaluation team or the IEP team and other qualified professionals;
 - (b) In addition to the assessments required in paragraph (C)(1) of this rule, results of appropriate diagnostic instruments and procedures may also be used to help make the determination that a child has a “developmental delay.” A developmental delay may be substantiated by a delay of two standard deviations below the mean in one or more of the areas of development or 1.5 standard deviations below the mean in two or more of the areas of development listed in paragraphs (C)(6)(b)(i) to (C)(6)(b)(v) of this rule. The results shall not be used as the sole factor in making the determination that a child has a developmental delay.

“Developmental delay” means a child of three to five years who is experiencing a delay as determined by an evaluation team, IEP team, and other qualified professionals in one or more of the following areas of development:

- (i) Physical development;
- (ii) Cognitive development;
- (iii) Communication development;
- (iv) Social or emotional development; or
- (v) Adaptive development.

(c) The term “developmental delay” may be used only after considering the applicability of the categories provided in paragraphs (C)(5)(a) to (C)(5)(m) of this rule; and

(d) The term “developmental delay” may be used in place of the following disability categories:

- (i) Cognitive disability;
- (ii) Emotional disturbance;
- (iii) Speech or language impairment.

(A child with a developmental delay that requires special education and related services may be determined in accordance with this rule to be a child ~~with a disability~~.)

(7) A preschool child ~~with a disability~~ eligible for special education services shall be at least age three and not age six.

(a) School-age services must be considered during the IEP process for a child who will be age six by December first of the current calendar year.

(b) A preschool child ~~with a disability~~ eligible for special education services shall have a grade level of preschool. A child enrolled in kindergarten

shall be considered to be a school-age child and not a preschool child.

- (c) A child younger than three years of age may meet the age requirement if the child will be three by December first of the current calendar year and may participate in special education and related services as a preschool child before December first of the current calendar year.

(D) Transition from part C early intervention

A school district is responsible for the following activities related to transition for a child receiving “Help Me Grow” early intervention services under part C of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004, December 2004 (IDEA):

- (1) If invited by a representative of the part C system, a school district representative shall attend a conference to discuss transition from early intervention services to preschool for a child suspected of having a disability. This conference may occur up to nine months before a child’s third birthday. The school district shall document participation in the conference.
- (2) At the parent’s request, the school district shall invite the part C service coordinator to the initial IEP meeting.
- (3) If there is a suspected disability and the child is eligible for special education and related services as a preschool child, the school district shall work with the family to ensure an IEP is in place and implemented by the child’s third birthday. The dates for the initiation and duration of services shall be determined by the evaluation team or the IEP team and other qualified professionals.
- (4) A school district must consider extended school year services as part of the IEP process for children transitioning from part C services. There is no requirement that a child must have previous school experience to receive extended school year services. Based upon data available from the part C system, the evaluation team or the IEP team and other qualified professionals shall determine if extended school year services are required as outlined in paragraph (G) of rule 3301-51-02 of the Administrative Code.
- (5) A school district determined by the Ohio department of education to be noncompliant with the transition timeline to have an IEP in place by an eligible child’s third birthday:
 - (a) Shall develop a corrective action plan in addition to the interagency

agreement. The corrective action plan must include the signature of a representative of the ~~family and children first council~~agency responsible for "Help Me Grow" part C services; and

- (b) May have funds reduced or terminated by the Ohio department of education.

(E) Measuring child progress

A school district shall measure a child's progress using multiple sources of information. Information must be obtained across multiple settings, representing a variety of interactions and input from parents and staff involved with the child.

- (1) Information shall be analyzed to evaluate the conditions under which desired behaviors occur and if the desired behavior is not demonstrated, an analysis of contributing factors shall be conducted, and changes in the environment, curriculum, and instruction shall be considered.
- (2) Information on a child's progress shall be reported in the manner prescribed by the Ohio department of education.

(F) Center-based and itinerant teacher services

A continuum of service delivery options that includes the options of center-based or itinerant teacher services shall be considered when determining the least restrictive environment.

- (1) Adapted physical education (APE) or related services, as appropriate, shall be considered in conjunction with center-based or itinerant teacher services. When determining services, the school district shall consider the following factors:
 - (a) The child's ability to participate and progress in the general early childhood curriculum; and
 - (b) The child's socialization needs; and
 - (c) The child's educational and developmental progress.
- (2) Itinerant services may be delivered in the home, in a preschool program administered by a public school, or in a community-based preschool or child care program that meets the requirements of Chapter 5104. of the Revised

Code.

- (3) Center-based classroom services may be delivered in an integrated facility, such as team teaching within a community-based program, or a separate facility.
- (4) Center-based options must include opportunities for services in settings that are considered to be early childhood settings as the term is used by the United States department of education.
- (5) A “change of placement” is defined as a change in the service delivery option (center-based or itinerant teacher).
- (6) Center-based environments meeting the federal definition of an early childhood setting shall be considered during the IEP meeting.
- (7) Up to eight age-eligible, nondisabled peers may be enrolled in a preschool special education classroom. In such cases, no more than sixteen children shall be present at any one time. The maximum number of children enrolled in any class shall be appropriate for the severity of disabilities and needs of the children enrolled.

(G) Preschool services

Special education and related services shall be provided in accordance with the following:

- (1) Unless otherwise specified in the IEP, preschool children ~~with disabilities~~eligible for special education are considered to be receiving full-day center-based services if twenty or more hours of center-based services are provided per week;
- (2) Unless otherwise specified in the IEP, a minimum of four hours of services per month shall be provided for each child by an itinerant teacher and a minimum of ten hours of services per week shall be provided for each child served by a center-based teacher:
 - (a) Preschool children ~~with disabilities~~eligible for special education are considered to be .50 full-time equivalency (FTE) if ten hours of center-based preschool special education services are provided per week.
 - (b) Preschool children ~~with disabilities~~eligible for special education receiving

itinerant teacher services are considered to be .50 FTE.

- (3) Services may be provided directly to the child or provided to the child using a consultative model. Consultative services may include all staff involved with the preschool child ~~with a disability~~ who is eligible for special education services;
- (4) All staff involved in service delivery shall contribute to planning instruction and monitoring progress;
- (5) Service delivery may be done through a team teaching or transdisciplinary model in conjunction with “Head Start”, public preschools, community preschools, or child care; and
- (6) A school year consistent with section 3313.48 of the Revised Code shall be provided to preschool children ~~with disabilities~~ who are eligible for special education.

(H) Preschool service provider ratios

Preschool service providers will provide direct or consultative services, including sufficient supervision, during all activities in accordance with the following ratios:

- (1) Center-based preschool special education classrooms shall serve no more than eight preschool children with disabilities in any one class session. If a teacher is responsible for two half-day class sessions, no more than sixteen children shall be served per teacher;
- (2) A full-time staff member shall be provided when there are six full-day or twelve half-day preschool children ~~with disabilities~~ eligible for special education enrolled in a center-based program;
- (3) A teacher providing both center-based and itinerant services shall serve no more than twenty children, and each child will be considered .50 FTE;
- (4) An itinerant teacher shall serve no more than twenty children, and each child will be considered .50 FTE;
- (5) Staff ratios of one teacher for six children shall be maintained at all times for a center-based teacher, and a second adult shall be present when there are seven or more children, including nondisabled peers, enrolled in a class session; and

- (6) Sufficient staff shall be available at all times when preschool children ~~with disabilities~~eligible for special education are enrolled so that in emergency situations when help must be summoned, ratios shall be maintained, and children shall be sufficiently supervised during all activities;
- (7) APE and related services shall be counted as one FTE based upon the following number of eligible preschool children ~~with disabilities~~ served:
- (a) An APE staff member at one FTE shall have a caseload of no more than one hundred eligible preschool children ~~with disabilities~~;
 - (b) A preschool attendant at one FTE shall have a caseload of no more than three eligible preschool children ~~with disabilities~~;
 - (c) An audiologist at one FTE shall have a caseload of no more than seventy-five eligible preschool children with hearing ~~disabilities~~impairments;
 - (d) An occupational therapist at one FTE shall have a caseload of no more than forty eligible preschool children ~~with disabilities~~;
 - (e) An orientation and mobility specialist at one FTE shall have a caseload of no more than forty eligible preschool children with ~~vision disabilities~~visual impairments;
 - (f) A physical therapist at one FTE shall have a caseload of no more than forty eligible preschool children ~~with disabilities~~;
 - (g) A school psychologist at one FTE shall have a caseload of no more than seventy-five eligible preschool children ~~with disabilities~~ or on the basis of one thousand children, ages three through five, an average daily membership as authorized by section 3317.15 of the Revised Code; and
 - (h) A speech and language pathologist at one FTE shall have a caseload of no more than fifty eligible preschool children ~~with disabilities~~.
- (8) Staff serving children with disabilities ages three through five and six through twenty-one will have FTE apportioned on the basis of the number of children served in each age category and the percentages totaling one hundred per cent.

- (9) The number of hours for FTE shall not exceed the total number of days per year that the preschool special education program is legally in session.
- ~~(10) The caseloads in this rule will be used to determine state unit funding in accordance with state law. Fractional FTEs will be computed using caseload numbers in this rule. Related services may be reimbursed at an hourly rate and calculated in accordance with state law.~~

(I) Preschool personnel qualifications

Personnel providing preschool services shall be appropriately credentialed.

- (1) Personnel providing preschool services shall hold one of the following licenses in accordance with Chapter 3301-24 of the Administrative Code:
- (a) A valid Ohio special education teaching certificate or license with ~~validation~~ an endorsement for preschool special needs or pre-kindergarten;
 - (b) A valid pre-kindergarten teaching certificate with ~~validation~~ an endorsement for preschool special needs;
 - (c) A valid early childhood intervention specialist license;
 - (d) A valid intervention specialist license in accordance with paragraph ~~(C)(5)(b) or (C)(5)(e)~~ (A)(5)(b) or (A)(5)(c) of rule 3301-24-05 of the Administrative Code if the only children served are preschool children ~~with disabilities~~ eligible for special education who are at least five years of age;
 - (e) A valid intervention specialist license in accordance with paragraph ~~(C)(5)(d)~~ (A)(5)(d) of rule 3301-24-05 of the Administrative Code if the children served are preschool children with visual impairments; or
 - (f) A valid intervention specialist license in accordance with paragraph ~~(C)(5)(e)~~ (A)(5)(e) of rule 3301-24-05 of the Administrative Code if the children served are preschool children with hearing impairments.
- (2) Preschool special education teachers who are assigned to categorical classrooms for children with visual or hearing impairments must have the special education certificate required for the categorical area.

(3) Preschool special education teachers whose caseloads include children with visual and/or hearing impairments shall be provided assistance from a teacher or other specialist licensed in the area for that sensory impairment.

~~(4) School districts may contract for APE and related services and receive state unit funding for the following services:~~

~~(a) APE and related services contracted for in accordance with section 3323.08 of the Revised Code may be reimbursed at an hourly rate. Reimbursed services must be provided during the regular school day and only for the days that the preschool special education program was legally in session.~~

~~(b) If two or more agencies provide services to the same child, both agencies cannot receive state funding for providing the same service to the child.~~

~~(c) If two or more agencies provide different services to the same child, both entities may be eligible to receive state funding for providing services to the child.~~

(J) Preschool supervisory services

(1) A preschool special education supervisor's services shall include but are not limited to:

(a) Providing assistance to early childhood personnel in the provision of developmentally and exceptionality appropriate practices for preschool children ~~with disabilities~~ who are eligible for special education services;

(b) Facilitating the provision of comprehensive early childhood delivery systems for young children with disabilities including the integration of:

(i) Education;

(ii) Health;

(iii) Social services; and

(iv) Parent education components.

(c) Participating in the development and evaluation of professional

development plans and induction programs that apply to early childhood personnel and as outlined in proposed teacher education and licensure standards;

- (d) Assisting with the implementation and evaluation of proposed standards that apply to early childhood programs;
 - (e) Collaborating with "Head Start" in activities as outlined in the interagency agreement;
 - (f) Collaborating with local family and children first councils in activities that apply to both early intervention and preschool programs as outlined in the interagency agreement;
 - (g) Collaborating with the regional state support team in the provision of training and technical assistance responsive to the needs of early learning personnel within the assigned service region;
 - (h) Collaborating with the Ohio department of education, office of early learning and school readiness, as appropriate; and
 - (i) Providing leadership to early childhood educators within the assigned service region.
- (2) The early childhood supervisor shall meet the following minimum qualifications:
- (a) Have at least three years of experience teaching young children birth through age eight and one of the following licenses or certificates:
 - (i) A valid professional early childhood intervention specialist license (ECIS);
 - (ii) A valid professional early childhood education teacher license (ECE); or
 - (iii) A valid teaching certificate/license with early education of the handicapped or preschool special needs as a teaching area; or
 - (b) Have at least three years experience teaching special education and one of the following licenses or certificates:

- (i) A valid administrative specialist license;
- (ii) A valid supervisor certificate/license;
- (iii) A valid principal certificate/license; or
- (iv) A valid superintendent certificate/license.

~~(3) Preschool special education supervisors responsible for ten classroom teachers are eligible for one FTE in state unit funding.~~

(K) Preschool transportation

Transportation shall be listed as a related service on a preschooler's IEP if the IEP team determines that transportation is required ~~to help the child~~ for the child to access and benefit from special education.

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Certification

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