

Release Notes

AEA Special Education Procedures & Documentation Guide (January 15, 2012)

Procedure Manual Release Notes

Topic (Manual pages)	Notes
Transition from Pre-K to Kindergarten (p. 153)	Language related to the transition of an eligible individual from early childhood special education services to kindergarten special education services has been revised to clarify the requirements of this process. Also, the Procedures Manual states that a prior written notice (PWN) is to be provided to parents at both points of IEP team action (IEP meeting in the Spring; amendment with or without a meeting in the Fall). Sample language for the Fall PWN has been included in the Documentation Guide (see below). Manual language Key language highlighted
Exit Code for revocation of consent for services (p. 177)	When code definitions were changed in the Web IEP & IMS and in the Documentation Guide in March, 2011, the Procedures Manual language was not revised to reflect the code change in either the March 1, 2011 or July 1, 2011 editions. The correct code, as of March 1, 2011 for revocation of consent for services is RRC (return to general education, eligibility not retained). The correction was communicated to AEAs and posted on the Iowa IDEA website. The Procedures Manual is now corrected. Manual language Key language highlighted
Determining and Defining "Parent" (pp. 227 et seq)	<p>Foster parents. IDEA's definition of a 'parent' includes a "foster parent of a child (<i>unless a foster parent is prohibited by State law from serving as a parent</i>)" An August 2011 Joint Policy Statement from the Iowa Departments of Human Services and Education states:</p> <p><i>"Based on Iowa law, a foster parent may not serve as a child's parent under the IDEA. Notwithstanding this law, a foster parent who is a child's relative may still serve as a child's parent. A foster parent could also be appointed as a child's surrogate parent."</i></p> <p>In accordance with this policy statement, procedures have been revised to reflect that foster parent status does not allow an individual to serve in the role of a parent for special education purposes. Foster parent status, however, does not preclude an individual from serving as a parent under IDEA. A foster parent who has been appointed a surrogate parent or who is a relative such as a grandparent, stepparent, or other relative with whom the child lives and is acting in the place of a biological or adoptive parent may serve as a parent under IDEA.</p> <p>Surrogate parent conflict of interest. Previous editions of the Procedures Manual stated "The Director or designee shall contact the Department of Human Services Regional Administrator to ascertain whether the proposed surrogate parent has any conflict of interest." The position title, "Regional Administrator" is no longer used within DHS and the task was typically accomplished by professionals working more closely with the individuals involved. The need to determine if any conflicts exist is still a requirement, but manual language has been revised:</p> <p>"The Director or designee shall ascertain whether the proposed surrogate parent is excluded from consideration as a surrogate due to the proposed individual's employment or any conflicts of interest that may interfere with serving in the role of "parent" for the eligible individual."</p> <p>Manual language Key language highlighted</p>

Topic (Manual pages)	Notes
Navigation (All)	The table of contents (now seven pages by itself), has been given a table of contents. For entries that have sub-topics, the user can either go to the detailed table of contents or to the section of the manual. If there are no subtopics, the only option is to navigate to the manual section. As always, clicking on Table of Contents entries takes the user to the section named by the entry. With few exceptions, each manual page has a link (Table of Contents) to the Table of Contents.

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 Written Parental Consent for Evaluation

Child Find
Introduction

Citation 34 C.F.R. § 300.111
 Iowa Rules of Special Education 281—41.111; 281—41.312

Overview IDEA regulations and Iowa *Rules* require that “all children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities who attend private schools, regardless of the severity of their disability, and who are in need of special education and related services, must be identified, located, and evaluated.” To that end, Iowa’s area education agencies (AEAs) were created by the legislature in order to “provide an effective, efficient, and economical means of identifying and serving children ... who require special education.”

Documentation Guide Release Notes

Prior Written Notice – Transition from pre-K to Kindergarten (pp. 40-42)	The Documentation Guide provides sample language for PWNs for initial placements, revocations of consent, and now, transitions from pre-K to kindergarten. The samples include circumstances where no program changes are being made, but information is simply being reorganized and updated, and circumstances where both updates and program changes are being made. Documentation Guide language
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Transition from Pre-K to K

Transition from Early Childhood to Kindergarten: Spring Activities

Early childhood teams should plan to hold an IEP meeting for children transitioning from pre-K to kindergarten late enough in the school year that the team will have appropriate information for planning and decision making for a student’s kindergarten program. In scheduling this meeting, keep in mind that the final Early Childhood Outcomes (ECO) must be completed within the 90 calendar days prior to the end of pre-kindergarten services.

At this meeting, IEP teams should write an IEP that describes the early childhood program and services that will complete the current school year and also describes the coming kindergarten program.

On page F, current early childhood special education services are described with an appropriate starting date (e.g., the IEP meeting date.) The page F services for kindergarten are described with the start date corresponding to the beginning of school in the fall (i.e., August.) The Web IEP will then list these as “future services” and print them separately in the IEP.

Complete a final Early Childhood Outcomes (ECO) page.

Provide parents with a Prior Written Notice describing any changes to services and supports (changes that are a result of the transition to kindergarten and any changes reflecting new or different student needs).

Inform parents that an IEP amendment will be required in the fall to complete the transition process.

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Amending the IEP: Fall Activities

In the fall of the kindergarten year, the new IEP team will need to amend the IEP, making all necessary changes. Typically, teacher and least restrictive environment (LRE) or early childhood setting code information changes. Weighting and attending building often change.

As students enter into kindergarten, teams must take care to review appropriate weighting. All early childhood instructional IEPs are weighted level two or level three, only, but many IEPs will change weighting level in kindergarten

The fall amendment may be an amendment with or without a meeting, depending on the circumstances. The IEP team will decide if an additional meeting is necessary. *At minimum, page F and the early childhood setting code should be changed to reflect the kindergarten program.* The services and supports descriptions may not need to be changed, but the amendment process moves kindergarten services and supports from a “future services” designation to an “immediate services” designation. This is especially important to ensure that the correct, current early childhood setting code or LRE information is reported.

Complete a Prior Written Notice, informing the parents of IEP changes (see Documentation Guide for sample Prior Written Notice language).

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**Document
Revocation of
Consent for
Service**

When it is determined that a student should be exited from special education services due to the revocation of consent for services, the student is removed from the roster and **the Exit form is completed using the appropriate exit code (RRC)** for IMS.

The Prior Written Notice of Proposed or Refused Action form is also completed and provided to the parents and, if appropriate, the age-of-majority student documenting the cessation of services and supports by the LEA and/or AEA. Provide Prior Written Notice of the cessation of services and supports **after** receiving the parents' written revocation, **but before** ending services. The LEA and/or AEA work with the parents to determine an agreed-upon date in the same way as other Prior Written Notices.

In communication and notice to parents/age-of-majority students, it may also be important to inform parents and student of the potential impact on nonschool programs (e.g., SSI, ACT or SAT testing accommodations, etc.).

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Determining and Defining “Parent”

Determining Who Serves in the Parent Role

All critical special education processes require someone to serve in the role of a “parent.”

This requirement is intended to assure that the unique and extensive knowledge about a child that parents possess enhances the planning and delivery of educational services and that the authority held by parents as their child’s guardian is recognized and upheld.

Individuals Who May Act in the Role of “Parent”

In general a “parent” could be:

- A biological or adoptive parent of a child
- A guardian
- An individual such as a grandparent, stepparent, or other relative with whom the child lives and is acting in the place of a biological or adoptive parent
- An individual who is legally responsible for the child’s welfare
- An extended educational decision maker
- A surrogate parent [41.30(1)]

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Individuals Who May Not Act in the Role of “Parent”

In general a “parent” **may not** be: [41.30(2)]

- A foster parent (see below),
- A public or private agency involved in the education or care of a child, or
- An employee or contractor with any public or private agency involved in the education or care of the child in that employee’s or contractor’s official capacity.

Specific examples of agencies and individuals who **may not** serve in the role of “parent” include:

- The Department of Human Services or agencies contracted by the Department of Human Services
 - Group home directors involved in the care of a child
 - Caseworkers involved in the education or care of a child
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Foster Parent

A foster parent **may not, by virtue of his or her foster parent status, be deemed a person acting as the parent of an eligible individual for special education purposes.**

However, foster parents are not precluded from acting as a parent and other circumstances may allow a foster parent to serve as a parent:

- A foster parent may act as a parent if assigned as a surrogate parent.
 - A foster parent may act as a parent if the foster parent is an individual such as a grandparent, stepparent, or other relative with whom the child lives and is acting in the place of a biological or adoptive parent.
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Guardian

A guardian may act as a child's parent if authorized to act as the child's parent in all matters or if the guardian is specifically authorized to make educational decisions for the child.

An Individual Acting in the Place of a Parent

An individual may act in the place of a biological or adoptive parent including a:

- Grandparent,
- Step-parent, or
- Other relative with whom the child lives

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An Individual Who is Legally Responsible for the Child's Welfare

An individual who is legally responsible for the child's welfare may act in the place of a biological or adoptive parent. The individual must reside with the child (*residence creates the legal responsibility for the child's welfare*).

Examples include:

- An unmarried partner of the child's parent
 - Another adult with whom the child lives (such as a neighbor).
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An Extended Educational Decision Maker

An extended educational decision maker is a person who has the authority to make educational decisions for an eligible individual who has attained the age of majority and would ordinarily make these decisions for himself or herself but has been determined to be unable to make these decisions.

See additional extended educational decision maker information below.

A Surrogate Parent

The appointment of a surrogate parent for the purposes of special education planning and programming is made when: [41.519(1)]

- No parent can be identified (refer to definition of parent in rule 41.30)
- After reasonable effort, no parent can be located
- The child is a ward of the state
- The child is an unaccompanied homeless youth

Note: In the case of an unaccompanied homeless youth, appropriate staff of:

- Emergency shelters,
- Transitional shelters,
- Independent living programs, or
- Street outreach programs ...

... may be appointed as **temporary** surrogate parents without regard to 41.519(4)b(1) until a surrogate parent can be appointed that meets all of the requirements.

See additional surrogate parent information below.

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Ward of the State

“Ward of the State” means a child who is: [41.45(1)]

- A foster child who does not have a foster parent who meets the definition of a parent in rule 41.30 (e.g., a grandparent, stepparent, or other relative with whom the child lives). [41.45(2)]
 - A child in the custody of a public child welfare agency
 - A child who has been designated a “ward of the state” under state law
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Evaluation of a Child who is a Ward of the State

For initial evaluations only, if the child is a ward of the state and is not residing with the parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine if the child has a disability if:

- Despite reasonable efforts to do so, the whereabouts of the parent cannot be discovered
 - The rights of the parents have been terminated
 - The rights of the parent to make educational decisions have been subrogated by a judge and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child [Return to Release Notes](#)
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Special Circumstances in Determining Who is Qualified to Act as Parent

There are special circumstances where it may be necessary to determine who is qualified to act as the parent:

- When more than one party is qualified to act as a parent the biological or adoptive parent must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - If legal authority is in question, it may be advisable to request a copy of the most recent court order to verify the custody or guardianship. [41.30(2)a]
 - If a judicial decree or order identifies a specific person or persons to act as the parent of a child or to make educational decisions on behalf of a child, then such person(s) shall be determined to be the parent(s). [41.30(2)b]
 - “Parent” does not include a public or private agency involved in the education or care of a child or an employee or contractor with any public or private agency involved in the education or care of the child in that employee’s or contractor’s official capacity. For example:
 - A Department of Human Services employee whose work responsibilities include facilitating a child’s residential placement **could not be** appointed a surrogate for that child
 - A Department of Human Services employee whose work responsibilities relate to adult services **could be** appointed a surrogate for an eligible individual. [41.30(2)c]
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Power of Attorney for Educational Decision Making

An eligible individual who has reached the age of majority may assign another person or persons to act as an attorney-in-fact for educational decision making. The AEA Special Education Documentation Guide provides a form for this purpose.

The power of attorney for educational decision making process is intended for age-of-majority students who would like assistance in educational decision making but do not have or need to have someone else appointed to represent their interests (e.g., guardian).

Assigning another person power of attorney may only be done by an individual who fully understands and appreciates the action being taken. That is, the impact of an individual's disability must be taken into account in determining if assigning power of attorney to someone else is appropriate for that individual. Someone who is incompetent may not execute a power of attorney.

Assigning power of attorney does not surrender any authority the individual holds, but only allows another person to exercise the same authority. For example, if you give someone power of attorney to sell your car, you can still sell it yourself. [Return to Release Notes](#)

Revoking Power of Attorney for Educational Decision Making

An eligible individual who has reached the age of majority and has assigned another person or persons to act as an attorney-in-fact for educational decision making may revoke the power of attorney at any time. If the student was competent enough to sign a power of attorney, she or he presumably is competent enough to revoke it.

When Parents are Not in Agreement

Parents with equal decision-making authority. Parents have equal IDEA decision-making authority unless the law provides otherwise, such as by a court order.

Parents with equal decision-making authority may have differences of opinion:

- **Differences of opinion regarding granting or revoking consent.** As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making authority, etc.), the school or AEA **must accept either parent's** consent or revocation of consent. This is true even if the other parent disagrees. Prior written notice of any action or refusal is provided to both parents.
- **Other differences of opinion.** If two parents have any other differences under the IDEA (e.g., a disagreement over potential service or placement options), the IEP team decides what is in the educational interest of the child and acts accordingly.

Prior written notice of any action or refusal is provided to both parents.

Parents without equal decision-making authority. If two parents do not enjoy equal decision-making authority (e.g., one has "sole legal custody"), the district is required to follow the direction of the parent with the superior authority. [41.30(2)b]

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Surrogate Parents

Surrogate Parent Defined

“Surrogate parent” means an individual who acts in place of a parent in protecting the rights of a child in the education decision-making process.

Surrogate Parent Representation for the Child

The surrogate parent may represent the child in all matters relating to:

- Identification
- Evaluation
- Educational placement of the child
- The provision of FAPE to the child

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When to Appoint a Surrogate Parent

The appointment of a surrogate parent for the purposes of special education planning and programming must be made when: [41.519(1)]

- No parent can be identified (refer to definition of parent in rule 41.30)
 - After reasonable effort, no parent can be located
 - The child is a ward of the state
 - The child is an unaccompanied homeless youth
-

Criteria for Selecting a Surrogate Parent

The AEA must ensure that a person selected as a surrogate parent: [(41.519(4))]

- Is not an employee of the SEA, the AEA, or the LEA or any other public or private agency that is involved in the education or care of the child.
- Note: A person otherwise qualified to be a surrogate parent is not considered an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent. [41.519(b)]
- Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents
- Has knowledge and skills that ensure adequate representation of the child

Note: In the case of an unaccompanied homeless youth, appropriate staff of:

- Emergency shelters,
 - Transitional shelters,
 - Independent living programs, or
 - Street outreach programs ...
... may be appointed as **temporary** surrogate parents without regard to 41.519(4)b(1) until a surrogate parent can be appointed that meets all of the requirements.
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**Procedures for
Selecting a
Surrogate
Parent**

Procedures must be established for the assignment of an individual to act as a surrogate parent. This must include a method for determining whether a child needs a surrogate parent, and for assigning a surrogate parent to the child. 41.519(2)

The following are procedures for selecting a surrogate parent:

- The AEA team shall determine that a surrogate parent is needed for an individual.
- The AEA team shall recommend an “eligible surrogate parent” candidate (meeting the above criteria) to the AEA Director of Special Education or designee for appointment as an individual’s surrogate parent.
- The Director or designee shall ascertain whether the proposed surrogate parent is excluded from consideration as a surrogate due to the proposed individual’s employment or any conflicts of interest that may interfere with serving in the role of “parent” for the eligible individual.
- The AEA Director of Special Education or designee shall select the surrogate parent for special education purposes.
- The AEA Director of Special Education or designee shall appoint the surrogate parent by letter. The letter must contain the individual’s name, age, educational placement and other information about the individual determined to be useful to the surrogate parent, and must specify the period of time for which the person shall serve. A copy of the letter shall be sent to the Department of Education.

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**AEA to Train
Surrogate
Parents**

The training of a surrogate parent is the responsibility of the AEA team.

Each AEA shall use a training procedure approved by the Department of Education, which includes:

- The rights and responsibilities of the surrogate parent
 - Sample forms used by LEAs and AEAs, including the IEP form
 - Specific needs of individuals with disabilities
 - Resources for legal and instructional technical assistance [41.519(8)]
-

**Iowa
Department of
Education
Responsibilities**

The Iowa Department of Education must make reasonable efforts to assure that a surrogate parent is assigned not more than 30 days after the AEA has determined that the child needs a surrogate parent.

The department shall provide assistance to, and shall monitor surrogate parent programs. [41.519(9)]

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Prior Written Notice: Transition to Kindergarten - Examples

For children transitioning from early childhood to kindergarten, a spring IEP describes both remaining early childhood special education services and the services that will be provided in the fall. The Web IEP identifies services that will not begin for 30 days or more as “future services”. These services are not included in LRE calculations (important if a child will turn six prior to count date) and the early childhood setting code based on pre-K services may not be correct for kindergarten. An amendment is required in the fall to reorganize information contained in the Spring IEP. It is also possible that other IEP changes may be identified (e.g., service time; setting; length of school day; support and related services, such as transportation; etc.). The following examples reflect both possibilities (i.e., reorganizing information & reorganizing and amending other aspects of the IEP).

Purpose of this notice. Indicate that an action is being proposed.

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Description of the action proposed or refused.

Reorganizing information, only, example:

Derek’s IEP has been amended to correctly reflect kindergarten services. Derek’s school building and special education teacher have been updated. Early childhood special education services have been removed from the IEP and kindergarten special education services have been moved from future services to current services. No other changes have been made to the IEP.

Reorganizing information and making other changes example 1:

Esperanza’s IEP has been amended to correctly reflect kindergarten services. Esperanza’s school building and special education teacher have been changed. Early childhood special education services have been removed from the IEP and kindergarten special education services have been moved from future services to current services.

Specialized transportation to and from school will be removed from Esperanza’s IEP.

Reorganizing information and making other changes example 2:

Susie’s IEP has been amended to correctly reflect kindergarten services. Susie’s school building and special education teacher have been changed. Early childhood special education services have been removed from the IEP and kindergarten special education services have been moved from future services to current services.

Specially designed instruction will be increased from 30 minutes daily to 45 minutes daily.

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Explanation of why the school proposes or refuses to take the action.

Reorganizing information, only, example:

Information in the IEP has been updated so that information about Derek’s program is correct and current.

Reorganizing information and making other changes example 1:

Information in the IEP has been updated so that information about Esperanza’s program is correct and current.

Esperanza’s parents have informed the school that their work schedules have changed and that they will be providing Esperanza’s transportation.

Reorganizing information and making other changes example 2:

Information in the IEP has been updated so that information about Susie’s program is correct and current.

Susie’s progress at the end of the past school year and during extended school year was less than hoped.

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Description of options considered and rejected. State any other options, if any, that were considered and briefly describe why the options were not considered appropriate.

Reorganizing information, only, example:

No other options to updating information were considered.

Reorganizing information and making other changes example 1:

No other options to updating information were considered.

Continuing school-provided transportation was considered but Esperanza’s parents wish to bring her to school and pick her up from school.

Reorganizing information and making other changes example 2:

No other options to updating information were considered.

The IEP Team considered having Susie continue in the current pre-K setting; however, the IEP Team determined that Susie would make progress in a kindergarten setting with age-appropriate peers and participation in the general education curriculum.

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Description of evaluation procedure, test, record, or report used.

Reorganizing information, only, example:

Not applicable to updating information. Updating information is a required procedure.

Reorganizing information and making other changes example 1:

Not applicable to updating information. Updating information is a required procedure.

The transportation change was made based on the parents' request and IEP team discussion.

Reorganizing information and making other changes example 2:

Not applicable to updating information. Updating information is a required procedure.

The decision regarding instructional time was based upon progress monitoring of IEP Goals, teacher observations, development progress measured using the GOLD Assessment and parent report.

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Description of other factors. Describe any other factors relevant to the decision.

Reorganizing information, only, example:

None

Reorganizing information and making other changes example 1:

The possibility of future changes in parent work schedule was discussed.

Reorganizing information and making other changes example 2:

None

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Change in identification, evaluation or placement.

Reorganizing information, only: Check "No"

Reorganizing information and making other changes: Check "Yes"

When will this action be implemented? Notice must be provided a reasonable amount of time before a change, and that reasonableness is determined by the IEP team. A date reflecting an immediate change may be reasonable if action is urgent and the team agrees. A date in three weeks may be reasonable, if a parent requests the opportunity to discuss the proposed change with their spouse who is traveling and unavailable for several weeks. IEP teams will need to consider the particular circumstances when making this decision.

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