

Wyoming's Unique Transition from Preschool to Public School

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Back to the beginning. . .

Free appropriate public education.

- ⌘ *Free appropriate public education* or *FAPE* means special education and related services that—
 - ⌘ (a) Are provided at public expense, under public supervision and direction, and without charge;
 - ⌘ (b) Meet the standards of the SEA, including the requirements of this part;
 - ⌘ (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
 - ⌘ (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

34 C.F.R. §300.17

Free appropriate public education (FAPE).

- ⌘ (a) *General.* A free appropriate public education must be available to all children residing in the State between the **ages of 3 and 21**, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d).
- ⌘ (b) *FAPE for children beginning at age 3.* (1) Each State must ensure that—
 - ⌘ (i) The obligation to make FAPE available to each eligible child residing in the State begins **no later than the child's third birthday**; and
 - ⌘ (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b).
- ⌘ (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.

34 C.F.R. §300.101

⌘ Definitions.

⌘ (a) As used in this act:

⌘ "Preschool children with disabilities" means any children three (3) through five (5) years of age in the state of Wyoming having a mental, physical or psychological disability which impairs learning, subject to rules and regulations of the state superintendent;

W.S. §21-2-701

⌘ School district responsibility.

⌘ Notwithstanding any other provisions of this act, any preschool children with disabilities who are **five (5) years of age** on or before September 15 and **who are receiving services from a school district** shall be the responsibility of that school district.

W.S. §21-2-704



It is a marriage.

BENEFITS OF SMOOTH TRANSITIONS

(WESLEY, 2001)

FOR CHILDREN:

When transition teams strive to bridge the gap between preschool and school experiences by ensuring that activities, materials, and expectations build on what is already familiar to the child, the child may demonstrate:

- Enhanced self-esteem and confidence
- Improved peer-group relations
- Greater efficiency and enjoyment in learning
- Positive regard for teachers
- Reduced stress

FOR FAMILIES:

When parents actively participate in planning and carrying out transition activities, they may develop:

- An understanding of the phases of early childhood education
- Increased confidence in communicating with educational personnel
- A positive outlook about collaboration with schools
- Enhanced self-esteem regarding their communication and advocacy skills

FOR TEACHERS:

Teachers who collaborate with others to ease the child's transition between home, preschool, and school can expect:

- Enhanced ability to meet individual needs of children
- Increased efficiency in program planning and implementation
- Better community support
- An enlarged professional support network
- A wider pool of resources

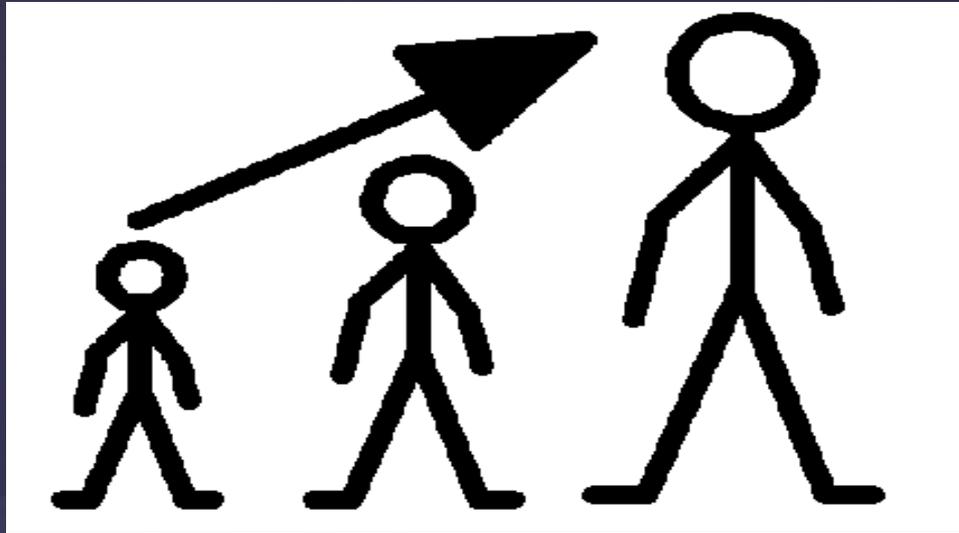
↳ Starting at age 3 –

- ⌘ Children with disabilities are served under Part B.
- ⌘ An IEP must be in place by a child's 3rd birthday (unless it falls during summer).
- ⌘ FAPE must be made available.
- ⌘ The Wyoming Behavioral Health Division, Developmental Disabilities Section is responsible for providing FAPE through age 5.
- ⌘ If the child is enrolled in public school, FAPE becomes the responsibility of the school district if the child turns 5 on or before September 15th.

Critical Points

How is this unique?

- ⌘ By providing Part B services through a separate lead agency, the transition anticipated by the regulations (Part C to B) is delayed until age 5, when the student enters kindergarten in a public school.
- ⌘ IEPs may require substantial revisions in order to accurately reflect the change in settings, length of school day, and differing expectations for learner outcomes.



{ Little B to Big B

Transition Planning

Transition planning must address:

- ⌘ Confidentiality and FERPA provisions.
- ⌘ Enrollment in a public school.
- ⌘ Transmittal of records to the public school.
- ⌘ A reevaluation, if necessary:
 - ⌘ Eligibility and categories.
 - ⌘ Identification of educational needs in the new setting.
- ⌘ IEP Planning with new team members:
 - ⌘ General curriculum
 - ⌘ Special education and related services
 - ⌘ ESY
 - ⌘ LRE

The general rule:

- ⌘ The confidentiality of personally identifiable student information must be protected. 34 C.F.R. §300.610.
- ⌘ Parental consent must be obtained before personally identifiable information is disclosed to parties . . . unless the information is contained in educational records, and the disclosure is authorized without parental consent under 34 C.F.R. Part 99. 34 C.F.R. §300.622(a).

Confidentiality and FERPA

34 C.F.R. §99.31

Under what conditions is prior consent not required to disclose information?

- ⌘ (a)(2) The disclosure is, subject to the requirements of §99.34, to officials of **another school**, school system, or institution of postsecondary education where the student **seeks or intends to enroll, or where the student is already enrolled** so long as the disclosure is for purposes related to the student's enrollment or transfer.

FERPA

34 C.F.R. §99.34

What conditions apply to disclosure of information to other educational agencies or institutions?

- ⌘ (a) An educational agency or institution that discloses an education record under §99.31(a)(2) shall
 - ⌘ (1) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
 - ⌘ (i) The disclosure is initiated by the parent or eligible student; or
 - ⌘ (ii) The annual notification of the agency or institution under § 99.7 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;
 - ⌘ (2) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
 - ⌘ (3) Give the parent or eligible student, upon request, an opportunity for a hearing under subpart C.
- ⌘ (b) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:
 - ⌘ (1) The student is enrolled in or receives services from the other agency or institution; and
 - ⌘ (2) The disclosure meets the requirements of paragraph (a) of this section.



- ⌘ Obtain the parents informed consent to release information to the public school, permitting open sharing of information for educational purposes.

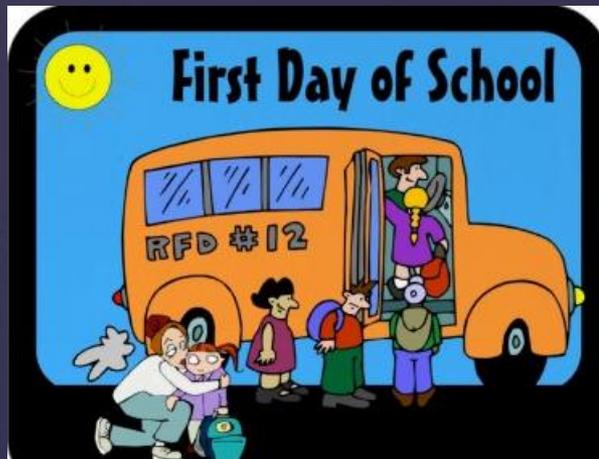
Best and Safest Practice



What are the barriers?

- ⌘ Record of access: A public agency must keep a record of parties obtaining access to education records, except access by parents and authorized employees of the participating agency. *34 C.F.R. §300.614.*
- ⌘ While the child is enrolled in the preschool program, access to student records by school district employees must be recorded.

Caution



- ⌘ Is the parent planning to enroll the child in a public school kindergarten in the fall?
 - ⌘ Parents may opt to keep their child at home. Compulsory attendance laws commence at age 7 years.
 - ⌘ Parents may opt for private school.
 - ⌘ Parents may opt to enroll in a public school.

Threshold Question

- ⌘ Although enrollment typically occurs closer to the start of the new school year, there are advantages to enrolling transition students in public school earlier, with attendance commencing the following school year. Early enrollment
 - ⌘ Reduces concerns and confusion surrounding confidentiality and access to records;
 - ⌘ Eliminates confusion regarding the parents' intent to enroll their child at a future point; and
 - ⌘ Commences the relationship sooner.

Enrollment

- ⌘ What information should be shared?
 - ⌘ Everything in the child's special education file.
 - ⌘ Evaluations
 - ⌘ IEPs
 - ⌘ Behavior intervention plans
 - ⌘ Progress
 - ⌘ Attendance
 - ⌘ Health issues
- ⌘ The public school cannot be an active, knowledgeable participant without this information in advance of IEP planning.

Transmittal of Records



What are the barriers?

- ⌘ 34 C.F.R. §300.303(a) A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311 –
 - ⌘ (1) If the public agency determines that the **educational or related services needs**, including improved academic achievement and functional performance, of the child warrant a reevaluation;
or
 - ⌘ (2) If the child's parent or teacher requests a reevaluation.

Reevaluation – Not just every three years.

- ⌘ It may be necessary to reevaluate a preschool student to:
 - ⌘ Aid in IEP planning,
 - ⌘ Refine an eligibility determination, or
 - ⌘ Exit a student from special education eligibility pursuant to 34 C.F.R. §300.305(e).

Reevaluation

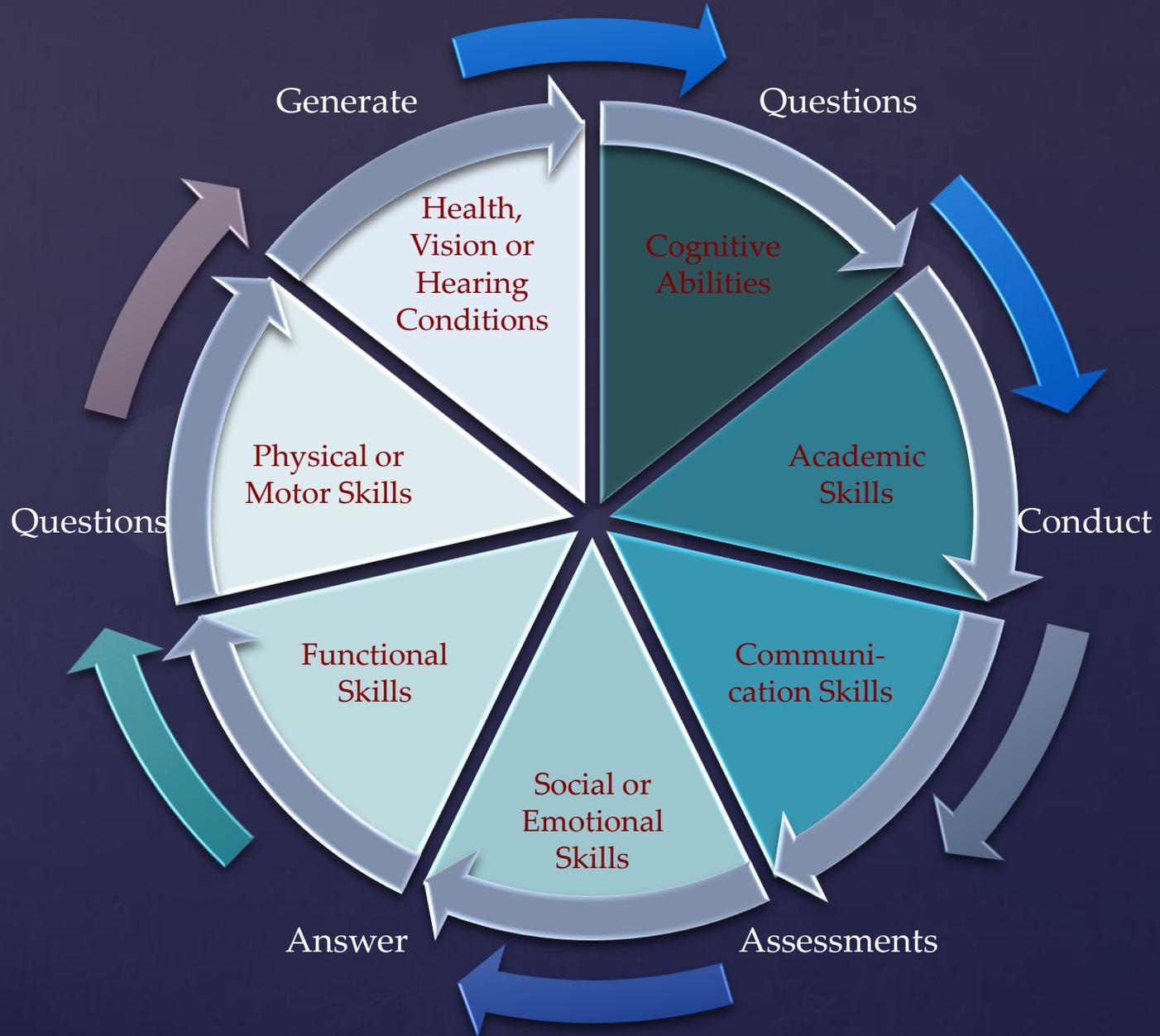
- ⌘ Each district has the option to adopt the Developmental Delay (DD) category.
- ⌘ 4 districts have currently **not** adopted DD:
 - ⌘ Bighorn #3
 - ⌘ Converse #1
 - ⌘ Fremont #14
 - ⌘ Sheridan #3
- ⌘ In a district that has not adopted the DD category, the transitioning preschool child must be reevaluated to determine eligibility in some other category or exited from special education.
- ⌘ After serving a student under the DD category in preschool, it may become apparent that another IDEA disability is suspected.

Caution

- ⌘ All evaluations must be conducted in accordance with 34 C.F.R. §§300.304 through 300.311. Some requirements include:
 - ⌘ Assess the child in all areas related to the suspected disability,
 - ⌘ Start with a review of existing data,
 - ⌘ Use a variety of assessment tools,
 - ⌘ Not use any single measure or assessment as the sole criterion,
 - ⌘ Use technically sound instruments, and
 - ⌘ Ensure the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category suspected.

Comprehensive Reevaluations

Comprehensive Evaluation: Eligibility & Need



- ⌘ The IDEA takes a needs-oriented approach to special education and related services.
- ⌘ An IEP should not be based on a student's disability classification, but rather on the student's unique disability-related needs.
- ⌘ Parents seeking relief on the grounds of misclassification must demonstrate that the district's failure to properly identify the student's disability resulted in a loss of educational benefit.
- ⌘ *Fort Osage R-1 Sch. Dist. v. Sims*, 56 IDELR 282 (8th Cir. 2011); *see also J.D. v. Crown Point Sch. Corp.*, 58 IDELR 125 (N.D. Ind. 2012).

Caution

- ⌘ The fact that a child has a speech or language impairment will not in itself trigger eligibility under IDEA.
- ⌘ If a student can make himself understood and communicate effectively despite the impairment, then his educational performance is not considered to be adversely affected by the impairment.
- ⌘ *See Letter to Clark, 48 IDELR 77 (OSEP 2007).*

Caution

- ⌘ Districts cannot shift their evaluation responsibilities to parents.
- ⌘ A district must arrange for a medical evaluation by a licensed physician if such an evaluation is necessary to determine the student's IDEA eligibility.
- ⌘ Requiring parents to provide or produce a medical evaluation necessary for eligibility purposes is a child find violation.
- ⌘ *M.J.C. v. Special Sch. Dist. No. 1*, 58 IDELR 288 (D. Minn. 2012); see also *Letter to Anonymous*, 34 IDELR 35 (OSEP 2000).

Caution

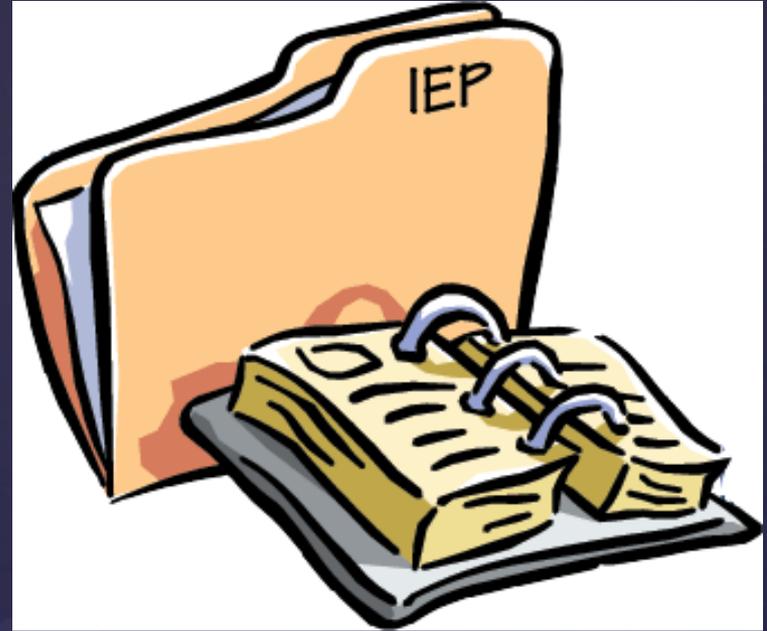
- ⌘ A child who needs ONLY a related service and not special education is NOT a child with a disability under IDEA. *34 C.F.R. §300.8(a)(2)(i)*.
- ⌘ Speech Language service is the ONLY category that can be a related service or special education. *WDE Chapter 7 Rules, Section 4(c)(ii)*.
- ⌘ However, if the student meets eligibility criteria in any other category, Speech Language MUST be a related service.

Caution



What are the barriers?

IEP Planning



- ⌘ When should IEP transition planning occur?
- ⌘ Who should be invited to attend IEP meetings?
- ⌘ What information should be shared?
- ⌘ Is consent necessary?

- ⌘ Sufficient time should be given to permit:
 - ⌘ One or more team meetings,
 - ⌘ Reevaluation, if necessary,
 - ⌘ Observations, and
 - ⌘ IEP development.
- ⌘ January prior to kindergarten is a good time to start the transition process.

When

- ⌘ REMEMBER, IEPs must be in place at the beginning of the school year! Day one! *34 C.F.R. §300.323(a)*.
- ⌘ The IDEA is clear that at the beginning of each school year, each LEA must have an IEP in effect for each child with a disability in the agency's jurisdiction. Therefore, public agencies need to have a means for determining whether children who move into the state during the summer are children with disabilities and for ensuring that an IEP is in effect at the beginning of the school year. *71 Federal Register 46682*.

When

- ⌘ The IEP provisions for students transferring between public agencies in the same state pertain **ONLY to transfers occurring in the same school year**. *34 C.F.R. §300.323(e)*.
- ⌘ The “comparable” service provisions do not apply to preschool students transitioning to kindergarten in the fall.

Caution

- ⌘ Required IEP team members include: *34 C.F.R. §300.321(a)*
 - ⌘ The parents of the child,
 - ⌘ Not less than one regular education teacher (if the child is, or may be, participating in the regular education environment);
 - ⌘ Not less than one special education teacher (or provider, where appropriate) of the child;
 - ⌘ A representative of the public agency who:
 - ⌘ Is qualified to provide or supervise specially designed instruction;
 - ⌘ Is knowledgeable about the general education curriculum; and
 - ⌘ Is knowledgeable about the availability of resources of the public agency; and
 - ⌘ An individual who can interpret the instructional implications of evaluation results.

Who

- ⌘ Additional team members can be added at the discretion of the parent or the public agency.
- ⌘ However, commitment of resources for the public school requires the involvement of the public school officials.

Who

⌘ The preschool program will need the parent's informed written consent to invite outside agencies, including the public school, to a preschool child's IEP team meeting. *See 71 Federal Register 46669.*

Caution

- ⌘ The transition team should address necessary changes to the child's IEP.
 - ⌘ Will the student need additional educational supports transitioning from a partial day program to a full day program?
 - ⌘ How will the student be afforded the opportunity to progress in the general curriculum?
 - ⌘ What type of behavioral supports will the student need?
 - ⌘ What specially designed instruction will the student need in order to receive educational benefit?
 - ⌘ What type of related services will the student need in order to benefit from the specially designed instruction?
 - ⌘ Will the student need supplemental aids and services in order to be successful in the general classroom?
 - ⌘ What is the least restrictive environment in which the child could be successful?

What

- ⌘ If needed, ESY after the end of the preschool year will most likely remain the responsibility of the preschool program since the child's enrollment in a public school has not yet officially commenced.
- ⌘ However, if the public school's IEP contains an earlier start date, ESY, if needed, would be the responsibility of the public school.
- ⌘ Verify the start date of the public school's IEP.

ESY

- ⌘ It is very likely that the child's LRE will change due to the difference in the educational settings.
- ⌘ The IEP team will need to plan for a regular education environment as the LRE starting point, justifying time away from regular education in the LRE section of the IEP.
- ⌘ It is the same LRE analysis as for any other student.

LRE

LRE Questions

Steps taken by the school to try to include the child in a regular classroom in conjunction with supplementary aids and services:

- ⌘ Has the school considered the whole range of supplementary aids and services?
- ⌘ Has the school made efforts to modify the regular program to accommodate the child?
- ⌘ Do the school's efforts constitute at least serious consideration rather than token gestures?

Possible negative effects on the education of other children in the regular classroom if the child were integrated with appropriate supplementary aids and services:

- ⌘ Is there a negative effect so disruptive that the education of the other students is significantly impaired?
- ⌘ Do the child's disabilities demand so much of the teacher's time that the teacher will be required to ignore the other students?

LRE Questions

Determining if the proposed placement includes the child in school programs with nondisabled peers to the maximum extent appropriate:

- ⌘ Is it possible to place the child in regular education for some academic programs?
- ⌘ Is it possible to place the child in regular non-academic classes?
- ⌘ Is it possible to provide interaction with nondisabled children during lunch and recess?
- ⌘ *Source: Adapted from Perry Zirkel, Lehigh University*



What are the barriers?

- ⌘ WDE created a DRAFT Preschool – Kindergarten Checklist.
- ⌘ It is NOT a model form.
- ⌘ WDE will pilot the Checklist over the next year, making improvements based on input from the field, and ultimately determine whether to adopt it as a model form.

A Checklist

School District/Public Agency	Preschool - Kindergarten Checklist
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Name of Student		WISER ID	DOB	Grade	Date
Name(s) of Parent or Guardian		Name(s) of Parent or Guardian			
Address (City, State & Zip)		Address (City, State & Zip)			
Contact Information		Contact Information			
H:	C:	H:	C:		
W:	Email:	W:	Email:		
Disability Category:		Annual IEP Date:		Three Year Reevaluation Date:	

- CONFIDENTIALITY CONSIDERATIONS**
 - Consent for Outside Agency Participation in meetings, if needed
 - Consent to release information to the public school
- ENROLLMENT**
 - Parent has confirmed the intent to enroll in a public school.
 - Enrollment forms completed
- TRANSMITTAL OF RECORDS**
 - Complete copy of all special education records to public school
 - Copy of any other relevant information to public school
- TRANSITION IEP MEETING**
 - Notice of Team Meeting (Form G-1)
 - Excusal of an IEP Team Member, if needed (Form I-2)
- TRANSITION IEP CONSIDERATIONS**
 - IEP (Forms I-4, I-4a, and I-4b)
 - ESY
 - LRE
 - Behavioral intervention plans, if appropriate
 - Prior Written Notice (Form G-2)
 - Procedural Safeguards
- IEP AMENDMENT**
 - IEP Amendment, if changes proposed after annual meeting (Form I-5)
 - Prior Written Notice (Form G-2)
 - Copy of new IEP, if requested.
- REEVALUATION**
 - Notice and Consent for Evaluation (Form E-2)
 - Evaluation Report and Eligibility Determination (Form E-3)
 - Prior Written Notice, if any changes are proposed (Form G-2)
- TERMINATION OF ELIGIBILITY**
 - See Reevaluation above
 - Prior Written Notice (Form G-2)

notes

- ⌘ Noted difficulties with the transition process:
 - ⌘ Timely transition planning
 - ⌘ Sharing information
 - ⌘ No informed consent
 - ⌘ Partial records transfer
 - ⌘ Failing to amend the IEP to address the student's unique educational needs and the opportunity to progress in the general curriculum in the public school
 - ⌘ Failing to implement the IEP

Transition Difficulties

- ⌘ If the preschool IEP is not amended, then services must be implemented consistent with the IEP.
- ⌘ Failure to implement special education and related services consistent with the IEP will likely be a denial of FAPE.

Transition Difficulties

Free appropriate public education.

- ⌘ *Free appropriate public education* or *FAPE* means special education and related services that—
 - ⌘ (a) Are provided at public expense, under public supervision and direction, and without charge;
 - ⌘ (b) Meet the standards of the SEA, including the requirements of this part;
 - ⌘ (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
 - ⌘ (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

34 C.F.R. §300.17



{ Thank you!

Questions or Comments?