

Policy IGBA-1: SPECIAL EDUCATION

Status: DRAFT

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24C UPDATE EXPLANATION

Senate Bill 681 (2022) amended § 167.225, RSMo., to include the "Blind Students' Rights to Independence, Training, and Education Act," or BRITE Act. The BRITE Act requires districts to provide students who are blind or visually impaired instruction in Braille reading and writing, assistive technology, and orientation and mobility as part of the student's individualized educational program (IEP), unless the IEP team determines that such instruction is not appropriate. The district is prohibited from denying students instruction solely because they have some remaining vision.

The amended law is ten pages long and is very prescriptive on how the IEP team makes the determination that instruction is necessary, what is included in the student's IEP, and how the instruction will be delivered. Of particular note is the requirement that students are allowed to transport assistive technology to and from school or that a separate device be provided to the family without cost to the family or assumption of liability for loss or damage. In addition, some of the instruction on orientation and mobility must occur outside the school "during daytime and nighttime and around the home, school, and community as determined age appropriate." MSBA does not put this level of detail in policy but strongly encourages district staff to receive training on the requirements of the BRITE Act.

MSBA has added § 161.396, RSMo., known as the Language Equality and Acquisition for Deaf Kids (LEAD-K) Act to the legal references. This law was passed in 2023 and requires the Department of Elementary and Secondary Education (DESE) to create developmental milestones for children who are deaf or hard of hearing and select tools or assessments for educators to use to assess the language and literacy development of these students. The goal is to increase literacy in these students at a young age. If a deaf or hearing-impaired student does not demonstrate progress in language skills, the student's IEP team must explain in detail in the IEP team meeting the reasons the student is not progressing and recommend strategies, services, and programs that will be provided to the student.

While the LEAD-K Act does impact school districts, and the appropriate district staff should be trained on its requirements, MSBA has not referenced it within the policy because the policy already requires districts to comply with state law. MSBA recommends that the district invest in training for these staff members on this law.

MSBA has also rewritten the section titled "Children Three to Five Years of Age" to clarify a complicated concept. Federal special education law gives school districts a choice as to whether they will allow young students to be identified as a Young Child with a Developmental Delay (YCDD). This disability category allows for young students who are obviously struggling to receive special education services based on the professional judgment of the district staff, as opposed to specific disability criteria. Likewise, the law gives districts a choice as to whether the student will continue to be identified as YCDD once the student becomes eligible for kindergarten or whether the student will become ineligible for special education unless they qualify another way. However, by law, students who were not identified as YCDD prior to kindergarten cannot be designated as such once they begin kindergarten. No student may be receiving special education services under the YCDD category once the student becomes age-eligible for first grade (age 6 before August 1). That means students who had been previously identified as YCDD must meet the eligibility criteria for a specific disability to continue to receive special education services.

Why is the YCDD label so regulated? It is possible to provide more children services under YCDD, but those services also come at a cost, some of which must be paid by the local district. That is why this category is so restrictive and why the state has allowed individual districts to make this choice. Because districts have a choice, this policy language documents the district's choice. For more information on the district's choices, go to page 40 in the Missouri State Plan for Special Education, Part B, 2023: <https://dese.mo.gov/media/pdf/missouri-state-plan-special-education-part-b-2023>.

It is the policy of the board of education to provide a free and appropriate public education (FAPE) for students with disabilities who are in need of special education and related services in accordance with the Individuals with Disabilities Education Act (IDEA), the Missouri State Plan for Special Education (State Plan), the district's local compliance plan, and applicable state and federal laws.

Child Find

The district has an obligation to locate, identify, and evaluate children in the district between the ages of 3 and 21 who may need special education and related services, including children who are wards of the state, are homeless, or attend private schools located within the boundaries of the school district. Any individual who knows or believes that a student has a disability and is in need of accommodation or special education should contact the school's principal or the district's special education director immediately.

The district will notify all parents/guardians and students of its obligations under this policy and the law. The district will also utilize public media and other postings to notify the public of the district's legal obligations as required by law.

Evaluation and Identification

The special education director will arrange for district students and children who are not enrolled in the district but who may need special education services to be evaluated to determine their eligibility for special education services in accordance with the law and state and local plans.

Specific Learning Disabilities

The board authorizes the special education director to use a discrepancy model, including the use of professional judgment or a response to intervention (RTI) model, for identifying students with specific learning disabilities (SLD).

Children Three to Five Years of Age

When identifying children three to five years of age who qualify for special education but are not yet eligible for kindergarten, the district will use any of the disability categories, including that of Young Child with a Developmental Delay (YCDD). When a child so identified reaches kindergarten age, his or her eligibility will continue to be determined using any of the disability categories, including that of YCDD. A child who is not identified as eligible for special education services prior to reaching kindergarten age will be identified using disability categories excluding that of YCDD. The district will identify for special education services children who are three to five years old and not yet eligible for kindergarten. To do so, the district will use the available identification categories included in the Missouri State Plan for Special Education (State Plan), including the category of "Young Child with a Developmental Delay" (YCDD). Every child who has been identified for special education services will remain eligible for special education services after becoming age-eligible for kindergarten. The district will comply with the requirements of the State Plan.

Independent Evaluations

If a student is evaluated for special education services and the parents/guardians disagree with the evaluation, the parents/guardians may obtain an independent educational evaluation (IEE) at the district's expense, as allowed by the IDEA. Applicable procedures, evaluator criteria, and location and cost limitations governing the IEE process are available through the district's special education director. The board delegates to the superintendent or designee the authority to make changes to these procedures, evaluator criteria, and cost guidelines. These items will adhere to rules published in the Missouri State Plan and the local plan for compliance with the law.

Services for Students with Visual Impairments

As required by law, and unless the individualized education program (IEP) team determines that such instruction is not appropriate, each student who is blind or visually impaired will receive instruction in:

1. Braille reading and writing;
2. Assistive technology;
3. Expanded core curriculum; and
4. Orientation and mobility.

No student will be denied such instruction solely because the student has some remaining vision.

Students Placed in Private Schools by Their Parents/Guardians

For the purpose of this policy, a "private school" is defined to include home schools and religious/parochial schools.

In general, the district has no obligation to provide FAPE or special education and related services to any individual students enrolled in a private school by his or her their parents/guardians. The district will expend a proportionate amount of its IDEA Part B funds on the group of privately placed students as a whole, as required by law.

The district will work with private schools located within its boundaries to identify and evaluate students attending the private schools who may be eligible for special education services. When a student is determined eligible, the district will offer to enroll the student and provide the student special education and related services in the district.

Parents/Guardians of a student previously enrolled in the district who choose to unilaterally place the student in a private school without district consent due to a dispute regarding FAPE will not be reimbursed for tuition costs except as required by law.

Extended School Year

Extended school year (ESY) services may be necessary to provide a child with a disability FAPE pursuant to law. The individualized education program (IEP) team will consider ESY services for all special education students eligible for services under the IDEA, but ESY services will only be provided only if the student is found eligible in accordance with this policy.

A student will be eligible for ESY services if, based on the available data, the student needs services beyond the regular school term to avoid regression that will interfere with the student's ability to continue to progress in the curriculum. This determination will be based on consideration of the following:

1. The nature and severity of the student's disability.
2. The areas of learning crucial to the child's attainment of self-sufficiency and independence.
3. The student's progress.
4. The student's behavioral and physical needs.
5. Opportunities the student will have to practice skills outside the formal classroom setting without ESY services.
6. Availability of alternative resources.
7. Areas of the student's curriculum that need continuous attention.
8. Ability of the student's parents/guardians to provide educational structure.
9. Particular curricular or vocational needs of the student.
10. Opportunity for the student to interact with nondisabled children.

The length, nature, and type of ESY services will be determined by the IEP team and addressed in each student's IEP. If at the time the IEP is developed it is unreasonable to predict eligibility for ESY services at the time the IEP is developed, the IEP team will meet after sufficient time has passed for the team to make an informed decision about ESY services, but not later than six weeks prior to the end the last calendar day of the regular school term.

Mediation

The board of education authorizes the special education director to legally bind the school district to a mediation agreement developed in accordance with the IDEA and Missouri law and further authorizes the special education director to contact an attorney for legal advice prior to making any decisions. In the absence of the special education director, the process coordinator or school psychologist for the district is authorized to perform his or her the duties under this section.

Resolution

The board of education designates the special education director to represent the school district in resolution meetings and gives the special education director decision-making authority on behalf of the district. The special education director has the authority to sign and legally bind the district to a settlement agreement reached at the resolution meeting; however, the settlement agreement must be approved by the board approved. In the absence of the special education director, the process coordinator or school psychologist for the district is authorized to perform his or her the duties under this section.