

**Hondo Valley Public School District
PROCEDURES
FOR THE
PROVISION OF
SPECIAL EDUCATION SERVICES
FOR
STUDENTS WITH DISABILITIES AND GIFTED STUDENTS**

Chapter 1. – CHILD FIND / INTERVENTIONS

Chapter 1. Adopted Pursuant to Board Policy: Special Education
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Chapter 1. – CHILD FIND / INTERVENTIONS
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Chapter 1. – CHILD FIND / INTERVENTIONS

The Hondo Valley Public School District recognizes the Public Education Department's rulemaking authority (established by the Public Education Department Act) as follows: "The secretary may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions.... Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary...." (NMSA 1978 §9-24-8(D)).

In addition to making and adopting rules, the NMPED provides guidance to local educational agencies. To the extent that the NMPED's guidance is consistent with the IDEA (and its implementing federal regulations and state statutes and rules), and does not impose a requirement that is not otherwise imposed by the IDEA (and its implementing federal regulations and state statutes and rules) without specific notice under 34 C.F.R. §300.299(a)(2), the Hondo Valley Public School District will follow the guidance of the NMPED.

I. CHILD FIND RESPONSIBILITIES

Authority: 34 CFR §300.111 Child find.

(a) General.

(1) The NMPED ensures that--

- (i) All children with disabilities residing in New Mexico, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and**
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.**

(b) Use of term developmental delay.

The following provisions apply with respect to implementing the child find requirements of this section:

- (1) The NMPED has adopted a definition of developmental delay under §300.8(b).**
- (2) The NMPED will not require the Hondo Valley Public School District to adopt and use the term developmental delay for any children within its jurisdiction.**
- (3) If the Hondo Valley Public School District uses the term developmental delay for children described in §300.8(b), the Hondo Valley Public School District will conform to both the State's definition of that term and to the age range that has been adopted by the NMPED. *(See I. B. for the Hondo Valley Public School District decision on developmentally delayed)***

(c) Other children in child find. Child find also will include--

- (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and**
- (2) Highly mobile children, including migrant children.**

Authority: 34 CFR §300.19 Homeless children.

Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 *et seq.*

Authority: 42 U.S.C. §11434a Definitions.

The term "homeless children and youths"--

- (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and**
- (B) includes--**
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care**

- placement;
- (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C) of this title);
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in section 6399 of Title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

The Hondo Valley Public School District will comply with its child find obligations, including with respect to homeless children and youths. The Hondo Valley Public School District will appoint a surrogate parent for an unaccompanied homeless child (for more information, see Chapter 2).

A. General Requirements

Authority: NMAC 6.31.2.10 IDENTIFICATION

A. Child find. The Hondo Valley Public School District will 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 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, 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.

“The child find requirements permit referrals from any source that suspects a child may be eligible for special education and related services. Child find activities typically involve some sort of screening process to determine whether the child should be referred for a full evaluation to determine eligibility for special education and related services. Therefore, persons such as employees of the SEA, LEA, or other public agencies responsible for the education of the child may identify children who might need to be referred for an evaluation. However, it is the parent of a child and the public agency that have the responsibility to initiate the evaluation procedures.” 71 Fed. Reg. 46636 (August 14, 2006).

“If a child experiences academic difficulties after a parent revokes consent to the continued provision of special education and related services, nothing in the Act or the implementing regulations would prevent a parent from requesting an evaluation to determine if the child is eligible, at that time, for special education and related services.” 73 Fed. 73009-73010 (December 1, 2008).

“Children who have previously received special education and related services and whose parents subsequently revoke consent should not be treated any differently in the child find process than any other child, including a child who was determined eligible and whose parent refused to provide initial consent for services. A parent who previously revoked consent for special education and related services may continue to refuse services; however, this does not diminish a State’s responsibility under § 300.111 to identify, locate and evaluate a child who is suspected of having a disability and being in need of special education and related services. A public agency must obtain informed written parental consent, consistent with § 300.300(a), before conducting an initial evaluation. A parent who previously revoked consent for the continued provision of special education and related services, like any parent of a child suspected of having a disability, may refuse to provide consent for an initial evaluation.” 73 Fed. 73012 (December 1, 2008).

“Concerning the request for clarification of the child find timeline, child find is an ongoing process. The Department expects that children whose parents revoke consent will be identified, located and offered an evaluation in the same

manner as any other child if the child is suspected of having a disability and being in need of special education and related services. Similarly, we do not agree with the commenter that general education teachers will not refer children who previously received special education and related services. States are required to have policies and procedures in place to ensure effective child find. Ensuring that general education teachers make appropriate referrals of children suspected of having a disability, which would include the referral of children whose parents have previously revoked consent for such services, is consistent with this responsibility.” 73 Fed. 73012 (December 1, 2008).

“We do not agree with the commenter that the Department should limit how frequently a parent may revoke consent and then subsequently request reinstatement in special education services because retaining flexibility to address the unique and individualized circumstances surrounding each child’s education is important. A public agency will not be considered in violation of the obligation to make FAPE available to the child for failure to provide the child with further special education services following a parent’s revocation of consent. We understand the commenter’s concern that placing a child in and out of special education services may affect the provision of FAPE; however, a public agency is only responsible for providing FAPE during the time period that the parent has provided consent for special education and related services.” 73 Fed. 73014 (December 1, 2008).

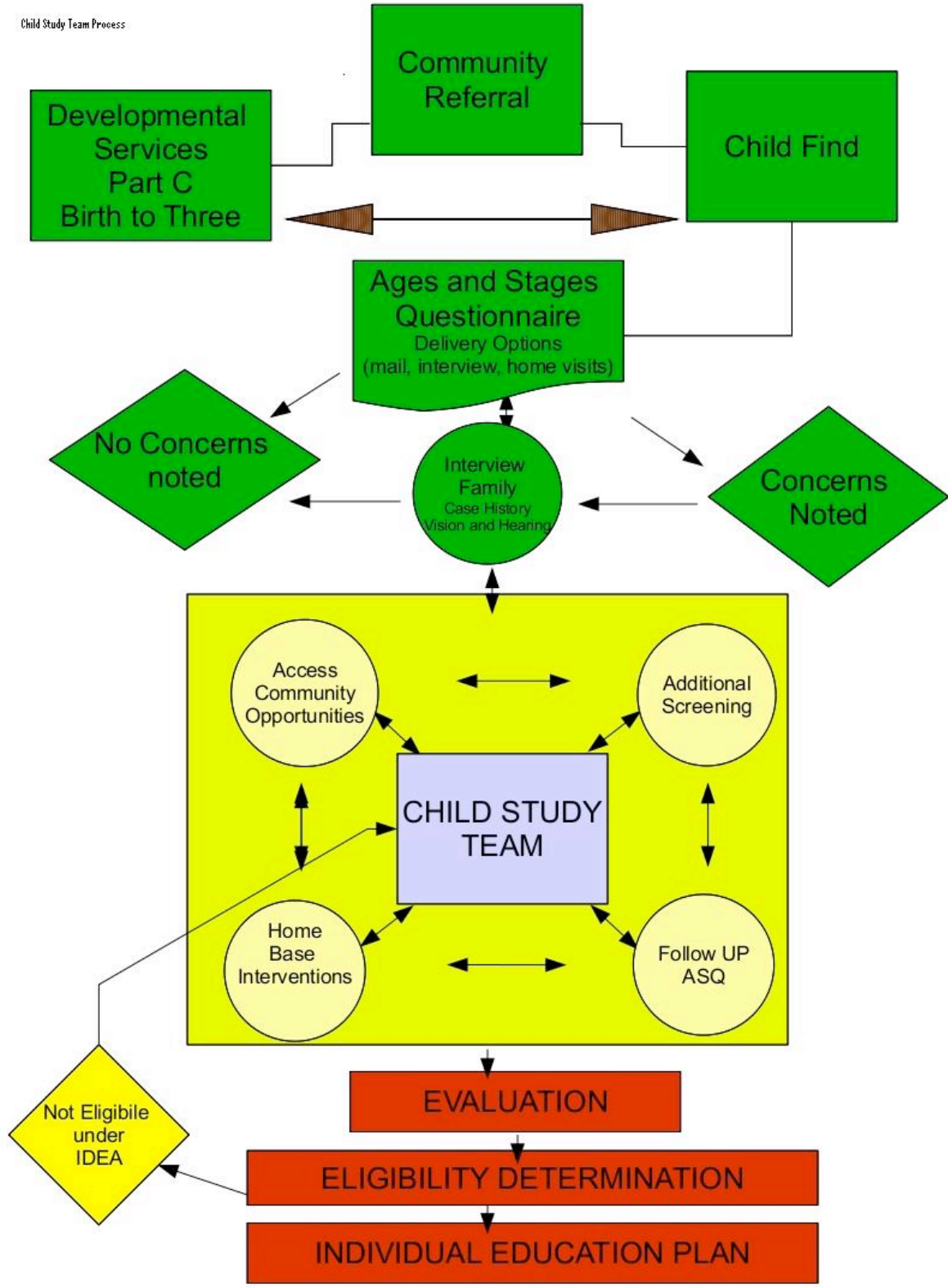
The Hondo Valley Public School District has adopted and shall implement the following procedures to ensure that all children with disabilities who reside within the Hondo Valley Public School District educational jurisdiction and who are in need of special education and related services, are located, evaluated and identified:

The Hondo Valley Public School District, through Region IX Education Cooperative Child Find, will disseminate information to the community (including private schools, hospital, medical community, mental health institution, local day care facilities) concerning services offered to all individuals with disabilities and maintain records of efforts that may include:

- 1. providing information regarding availability of screenings and other services through the local newspapers, brochures, and other print media;*
- 2. participating in a network of public information dissemination to assist with locating highly mobile and migrant children, which includes contacting other agencies, day care facilities, community public locations such as doctor offices, hospitals, laundry facilities, and facilities providing services to students with and without disabilities;*
- 3. providing Child Find information to local private schools and discuss with private school officials regarding the student assistance team (SAT) process;*
- 4. referring individuals ages 0-3 to REC IX Developmental Services for evaluation, which is the Department of Health’s Family Infant Toddler (FIT) Program; or through the Hondo Valley Public School District as part of Part C to Part B transition services.*
- 5. identifying and referring individuals with disabilities who may or may not be in school and who may need Special Education and related services using a properly constituted student assistance team (SAT);*
- 6. reviewing this process on a yearly basis, updating staff about on-going “Child Find” activities implemented in the community;*
- 7. maintaining confidentiality of all personally identifiable information used and collected in this system in the same manner that Special Education records are maintained;*
- 8. maintaining documentation of all Child Find activities including the dates of each activity and the results of each activity; and*
- 9. training appropriate staff for maintaining the documentation of all Child Find activities including students in private schools, religious schools and home schools located in the Hondo Valley Public School District;*
- 10. Annual screening, coordinated through Region IX Education Cooperative Child Find,, will be performed by trained Hondo Valley Public School District personnel/Region IX Education Cooperative Child Find personnel and may include:*
 - general health screening;*
 - vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;*
 - hearing screening to verify any hearing risk indicators;*

- *speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;*
- *preschool screening which typically includes vision, hearing, cognition, motor, speech-language, and health components to verify developmental delays;*
- *screening for home language and language proficiency, if warranted*
- *academic screening for school age children to determine the significance of academic delays.*

All screenings and evaluations resulting from child find activities are free to parents, including parents of home-schooled students and parents of students who attend private school by parent choice. The Hondo Valley Public School District will utilize the “Child Study Team” process (see “Child Study Process” flow chart) to review individual student findings from annual screenings and child find referrals.



B. Developmentally Delayed

Authority: NMAC 6.31.2.10 IDENTIFICATION AND ELIGIBILITY DETERMINATIONS

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F. Eligibility determinations.

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(2) Optional use of developmentally delayed classification for children aged 3 through 9

- (a) The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other disability category.**
- (b) Children who are classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they become 10. A student who does not qualify under any other available category at age 10 will no longer be eligible for special education and related services.**

The Hondo Valley Public School District does use the term developmental delay and will conform to both the State's definition of that term and to the age range that has been adopted by the State. The Hondo Valley Public School District will comply with its child find obligations, including with respect to locating, identifying and evaluating children who are developmental delayed.

C. Parentally-Placed in Private Schools

Authority: 34 CFR §300.131 Child find for parentally-placed private school children with disabilities.

- (a) General.** The Hondo Valley Public School District will locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.
- (b) Child find design.** The child find process is designed to ensure--
 - (1) The equitable participation of parentally-placed private school children; and**
 - (2) An accurate count of those children.**
- (c) Activities.** In carrying out the requirements of this section, the Hondo Valley Public School District, or, if applicable, the NMPED, will undertake activities similar to the activities undertaken for the agency's public school children.
- (d) Cost.** The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if the LEA has met its obligation under §300.133.
- (e) Completion period.** The child find process will be completed in a time period comparable to that for other students attending public schools in the Hondo Valley Public School District consistent with §300.301.
- (f) Out-of-state children.** Each LEA in which private, including religious, elementary schools and secondary schools are located will, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

Authority: Children in Private Schools

§300.134 Consultation - parentally-placed private school children with disabilities.

To ensure timely and meaningful consultation, the Hondo Valley Public School District or, if appropriate, the NMPED, will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child find.** The child find process, including--
 - (1) How parentally-placed private school children suspected of having a disability can participate equitably; and**
 - (2) How parents, teachers, and private school officials will be informed of the process.**

Authority: Children in Private Schools

§300.140 Due process complaints and State complaints.

- (a) Due process not applicable, except for child find.
- (b) Child find complaints—to be filed with the LEA in which the private school is located.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES

...

L. Children in private schools

- (1) Children enrolled by parents in private schools or facilities.

...

- (b) The Hondo Valley Public School District will locate, identify and evaluate all children with disabilities who are enrolled by their parents in private schools, including religious elementary schools and secondary schools located in the education jurisdiction of the LEA, in accordance with 34 CFR Secs. 300.131 and 300.111.

The Hondo Valley Public School District will comply with its child find obligations, including with respect to locating, identifying and evaluating parentally-placed private school children.

D. Gifted Students

The Hondo Valley Public School District is responsible for locating, identifying and evaluating school-aged gifted children except as stated below.

Authority: NMAC 6.31.2.12 EDUCATIONAL SERVICES FOR GIFTED CHILDREN

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F. Applicability of rules to gifted children.

- (1) 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 each local school district, including children in charter schools within the district, except:
 - (a) the requirements of 6.31.2.8 NMAC through 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....

Authority: NMAC 6.31.2.12 EDUCATIONAL SERVICES FOR GIFTED CHILDREN

...

C. Evaluation procedures for gifted children.

- (1) The Hondo Valley Public School District will establish a child find procedure that includes a screening and referral process for students in public school who may be gifted.

The NMPED has issued a technical assistance manual titled, "Technical Assistance Manual for Gifted Education in New Mexico" (August 2008), available through the NMPED website: <http://www.ped.state.nm.us/Humanities/Gifted/dl09/GiftedEducationTA2008.pdf>. This technical assistance manual provides legal requirements, as well as sample forms, processes, and checklists. The forms or checklists included are offered by the PED in response to the many requests received for sample models. However, according to the PED "none of the forms are required or necessarily recommended." If they are used, Hondo Valley Public Schools will review, adapt, and/or revise the forms to fit Hondo Valley Public Schools's specific demographic and procedural needs. The Hondo Valley Public Schools, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this technical assistance manual.

II. FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

A. Duty

Authority: 34 CFR §300.101 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 Sec. 300.530(d).
- (b) FAPE for children beginning at age 3.
 - (1) The NMPED ensures that—
 - (i) FAPE is available to each eligible child residing in New Mexico beginning 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 will determine the date when services under the IEP or IFSP will begin.
- (c) Children advancing from grade to grade.
 - (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.
 - (2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

Authority: NMAC 6.31.2.2 SCOPE:

The requirements of these rules are binding on each New Mexico public agency that has direct or delegated authority to provide special education and related services, regardless of whether that agency is receiving funds under the Individuals with Disabilities Education Improvement Act of 2004 and regardless of whether it provides special education and related services directly, by contract or through other arrangements such as referrals by the agency to private schools or facilities. Each public agency is responsible for ensuring that all rights and protections under these rules are afforded to children referred to or placed in private schools or facilities including residential treatment centers, day treatment centers, hospitals, or mental health institutions by that public agency.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

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K. Children in detention and correctional facilities.

- (1) If a child with a disability is placed in a juvenile or adult detention or correctional facility, the facility must provide the child with FAPE after the facility learns that the child had been eligible for special education and related services in the last educational placement prior to incarceration or otherwise determines that the child is eligible.
- ...
- (4) FAPE for eligible students in juvenile or adult detention or correctional facilities shall be made available in programs that are suited to the security requirements of each facility and eligible student. The provisions of 34 CFR Sec. 300.324(d) apply to IEPs for students with disabilities who are convicted as adults under state law and incarcerated in adult prisons.
- (5) A state-supported educational program that serves a juvenile or adult detention or correctional facility shall be responsible for ensuring that FAPE is provided to eligible children in that facility.
- (6) The local school district in which a detention or correctional facility is located (that is not served by a state-supported educational program) shall be responsible for ensuring that FAPE is made available to eligible children in that facility. A child's LEA of residence or another public agency with educational jurisdiction may agree to share the responsibility pursuant to a written agreement between or among the agencies involved.
- ...
- (9) Children placed in juvenile or adult detention or correctional facilities must be provided learning opportunities and instruction that meet the state standards with benchmarks.

“Revocation of parental consent releases the LEA from liability for providing FAPE from the time the parent revokes consent for special education and related services until the time, if any, that the child is evaluated and deemed eligible, once again, for special education and related services.” 73 Fed. 73010 (December 1, 2008).

The Hondo Valley Public School District will ensure that children with disabilities within its jurisdiction are located, identified, evaluated and provided a free appropriate public education, which must be available to all children residing in the State between the ages of 3 and 21, inclusive.

B. Ages

Authority: 34 CFR §300.25 Infant or toddler with a disability.

Infant or toddler with a disability-

- (a) Means an individual under three years of age who needs early intervention services because the individual—**
 - (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or**
 - (2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and**
- (b) May also include, at NMPED’s discretion—**
 - (1) At-risk infants and toddlers; and**
 - (2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under New Mexico law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include--**
 - (i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and**
 - (ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619.**

Authority: 34 CFR §300.102 Limitation—exception to FAPE for certain ages.

- (a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:**
 - (1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children of those ages.**
 - (2) (i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility—**
 - (A) Were not actually identified as being a child with a disability under § 300.8; and**
 - (B) Did not have an IEP under Part B of the Act.**
 - (ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, aged 18 through 21, who—**
 - (A) Had been identified as a child with a disability under § 300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or**
 - (B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under § 300.8.**
- (3) (i) Children with disabilities who have graduated from high school with a regular high school diploma.**
 - (ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.**
 - (iii) Graduation from high school with a regular high school diploma constitutes a change in**

- placement, requiring written prior notice in accordance with § 300.503.
- (iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).
- (4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.
- (b) Documents relating to exceptions. The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by § 300.700 (for purpose of making grants to States under this part), is current and accurate.

Authority: 34 CFR §300.124 Transition of children from the Part C program to preschool programs.

The State must have in effect policies and procedures to ensure that--

- (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act;
- (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with Sec. 300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with Sec. 300.101(b); and
- (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.

Authority: NMSA 1978 28-16A-18 Developmental Disabilities Early Childhood Evaluation System

The NMPED shall have a timely, comprehensive, multidisciplinary system for evaluating infants, toddlers and preschool-age children suspected of having developmental delays. Diagnostic evaluations for infants and toddlers shall address family service needs and shall include training capabilities to educate community providers and parents in the understanding and application of the evaluations. This diagnostic evaluation system shall be jointly provided through a coordinated system by the children's medical services bureau of the public health division or the developmental disabilities division of the department, the University of New Mexico's developmental disabilities team and the New Mexico department of public education.

Authority: NMSA 1978 22-13-5 Special education.

The Hondo Valley Public School District will provide special education and related services appropriate to meet the needs of all children requiring special education and related services. The Hondo Valley Public School District will provide services for three-year-old and four-year-old preschool children with disabilities, unless the parent or guardian chooses not to enroll his child. If a child receiving services in the department of health's family, infant, toddler program has his third birthday during the school year, the child's parents shall have the option of having the child complete the school year in the family, infant, toddler program or enrolling the child in the public school's preschool program. A child with a disability who enrolls in the public school's preschool program and who has his third birthday during a school year may receive special education and related services from the beginning of that school year. Services for students age three through twenty-one may include, but are not limited to, evaluating particular needs, providing learning experiences that develop cognitive and social skills, arranging for or providing related services as defined by the state board and providing parent education. The services may be provided by certified school personnel or contracted for with other community agencies and shall be provided in age-appropriate, integrated settings, including home, daycare centers, Head Start programs, schools or community-based settings.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

A. Preschool programs for children aged 2 through 5.

- (1) Each public agency shall ensure that a free appropriate public education is available for each preschool child with a disability within its educational jurisdiction no later than the child's third birthday and that an individualized education program (IEP) under Part B or an individual family services plan (IFSP) under Part C of the IDEA is in effect by that date in compliance with 34 CFR Secs. 300.101, 300.124 and 300.323(b).
- (2) A child who will turn three at any time during the school year who is determined eligible may enroll

in a Part B preschool program at the beginning of the school year if the parent so chooses, whether or not the child has previously been receiving Part C services.

- (3) Each public agency shall develop and implement appropriate policies and procedures to ensure a smooth and effective transition from Part C to Part B programs for preschool children with disabilities within the agency's educational jurisdiction, in compliance with 34 CFR Sec. 300.124. Each LEA and other public agencies as appropriate shall make reasonable efforts to establish productive working relations with local Part C programs and when given reasonable notice shall participate in the ninety day transition planning conferences arranged by local Part C providers.
- (4) In particular:
 - (a) Each LEA shall survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.
 - (b) Each LEA shall promote parent and family involvement in transition planning with Part C programs, community programs and related services providers at least six months before the child is eligible to enter the LEA's Part B preschool program.
 - (c) Each LEA shall establish and implement procedures to support successful transitions including parent training, professional development for special educators and general educators, and student and parent self-advocacy training and education.
 - (d) Each LEA shall assist parents in becoming their child's advocates as the child makes the transition through systems.
 - (e) Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child's third birthday, whichever occurs first, to facilitate informed choices for all families.
 - (f) Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA's preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child's eligibility for Part B services or develop an appropriate program.
 - (g) Each LEA shall initiate a meeting to develop an eligible child's IFSP, IEP or IFSP-IEP, in accordance with 34 CFR Sec. 300.323, no later than 15 days prior to the first day of the school year of the LEA where the child is enrolled or no later than 15 days prior to the child's entry into Part B preschool services if the transition process is initiated after the start of the school year, whichever is later, to ensure uninterrupted services. This IFSP, IEP, or IFSP-IEP will be developed by a team constituted in compliance with 34 CFR Sec. 300.321 that includes parents and appropriate early intervention providers who are knowledgeable about the child.
 - (h) In compliance with 34 CFR Sec. 300.101(b)(2), if a child's birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin.
 - (i) Each public agency shall develop policies and procedures to ensure a successful transition from Part B preschool for children with disabilities who are eligible for continued services in pre-kindergarten and kindergarten.

...

G. Graduation planning and post-secondary transitions

- ...
- (6) Students eligible for special education services are entitled to a FAPE through age 21. If a student turns 22 during the school year, that student shall be allowed to complete the school year and shall continue to receive special education and related services during that school year. If the student turns 22 prior to **the first day** of the school year, the student is no longer eligible to receive special education and related services.

The Hondo Valley Public School District will ensure that children with disabilities within its jurisdiction are located, identified, evaluated and provided a free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive.

The New Mexico Department of Health (DOH) coordinates the IDEA Part C Family, Infant, and Toddler (FIT) programs. The Hondo Valley Public School District does not administer a Part C FIT program. Therefore, if the Hondo Valley Public School District locates an infant or toddler who may be eligible for services under Part C, the

Hondo Valley Public School District will refer the infant or toddler to the local FIT program (REC IX Developmental Services).

The Hondo Valley Public School District will participate in transition planning conferences with the lead agency responsible for providing FIT services. For those children who are eligible for special education and related services under Part B of the IDEA, the Hondo Valley Public School District will have an IEP (or an IFSP, if consistent with § 300.323(b) and section 636(d) of the Act) for the child developed by the child's third birthday (or by the beginning of the school year in which the child turns three, if the parent or guardian chooses to enroll the child in the Part B program at the beginning of that school year).

The Office of Special Education Programs (OSEP) has issued a frequently asked questions document titled, "OSEP Early Childhood Transition FAQs" (December 1, 2009), available through the NECTAC website: http://www.nectac.org/~pdfs/topics/transition/ECTransitionFAQs12_01_09.pdf. The Hondo Valley Public Schools, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this frequently asked questions document.

III. MEMBERSHIP OF THE STUDENT ASSISTANCE TEAM (SAT)

Authority: NMAC 6.31.2.7 DEFINITIONS.

...

B. The following terms shall have the following meanings for purposes of these rules.

...

- (15) "SAT" means the student assistance team, which is a school-based group of people whose purpose is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general education.**

Authority: NMSA 1978 22-2C-6. Remediation programs; promotion policies; restriction

...

J. For the purposes of this section: (relating to Assessment and Accountability: Remediation programs; promotion policies; restrictions):

...

- (4) "student assistance team" means a group consisting of a student's:**
- (a) teacher;**
 - (b) school counselor;**
 - (c) school administrator; and**
 - (d) parent.**

The NMPED has issued a technical assistance document titled, "Student Assistance Team and the Three-Tiered Model of Student Intervention" (June 2004) available through the NMPED website: <http://www.ped.state.nm.us/seo/library/index.htm>. The Hondo Valley Public School District, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this technical assistance document including:

- *Part 2 of this technical assistance document which addresses SAT membership.*

The SAT is made up of a team. The core team generally includes a representative from administration, regular education, and a specialty or resource area. Additionally, the parent and student (if appropriate) are encouraged to attend. When the SAT convenes to develop an academic improvement plan (AIP) as part of the State Education Reform Act (NMSA 1978 § 22-2C-6), the SAT will be composed of the required participants.

IV. STUDENT ASSISTANCE TEAM (SAT) / INTERVENTIONS

Authority: 34 CFR §300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

The NMPED has issued a technical assistance document titled, "Student Assistance Team and the Three-Tiered Model of Student Intervention" (Fall 2009) available through the NMPED website: <http://www.ped.state.nm.us/pedWebDirectory.html>. The NMPED's manual, "Student Assistance Team and the Three-Tiered Model of Student Intervention," shall be the guiding document for schools and districts to use in implementing the student intervention system. See NMAC 6.29.1.9.D(4). The Hondo Valley Public Schools, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this technical assistance document, and Hondo Valley Public Schools shall use this document as its guiding document.

The Hondo Valley Public School District, in collaboration with Region IX Education Cooperative, develops and maintains a SAT manual. The SAT manual is available online at www.recixnm.org.

A. SAT – Purpose And Mission

Authority: NMSA 1978 22-1-1.2 Legislative findings and purpose – diverse multicultural population

- A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.
- B. The legislature finds further that the key to student success in New Mexico is to have a multicultural education system that:
 - (1) attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;
 - (2) holds teachers, students, schools, school districts and the state accountable;
 - (3) integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;
 - (4) recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students;
 - (5) provides students with a rigorous and relevant high school curriculum that prepares them to succeed in college and the workplace; and
 - (6) elevates the importance of public education in the state by clarifying the governance structure at different levels.
- ...
- D. The legislature finds further that a well-designed, well-implemented and well-maintained assessment and accountability system is the linchpin of public school reform and must ensure that:
 - (1) students who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and individualized tutoring;
 - (2) students have accurate, useful information about their options and the adequacy of their preparation for post-secondary education, training or employment in order to set and achieve high goals;
 - (3) teachers who do not meet performance standards must improve their skills or they will not continue to be employed as teachers;
 - (4) public schools make adequate yearly progress toward educational excellence; and
 - (5) school districts and the state are prepared to actively intervene and improve failing public schools.
- E. The legislature finds further that improving children's reading and writing abilities and literacy throughout their years in school must remain a priority of the state.

Authority: NMSA 1978 22-2C-6 Remediation programs; promotion policies; restrictions.

- A. Remediation programs, academic improvement programs and promotion policies shall be aligned with school-district-determined assessment results and requirements of the assessment and accountability program.
- B. Local school boards shall approve school-district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who do not demonstrate academic proficiency. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department.
- ...
- D. Diagnosis of weaknesses identified by a student's academic achievement may serve as criteria in assessing the need for remedial programs or retention.
- E. A parent shall be notified no later than the end of the second grading period that the parent's child is not academically proficient, and a conference consisting of the parent and the teacher shall be held to discuss possible remediation programs available to assist the student in becoming academically proficient. Specific academic deficiencies and remediation strategies shall be explained to the student's parent and a written intervention plan developed containing time lines, academic expectations and the measurements to be used to verify that a student has overcome academic deficiencies. Remediation programs and academic improvement programs include tutoring, extended day or week programs, summer programs and other research-based interventions and models for student improvement.
- F. At the end of grades one through seven, three options are available, dependent on a student's academic proficiency:
 - (1) the student is academically proficient and shall enter the next higher grade;
 - (2) the student is not academically proficient and shall participate in the required level of remediation. Upon certification by the school district that the student is academically proficient, the student shall enter the next higher grade; or
 - (3) the student is not academically proficient after completion of the prescribed remediation program and upon the recommendation of the teacher and school principal shall either be:
 - (a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to become academically proficient, at which time the student shall enter the next higher grade; or
 - (b) promoted to the next grade if the parent refuses to allow the child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent shall sign a waiver indicating the parent's desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining time lines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to become academically proficient at the end of that year as measured by grades, performance on school district assessments and other measures identified by the school district shall be retained in the same grade for no more than one year in order to have additional time to achieve academic proficiency.
- G. At the end of eighth grade, a student who is not academically proficient shall be retained in the eighth grade for no more than one school year to become academically proficient or if the student assistance team determines that retention of the student in the eighth grade will not assist the student to become academically proficient, the team shall design a high school graduation plan to meet the student's needs for entry into the work force or a post-secondary educational institution. If a student is retained in the eighth grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.
- H. A student who does not demonstrate academic proficiency for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.
- I. Promotion and retention decisions affecting a student enrolled in special education shall be made in accordance with the provisions of the individual educational plan established for that student.

J. For the purposes of this section:

- (1) “academic improvement plan” means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring;
- (2) “school-district-determined assessment results” means the results obtained from student assessments developed or adopted by a local school board and conducted at an elementary grade level or middle school level;
- (3) “educational plan for student success” means a student-centered tool developed to define the role of the academic improvement plan within the public school and the school district that addresses methods to improve student learning and success in school and that identifies specific measures of a student’s progress....

*The NMPED has issued a technical assistance document titled, “Student Assistance Team and the Three-Tiered Model of Student Intervention” (Fall 2009) available through the NMPED website: <http://www.ped.state.nm.us/pedWebDirectory.html>. The NMPED’s manual, “Student Assistance Team and the Three-Tiered Model of Student Intervention,” shall be the guiding document for schools and districts to use in implementing the student intervention system. See NMAC 6.29.1.9.D(4). The *** by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this technical assistance document, and *** shall use this document as its guiding document.*

B. Three-Tiered Model (Response to Intervention – RtI)

Authority: NMAC 6.29.1.9 PROCEDURAL REQUIREMENTS

...

- D. Student intervention system (e.g., SAT, RtI, PBS). The school and Hondo Valley Public Schools will follow a three-tier model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior.**
- (1) In tier 1, the school and Hondo Valley Public Schools will ensure that adequate universal screening in the areas of general health and well-being, language proficiency status and academic levels of proficiency has been completed for each student enrolled. If through universal screening, a referral from a parent, a school staff member or other information available to a school or Hondo Valley Public Schools suggests that a particular student needs educational support for learning or behavior, then the student shall be referred to the SAT for consideration of interventions at the tier 2 level.
 - (2) In tier 2, a properly-constituted SAT at each school, which includes the student's parents and the student (as appropriate), must conduct the student study process and consider, implement and document the effectiveness of appropriate research-based interventions utilizing curriculum-based measures. In addition, the SAT shall address culture and acculturation, socioeconomic status, possible lack of appropriate instruction in reading or math, teaching and learning styles and instructional delivery mechanisms in order to rule out other possible causes of the student's educational difficulties. When it is determined that a student has an obvious disability or a serious and urgent problem, the SAT shall address the student's needs promptly on an individualized basis, which may include a referral for a multi-disciplinary evaluation to determine possible eligibility for special education and related services consistent with the requirements of Subsections D-F of 6.31.2.10 NMAC and federal regulations at 34 CFR Sec. 300.300.
 - (3) In tier 3, a student has been identified as a student with disability and deemed eligible for special education and related services, and an IEP is developed by a properly-constituted team, pursuant to Subsection B of 6.31.2.11 NMAC and federal regulations at 34 CFR Sec. 300.321.
 - (4) The department's manual, *the student assistance team and the three-tier model of student intervention*, shall be the guiding document for schools and districts to use in implementing the student intervention system

“LEAs currently track the progress of all students through student records, report cards, progress reports, and State assessments. Students who no longer receive special education and related services due to a parent revoking consent will have their progress tracked in the same manner as students who do not receive special education and related services.” 73 Fed. Reg. 73011 (December 1, 2008).

“Once a parent revokes consent in writing under § 300.300(b)(4) for the continued provision of special education and related services, a teacher is not required to provide the previously identified IEP accommodations in the general education environment. However, general education teachers often provide classroom accommodations for children who do not have IEPs. Nothing in § 300.300(b)(4) would prevent a general education teacher from providing a child whose parent has revoked consent for the continued provision of special education and related services with accommodations that are available to non-disabled children under relevant State standards.” 73 Fed. Reg. 73012 (December 1, 2008).

The Hondo Valley Public School District must follow a three-tier model of student intervention.

*The NMPED has issued a technical assistance document titled, “Student Assistance Team and the Three-Tiered Model of Student Intervention” (Fall 2009) available through the NMPED website: <http://www.ped.state.nm.us/pedWebDirectory.html>. The NMPED’s manual, “Student Assistance Team and the Three-Tiered Model of Student Intervention,” shall be the guiding document for schools and districts to use in implementing the student intervention system. See NMAC 6.29.1.9.D(4). The ***, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this technical assistance document, and *** shall use this document as its guiding document.*

Parents and educators are also encouraged to access the resource titled “Response to Intervention RTI: What Families and Educators Need to Know” (Winter 2008) available through the NMPED website: http://www.ped.state.nm.us/parents.students/dl08/ResponsetoIntervention_RTI.pdf.

C. Scientific, Research-Based Instruction

Authority: NMAC 6.31.29.1.7(CA)

“Scientifically-based research” means research that involves the application of rigorous, systematic and objective procedures to obtain reliable and valid knowledge relevant to educational activities and programs.

Authority: NMAC 6.31.29.1.9(D)(2)

...

D.

...

- (2) In tier 2, a properly-constituted SAT at each school, which includes the student's parents and the student (as appropriate), shall conduct the student study process and consider, implement and document the effectiveness of appropriate research-based interventions utilizing curriculum-based measures. In addition, the SAT shall address culture and acculturation, socioeconomic status, possible lack of appropriate instruction in reading or math, teaching and learning styles and instructional delivery mechanisms in order to rule out other possible causes of the student's educational difficulties. When it is determined that a student has an obvious disability or a serious and urgent problem, the SAT shall address the student's needs promptly on an individualized basis, which may include a referral for a multi-disciplinary evaluation to**

determine possible eligibility for special education and related services consistent with the requirements of Subsections D-F of 6.31.2.10 NMAC and federal regulations at 34 CFR Sec. 300.300.

Authority: 20 U.S.C. §7801(37). Scientifically Based Research.

The term “scientifically based research”—

- (A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
- (B) includes research that—
 - (i) employs systematic, empirical methods that draw on observation or experiment;
 - (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
 - (iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
 - (iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
 - (v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
 - (vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Districts can use the “Research-based Instruction and Intervention Checklist” to the six components of research evidence: relevance, rigor, systematic approach, objectivity, replicability, and data analyses/interpretation. This evidence might be the information that is provided by a publisher or program developer. Or, it might be an article about an educational practice. The checklist is included in the NMPED guidance document titled, “Student Assistance Team and the Three-Tiered Model of Student Intervention” (Fall 2009) available through the NMPED website: <http://www.ped.state.nm.us/pedWebDirectory.html>. The NMPED’s manual, “Student Assistance Team and the Three-Tiered Model of Student Intervention,” shall be the guiding document for schools and districts to use in implementing the student intervention system. See NMAC 6.29.1.9.D(4).

D. Educational Plan For Student Success (EPSS)

Authority: NMAC 6.30.2.9 IMPLEMENTATION: Educational Plan for Student Success (“EPSS”)

...

- B. District Educational Plan for Student Success (EPSS). The EPSS is a long range strategic plan that each district is required to develop, implement, assess, and evaluate. It must address four questions:
 - (1) Where is the district now? (Identification of Student Needs and Current Status)
 - (2) Where does the district need to be? (Goals/Focus Areas)
 - (3) How will the district get there and how will it achieve its plans? (Action Plans and Ongoing Assessment)
 - (4) How will the district know it is making progress toward its goals/focus areas? (Comprehensive and Periodic Evaluation)
- C. Identification of Student Needs and Analysis of Current Programs. The development of a district EPSS begins with a self-study of student needs, current programs, and resources....
- D. Goals/Focus Areas. The EPSS must include goals or focus areas....
- E. Action Plan and Ongoing Assessment. The EPSS must contain an action plan and a comprehensive

assessment system....

- F. Comprehensive and Periodic Evaluation.** The EPSS process must include comprehensive and periodic evaluation....
- G. EPSS Models.** A district must develop its EPSS utilizing a strategic planning model....

Pre-referral interventions are provided through the SAT or similar process according to the district's Educational Plan for Student Success (EPSS) as required by the state's Standards for Excellence at 6.30.2 NMAC.

V. REFERRALS FOR SPECIAL EDUCATION EVALUATION

Authority: 34 CFR §300.301 Initial evaluations.

...

- (b) Request for initial evaluation. Consistent with the consent requirements in §300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

Authority: 34 CFR §300.309 Determining the existence of a specific learning disability.

...

- (b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the [Multidisciplinary Team] will consider, as part of the evaluation described in §§300.304 through 300.306, data that demonstrates that—
- (1) Prior to, or as a part of the referral process, the child was provided appropriate instruction delivered by qualified personnel; and
 - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

Authority: 34 CFR §300.504 Procedural safeguards notice.

- (a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—
- (1) Upon initial referral or parent request for evaluation....

Authority: NMAC 6.31.2.10 IDENTIFICATION

...

D. Evaluations and reevaluations

(1) Initial evaluations.

...

- (b) Request for initial evaluation. Consistent with the consent requirement in 34 CFR Sec. 300.300, either a parent of a child or the Hondo Valley Public School District may initiate a request for an initial evaluation to determine if the child is a child with a disability.

...

“[The U.S. Department of Education does] not believe it is appropriate or necessary to specify how long a child can receive early intervening services before an initial evaluation is conducted. If a child receiving early intervening services is suspected of having a disability, the LEA must conduct a full and individual evaluation in accordance with §§ 300.301, 300.304 and 300.305 to determine if the child is a child with a disability and needs special education and related services.” 71 Fed. Reg. 46626 (August 14, 2006).

“The language [‘public agency’] does not include employees of SEAs or LEAs (e.g., teachers and related services providers), unless they are acting for the SEA or LEA, or of other State agencies (e.g., probation officers, social workers, or staff from State agencies that are not public agencies as defined in § 300.33). The requirements in § 300.301(b) pertain to the initiation of an evaluation under §§ 300.301 through 300.305 and should not be confused with the State’s child find responsibilities in § 300.111 and section 612(a)(3) of the Act. The child find requirements permit referrals from any source that suspects a child may be eligible for special education and related services.” 71 Fed. Reg. 46636 (August 14, 2006).

“Section 300.301(b) provides that a parent may initiate a request for an initial evaluation to determine if the child is a child with a disability. ... If, however, the public agency does not suspect that the child has a disability and denies the request for an initial evaluation, the public agency must provide written notice to the parents, consistent with §300.503(b) and section 615(c)(1) of the Act, which explains, among other things, why the public agency refuses to conduct an initial evaluation and the information that was used as the basis to make that decision. The parent may challenge such a refusal by requesting a due process hearing....” 71 Fed. Reg. 46636 (August 14, 2006).

“The regulations are sufficiently clear on this point. Section 300.503(a), consistent with section 615(b)(3) of the Act, provides that a public agency may refuse to initiate or change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child, if the public agency provides written notice. This includes situations in which a public agency wishes to deny a parent’s request for an initial evaluation. The written notice must meet the requirements in § 300.503(b). Thus, for situations in which a public agency wishes to deny a parent’s request for an initial evaluation, the written notice would provide, among other things, an explanation of why the public agency refuses to conduct an initial evaluation and the information that was used to make that decision. A parent may challenge the public agency’s refusal to conduct an initial evaluation by requesting a due process hearing.” 71 Fed. Reg. 46636 (August 14, 2006).

*All referrals for an initial evaluation to determine if a child is a child with a disability will go through the SAT process. In Hondo Valley Public School District, the SAT acts on behalf of the public agency. Response to intervention is the process that all SATs follow before consideration of referral to another program or service is warranted or justified. Based upon a systematic assessment of student, classroom, and district-wide progress monitoring data, SATs determine which students are not yet demonstrating evidence of meeting goals. SATs may consider initiating a request for an initial evaluation to determine whether a child is a child with a disability, if as a result of systematic assessment and intervention, the SAT suspects: (a) the child is a child with a disability; and (b) the child needs special education and related services. When the SAT refers a child to the **Eligibility Determination Team** for an initial evaluation to determine if the child is a child with a disability, it must provide sufficient data to the Eligibility Determination Team to enable the Team to determine whether the child has been provided with appropriate instruction delivered by qualified personnel in reading and math. The information provided by the SAT should include data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents. In the case of a Child Find student who is clearly a student with a disability and is in need of special education services, the SAT may immediately refer the child to the Multidisciplinary Team for an initial evaluation.*

VI. TIMELINE – REFERRAL TO EVALUATION

Authority: §300.309 Determining the existence of a specific learning disability.

...

- (b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—**
 - (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and**
 - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.**
- (c) The Hondo Valley Public School District will promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in 300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in 300.306(1)(1)--**
 - (1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and**
 - (2) Whenever a child is referred for an evaluation.**

“One commenter recommended that public agencies provide consent forms to parents promptly after a referral for evaluation has been made so that the child’s evaluation is not delayed. A few commenters asked how promptly an LEA must seek parental consent following a referral for evaluation, and whether an LEA can wait until September to obtain consent if a referral is made in June or July. Discussion: We cannot change the timeframe for an initial evaluation specified in section 614(a)(1)(C) of the Act. Section 614(a)(1)(C) of the Act requires that an initial evaluation be conducted within 60 days of receiving parental consent for the evaluation, or within the timeframe established by the State. Section 300.323(c) is a longstanding requirement that a meeting be held to develop the child’s IEP within 30 days of determining that a child needs special education and related services. We decline, however, to specify the timeframe from referral for evaluation to parental consent, or the timeframe from the completion of an evaluation to the determination of eligibility, as we are not in a position to determine the maximum number of days that should apply to these periods in all circumstances.” 71 Fed. Reg. 46637 (August 14, 1006).

VII. SPECIAL EDUCATION DEPARTMENT RESPONSIBILITIES

(For more information regarding procedural safeguards including prior written notice of evaluation, consent for evaluation and procedural safeguards notice, see Chapter 2. These procedural safeguards must be provided prior to conducting an initial evaluation to determine whether the child is a child with a disability.)

A. SAT Referral Packet – Data Collected

Authority: NMAC 6.31.2.10 IDENTIFICATION, EVALUATIONS AND ELIGIBILITY DETERMINATIONS

...

D. Evaluations and reevaluations

(1) Initial evaluations

...

(c) Procedures for initial evaluation.

...

- (iii) The Hondo Valley Public School District will maintain a record of the receipt, processing and disposition of any referral for an individualized evaluation. All appropriate evaluation data, including complete SAT file documentation and summary reports from all individuals evaluating the child shall be reported in writing for presentation to the multi-disciplinary team or IEP team.**

B. Multidisciplinary Team Evaluation Conducted

Authority: NMAC 6.31.2.10 IDENTIFICATION, EVALUATIONS AND ELIGIBILITY DETERMINATIONS

...

D. Evaluations and reevaluations

(1) Initial evaluations

...

- (f) The multi-disciplinary team including the parent and child, if appropriate, must meet to determine if the child is a child with a disability and requires an IEP upon completion of the initial evaluation.**

The NMPED has issued a guidance document titled, “New Mexico Technical Evaluation and Assistance Manual: Determining Eligibility for IDEA Part B Special Education Services” (“NM TEAM”) (April 2006), available through the NMPED website: http://www.ped.state.nm.us/seo/technical_assistance/NMTeamManual62907.pdf. The NM TEAM presents a sustained effort to standardize evaluation and assessment procedures and eligibility criteria in every IDEA disability category across the state. LEAs are expected to attend to the recommendations that it establishes. The Hondo Valley Public School District, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this guidance document.

*In the specific learning disability category, NM TEAM expectations set official NMPED eligibility policy, which LEAs are now required to adhere to under the Final Regulations of the IDEA 2004. The *** will ensure that the group complies with the requirements of NM TEAM and the evaluation procedures set out in Chapter 3 of the *** Procedures for the Provision of Special Education Services when evaluating a child for a possible learning disability. The evaluation will be at no cost to the parent. When designing and conducting an initial evaluation or reevaluation for an individual child suspected of having a suspected learning disability using the severe discrepancy model, the Highly Recommended and Potential Additional components of an evaluation, as set forth in NM TEAM, pp. 120-123, will be considered and followed as appropriate given the characteristics and needs of the individual child. When designing and conducting an initial evaluation or reevaluation for an individual child suspected of having a suspected learning disability using the dual discrepancy model, pending revision of the 2007 NM Team, pp. 114-12 of NM Team will be replaced with the following NMPED guidelines: SLD Worksheet Updated; Student Assistance Team & Three Tier Model of Student Intervention; Short Cycle Assessment Data Memorandum; Short*

Cycle Dual Discrepancy Model Assessment Scores, Fall 2009. These guidelines will be considered and followed as appropriate given the characteristics and needs of the individual child. Upon completion of the evaluation, the group of qualified professionals and the parent determine whether the child is eligible for special education services under the IDEA.

C. Timeline from Evaluation to IEP Meeting

Authority: 34CFR §300.323 When IEPs must be in effect.

(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.

...

(c) Initial IEPs; provision of services. The Hondo Valley Public School District will ensure that—

- (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and**
- (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.**

“Section 300.323(c) is a longstanding requirement that a meeting be held to develop the child's IEP within 30 days of determining that a child needs special education and related services. We decline, however, to specify the timeframe from referral for evaluation to parental consent, or the timeframe from the completion of an evaluation to the determination of eligibility, as we are not in a position to determine the maximum number of days that should apply to these periods in all circumstances.” 71 Fed. Reg. 46637 (August 14, 2006).

“With regard to the total timeframe from referral to IEP development, this will vary based on a number of factors, including the timing of parental consent following referral for an evaluation and whether a State establishes its own timeframe to conduct an initial evaluation. Given such factors, we do not believe it is feasible to further regulate on this timeframe.” 71 Fed. Reg. 46637 (August 14, 2006).

“As soon as possible” is not defined in the IDEA regulations. The Fourth Circuit has concluded that “the interpretive guideline’s provision that ‘no delay is permissible’ in the implementation of the IEP is inconsistent with the federal regulations.” Board of Educ. of Montgomery County v. Brett Y. by Mark Y., 28 IDELR 460 (4th Cir. 1998). The Hondo Valley Public School District will implement the IEP as soon as possible following the development of the IEP. In most instances, that will be the following school day. Whether any delay is reasonable will depend on the individual circumstances. Since a change of placement is generally considered to occur after ten school days, implementation of an IEP within ten school days of the IEP Team meeting will generally be considered to be reasonable. Whenever possible, if delays are anticipated, these anticipated delays should be discussed in the IEP Team meeting.

VIII. SCOPE OF EVALUATION

Authority: 34CFR §300.301 Initial evaluations.

(a) **General.** Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.

...

(c) **Procedures for initial evaluation.** The initial evaluation—

- (1)(i) **Must be conducted within 60 days of receiving parental consent for the evaluation; or**
- (ii) **If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and**
- (2) **Must consist of procedures—**
 - (i) **To determine if the child is a child with a disability under § 300.8; and**
 - (ii) **To determine the educational needs of the child.**

Authority: 34CFR §300.304 Evaluation procedures.

...

(b) **Conduct of evaluation.** In conducting the evaluation, the public agency must—

- (1) **Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—**
 - (i) **Whether the child is a child with a disability under § 300.8; and**
 - (ii) **The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);**
- (2) **Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and**
- (3) **Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.**

(c) **Other evaluation procedures.** Each public agency must ensure that—

...

(4) **The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;**

...

(6) **In evaluating each child with a disability under §§ 300.304 through 300.306, 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 in which the child has been classified.**

(7) **Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.**

When conducting a full and individual initial evaluation, the child will be assessed in all areas related to the suspected disability or disabilities. Additionally, the Hondo Valley Public School District recognizes that evaluation is about more than determining eligibility. For a child who qualifies for special education services, the full and individual evaluation assists the IEP Team in determining the content of the IEP. The Hondo Valley Public School District will conduct a full and individual initial evaluation that is sufficiently comprehensive to determine whether the child is a child with a disability and to determine the educational needs of the child (including all of the child’s special education and related services needs).