

## Oklahoma Policies and Procedures Overview

### Background:

The Oklahoma Special Education Policies were last approved by the Oklahoma State Board of Education on June 12, 2013. At that time, the Oklahoma State Department of Education identified four (4) policies in addition to those found in the Individuals with Disabilities Education Act (IDEA) and its implementing regulations. States are required to inform local education agencies (LEAs) in writing of State-imposed rules, regulation, or policy/ci. (20 U.S.C. § 1407(a); 34 CFR § 300.199)

#### Oklahoma imposed policies –

1. Secondary transition services must be in effect at the beginning of the ninth-grade year or by age 16, whichever comes first.
2. Forty-five school day initial evaluation timeline.
3. An IEP for move-in students must be in place within 10 school days.
4. Caseload-Class size requirements

In addition to these policies, the OSDE developed a Special Education Handbook that includes a narrative explanation and further details regarding State and federal special education laws, rules, and regulations. This handbook was reviewed by stakeholders and edited as needed without going to the Oklahoma State Board of Education for approval as the changes made were due to either clarification or additional information resulting from additional State and federal requirements. The current handbook was last revised in 2017.

Before the Oklahoma State Board of Education's approval of these 2013 policies, the OSDE maintained a "Policies and Procedures" document that included more detail regarding the implementation of the IDEA in local education agencies, much like the current handbook. The rationale for separating *policies* from the more procedure-like *handbook* in 2013 was that the handbook could serve as a "living document". However, from 2013 to the present, the Office of Special Education Services has noticed an increasing lack of uniformity in the implementation of the IDEA across the State. During this same time period, Oklahoma has seen a significant turn over in district administrators and teachers, which has contributed to the lack of aligned practices and procedures. Teachers and administrators have also voiced a need for additional guidance in writing to support their efforts in implementing the IDEA and providing a FAPE. As a result, the Office of Special Education Services decided to begin the work of revising both the existing policies and the handbook with the intention of combining both documents into one.

Many stakeholders have been asked to provide input and feedback on drafts of the Policies and Procedures document. In addition, draft copies were sent to district special education directors at the beginning of the 2022 calendar year, prior to its public comment release. Public comment was then held for 30 days, beginning April 25<sup>th</sup>, 2022. Since the end of the public comment period, staff in the Office of Special Education Services have reviewed all comments, sought additional clarification from some commentors, and made changes to the document accordingly.

The Policies and Procedures being presented to the Oklahoma State Board of Education at this time include previous policies and much of the same information contained in the previous handbook as well as additional policies and expanded guidance to align the practices of LEAs across the state.

## Policies:

The Oklahoma State Department of Education (OSDE) establishes the following State requirements which exceed(s) requirements imposed by the IDEA:

1. Ten (10) school day timeline between review of existing data and parent consent for an initial evaluation.
  2. Required evaluation components by category of disability(ies).
  3. Forty-five (45) school day initial evaluation timeline.
  4. Qualified professionals for the eligibility team members defined.
  5. An IEP for move-in students must be in place within 10 school days from the student's first day of attendance.
  6. Service types defined.
  7. Secondary transition services must be in effect before the beginning of the ninth-grade year, or on or before the age 15, whichever comes first.
  8. Before making the determination to shorten the student's day/week based on behavior requires an FBA and BIP be in place.
  9. Caseload-Class size requirements.
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1. If the LEA determines that additional data is required for an initial evaluation (as documented on the Review of Existing Data (RED) form), the LEA must gain signed parental consent or document the parent's refusal for the initial evaluation within 10 school days. Refer to Chapter 4. "Evaluation and Eligibility", Section 3. "Review of Existing Data" for more information.
    - a. There is no specified timeline in the IDEA. However, to ensure that children are identified and provided appropriate services as soon as possible, the OSDE believes that a timeline should be in place. Once parent consent is signed, districts have 45 school days to evaluate and make an eligibility determination. This timeline can be artificially extended under current policy – a district could review existing data after a parent makes a request for an initial evaluation and then wait for an extended period of time to actually obtain parent consent. This results in a delay that could impact the student's progress. In practice, currently, many districts already obtain parental consent in the same meeting where they review existing data. Adding this as a policy puts this "best practice" into place for all districts.
  2. For comprehensive evaluations, LEAs are required to select assessment and evaluation components tailored to specific areas of educational need and all areas related to the suspected disability, which are defined as either required or as needed and delineated by disability category. For more information, refer to Chapter 4. "Evaluation and Eligibility", Section 10. "Disability Categories and Evaluation Components."
    - a. Although the IDEA requires a comprehensive evaluation (meaning not just one assessment can be used to determine eligibility), it is silent on specific evaluation components that must be conducted to constitute a comprehensive evaluation for each disability category. Many professionals, including School Psychologists, have voiced the need for more specific guidance and uniformity in this area. Currently, one district may conduct a thorough evaluation while another will conduct a very

minimal evaluation. This inconsistency has been an issue for districts when students transfer between districts. Sometimes this results in the new district needing to conduct additional evaluation components and may put the student's IDEA eligibility into question.

3. The initial eligibility determination must be completed within 45 school days of receiving parental consent for the evaluation. The timeframe does not apply if the parent of a child repeatedly fails or refuses to produce the child for the evaluation. It also does not apply if the child enrolls in a school of another LEA (new receiving district) after the relevant timeframe for the initial evaluation has begun in the sending LEA (previous district), and prior to a determination by the child's previous LEA as to whether the child is a child with a disability. However, the receiving LEA must make sufficient progress to ensure a prompt completion of the initial evaluation, and the parent and the LEA must agree to a specific time when the evaluation will be completed. See 34 C.F.R. § 300.301(c)(1)(i) and Authority: 20 U.S.C. § 1414(a).
  - a. The IDEA requires that evaluations must be completed within 60 calendar days of receiving parental consent for an evaluation but leaves open the possibility for states to adjust that timeline. Many states, including Oklahoma, use a 45-school day timeline as it is more feasible for the majority of districts. Calendar days would include all breaks, including the summer break, making it difficult for districts to comply. OSDE believes this policy continues to be appropriate.
4. The determination of whether a child is a child with a disability under IDEA for either an initial evaluation or for a reevaluation, when appropriate, must be made by the child's parents and a team of qualified professionals, which must include:
  - The child's general education teacher (at least one). For a child of less than school age, an individual qualified to teach a child of their age.
  - A special education teacher; or when the suspected disability only involves a Speech Language Impairment (SLI) then a speech-language pathologist (SLP) may be the special education teacher.
  - A representative of the local education agency (LEA administrative representative).
  - At least one person qualified to conduct individual diagnostic examinations of children, such as a certified school psychologist, certified school psychometrist, speech-language pathologist, a remedial reading teacher, occupational therapist, physical therapist, etc.

Refer to 34 C.F.R. §§ 300.306 and 300.308, as well as Chapter 4. "Evaluation and Eligibility", Section 11(A). "Group Members Required to Attend Eligibility Meeting" and Appendix B. "Team Members Needed to Participate in Special Education Decision-Making" for more information.

- a. The IDEA requires only "qualified professionals and a parent" for the team determining IDEA eligibility for most disability categories. The Specific Learning Disability category also requires a general education teacher. In practice, however, districts utilize the same members for eligibility determinations as are required by the IDEA for IEP teams. Adding this as a policy puts this "best practice" into place

for all districts. This creates consistency between the results of an eligibility determination and the development of the IEP.

5. When a student, who has been served on an IEP in one Oklahoma district, enrolls in a new LEA, the new LEA must within 10 school days from the student's first day of attendance either accept the previous district's IEP by finalizing an In-State Transfer IEP, or develop and finalize a new Subsequent IEP through a formal IEP meeting. For more information, refer to Chapter 5. "Individualized Education Program (IEP)", Section 2. "IEP Timelines."
  - a. The IDEA does not identify a timeline for this type of move-in IEP. Use of this timeline requires LEAs to address the needs of the new student in a timely manner and minimize any lapse in appropriate services in the new LEA. It should be noted that the LEA must provide services on the first day the student attends school that are comparable to those described in the previously held IEP, in consultation with the parent, until the LEA reviews and accepts the previously held IEP as written or develops and implements a new Subsequent IEP.
6. Special education and related services are provided in a variety of service types and are defined as follows:
  - **Consultation:** No direct student services; however, consultation occurs between the special education teacher and/or related service provider with the general education teacher, as well as other professionals to discuss topics related to instruction, accommodations, interventions, behavior, etc. to problem solve the specific needs of the student with a disability (e.g., accommodations to the core instruction, training on how to utilize the assistive technology with the student, implementation of the behavior intervention plan, etc.).
  - **Monitoring:** The student receives primary instruction from a general education teacher. The special education teacher or related service personnel monitors the student with a disability for a variety of components related to the student's IEP (e.g., collecting data on goals; observing to make certain accommodations are implemented as written, checking on chronic absenteeism reasons, grades, assignment completion, etc.).
  - **Collaboration:** The student receives primary instruction from a general education teacher. The special education teacher and/or related service provider supports through re-teaching and reinforcing skills, etc. This type of service support may occur within a general education setting (push-in model) or within a special education setting (pull-out model).
  - **Co-Teaching:** The student receives primary instruction from **both** a teacher who holds a general education credential(s) and a special education teacher who holds a special education credential(s). The special education teacher may also hold content credential(s). The two teachers have an equal partnership in responsibility for the students' progress.

- **Direct Instruction:** The student receives primary instruction from a special education teacher with special education credential(s) and meet the OSDE requirements for the content credential(s) regarding the specific secondary content area or for elementary or early childhood. This type of service is provided outside of the general education classroom.

For more information refer to Chapter 5. "Individualized Education Program (IEP)", Section 3. "IEP Development", G. "Type of Service/Placement, and Support Components."

- a. The IDEA states, "*Specially designed instruction means adapting, as appropriate to the needs of an eligible child, the content, methodology or delivery of instruction to address the unique needs.*" The OSDE has found that districts vary in their definitions and applications of the variety of service types. This causes confusion when students move between districts and when OSDE attempts to collect data on the variety of service types. By defining these service types, the OSDE will eliminate this confusion and bring consistency across the state.
7. The Individualized Education Program (IEP) must include secondary transition services that are in effect on or before the student's 15th birthday or before the beginning of the student's ninth grade year, whichever comes first, or younger, if determined appropriate by the IEP team, and updated annually. See 34 C.F.R. § 300.320(b) (Authority: 20 U.S.C. § 1414(d)(1)(A) and (d)(1)(A)(i)(VIII)). For more information refer to Chapter 5. "Individualized Education Program (IEP)", Section 3. "IEP Development", M. "Secondary Transition."
- a. The IDEA requires that students are provided a secondary transition plan by the age of 16. About half of states require secondary transition planning earlier than the age of 16. It is the position of the OSDE that students have improved post-secondary outcomes when students are afforded more/earlier secondary transition services by the age of 15 and prior to entering high school. Current policy is 16 years of age or the beginning of the ninth-grade year.
8. Before determining the need to shorten a student's day/week due to behavior, the IEP team must conduct a Functional Behavioral Assessment (FBA) and develop a Behavior Intervention Plan (BIP) for behavior supports based on the FBA results. The IEP team may also consider increased special education program service time with additional direct instruction for behavior and/or social skills. For more information, refer to Chapter 10. "Behavior", Section 4. "Shortened Day."
- a. In 2016 the OSDE identified many students with IEPs whose school day/week had been shortened due to district decision/action resulting from inappropriate student behavior. Upon further review, the OSDE found that many students had not been provided any behavioral intervention or supports prior to implementation of the shortened day/week. In an effort to limit the number of removals from school and more specifically, the IEP services, which had been determined necessary by the IEP team, OSDE provided guidance directing LEAs to conduct Functional Behavior Assessments (FBA) and implement Behavior Intervention Plans (BIP) in advance of any removal from school or from special education services through the use of a

shortened day/week due to behavior. As a result, the number of students on a shortened day/week due to behavior has decreased. While the IDEA does not have a requirement regarding the use of shortened day/week due to behavior, it is the position of OSDE that this level of behavior support is critical for student success. OSDE will now require LEAs to conduct an FBA and implement a BIP, in advance of removal from school and/or special education services through the use of a shortened day/week.

#### 9. Class Size/Caseload:

The following chart details class size requirements for placements in special education:

Full Day Self-Contained	Maximum of ten (10) students per classroom	These classrooms are designed predominantly for the support of students with significant, moderate, or multiple disabilities. Multiple courses are taught to the same students for the majority of the day. For example, students who are served inside the general education classroom for less than 40% of the day.
Direct Support/Resource	Grades K-4: Maximum of ten (10) students per classroom  Grades 5-12: Maximum of fifteen (15) students per classroom	These classrooms are designed to provide a higher level of support than what is provided in the general education classroom. Students receive direct support services for specific subjects. They are also available for students seeking extra help to complement general education classroom instruction.

Caseload: The following chart details maximum full-time equivalent (FTE) caseload based on each child's placement.

PLACEMENT	CASELOAD	
	PERCENTAGE (FTE)	TOTAL
General Education Class Full-time (inside the general education class more than 80% of the day).  Students are receiving consultation and/or monitoring services for special education.	.025	40
General Education Class Full-time (inside the general education class more than 80% of the day).	.04	25

Students are receiving collaboration, co-teaching, and/or direct instruction for special education.		
<b>PLACEMENT</b>	<b>CASELOAD</b>	
	PERCENTAGE (FTE)	TOTAL
Special Class Part-time (inside the general education class 40% to 80% of the day)	.05	20
Special Class Full-time (inside the general education class less than 40% of the day)	.067	15
Special Class Full-time (inside the general education class less than 10% of the day)	.1	10
Outside of Public School Setting (home instruction, hospitals, institutions, public/private residential facilities, public/private separate day school facilities, correctional facilities, parentally placed in private schools)	.025	40
Half-day preschool continuum	.05	20 (10 students per .5 day)
Speech/Language 60 minutes; or less per week	.02	50
More than 60 minutes per week	.025	40

### **Exceptions to Caseload/Class Size**

For permission to adjust caseload/class size for programs serving children with disabilities that exceed the limits set, the LEA must obtain a letter of approval from the OSDE-SES. The LEA must document that the exceptions to caseload/class size do not interfere with the provision of a FAPE. The LEA must ensure that IEPs are implemented as developed to meet the educational needs of the children served, with special consideration for any potential harmful effects to the child or the quality of the program. To request an exception to caseload/class size, the LEA must submit the Caseload/Class Size Request for Exception form.

For more information, refer to Chapter 13. "Special Education Staffing", Section 7. "Caseload and Class Size Requirements."

- a. While the IDEA does not have caseload or class size limits, it is the position of the OSDE that special education services can be more individualized, and students will have improved outcomes when caseload and class sized are limited. This policy is in place currently.