

# Provision of Special Education Services for Transfer Students

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Michigan Department of Education Office of Special Education



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## Provision of Special Education Services for Transfer Students

The *Individuals with Disabilities Education Act* (IDEA) and the *Michigan Administrative Rules for Special Education* (MARSE) address how districts must handle the provision of special education for students who are currently eligible for special education programs and services and have transferred to a new district with a completed individualized education program (IEP).

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### **Students Who Transfer Over the Summer**

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#### **34 CFR § 300.323(a)**

At the beginning of each school year, each district must have in effect, for each student with a disability within its jurisdiction, an individualized educational program (IEP), as defined in 34 CFR § 300.320. Therefore, districts must have a means for determining whether a student who enrolls over the summer is a student with a disability and has an IEP in effect when school begins.

If a student's IEP from a previous district was developed (or reviewed or revised) at or after the end of the school year for implementation during the next school year, the new district can decide to adopt and implement the IEP, unless the district determines an evaluation is needed. The newly designated IEP team for the student can decide to develop and implement a new IEP that meets the applicable requirements in §§ 300.320 through 300.324. Federal Register, Volume 71, August 14, 2006, pg. 46682.

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### **Students Who Transfer Within the State Within the Same School Year**

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#### **34 CFR § 300.323 (e)(1)(2), R340.1721b(5)**

For a student, with an IEP that was in effect at a previous district, who transfers districts within the same state and within the same school year, the new district (in consultation with the parents) shall immediately provide a free appropriate public education (FAPE), to the student (including services comparable to those described in the student's IEP from the previous district), until the new district either: (1) Adopts the student's IEP from the previous district; or (2) Within 30 school days of enrollment, develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR §§ 300.320 through 300.324. The decision must be documented with notice in accordance with 34 CFR § 300.503.

The notice must contain:

1. A description of the action proposed or refused by the district.
2. An explanation of the district's proposal or refusal to take action.
3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action.
4. A statement indicating the parents have the protection under the procedural safeguards and how procedural safeguards are to be obtained.
5. Resources for the parents to obtain assistance in understanding the provisions of IDEA.
6. A description of other options the IEP team considered and the reasons those options were rejected.
7. A description of other factors which are relevant to the district's proposal or refusal.

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## **Students Who Are Transferring from Out of State**

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### ***34 CFR § 300.323(f)***

When a student with an IEP transfers from a district in a different state and enrolls in a new school within the same school year, the new district (in consultation with the parents) must provide the student with a FAPE (including services comparable to those described in the student's IEP from the previous district) until the new district conducts an evaluation pursuant to 34 CFR §§ 300.304 through 300.306 (if determined to be necessary by the new district); and develops, adopts, and implements a new IEP, if appropriate, which meets the requirements in 34 CFR § 300.320 through 300.324. Thus, the new LEA must provide FAPE to the student with a disability when the student enrolls in the new LEA's school in the new State within the same school year and may not deny special education and related services to the student pending the development of a new IEP.

If it is determined a student needs an evaluation, the evaluation must be conducted within 30 school days from the date of consent, unless an extension is agreed to by the parent and the district. The extension must be in writing and measured in school days. The district will continue to provide FAPE, based on comparable services from the previous IEP, until the completion of the evaluation and subsequent offer of a FAPE.

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## Students Who Transfer with a Pending Evaluation

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### **34 CFR § 300.301(d)(e)**

When the student transfers to a new district, before an initial evaluation is completed, the 30-school-day timeline does not apply to the new district when:

- the new district is making sufficient progress to ensure a prompt completion of the evaluation, and
- the parent and new district agree to a specific time when the evaluation will be completed.

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## Transfer Students and Records

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### **34 CFR § 300.323(g) and 34 CFR § 99.31(a)(1)(i)(A)**

The new district in which the student enrolls must take reasonable steps to promptly obtain the student's records, including the IEP from the previous district in which the student was enrolled. The previous district in which the student was enrolled must take reasonable steps to promptly respond to the request from the new district.

The new district must document its attempts to obtain the records. It is important to note the *Family Educational Rights and Privacy Act Regulations* (FERPA) indicate prior consent is not required when the disclosure is to other school officials, including teachers, within the district or institution for whom the agency or institution has determined to have legitimate educational interests.

If the new district suspects a disability, the district must fulfill their child find obligations to identify, locate, and evaluate students with disabilities.

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## Timelines for Obtaining Records

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There are no regulations addressing timelines for the transfer of such records; however, the new district has an obligation to ensure FAPE is provided to the student and must take reasonable steps to promptly obtain the student's records.

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## Actions Needed When Records Are Not Readily Available

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When a copy of the student's IEP is available, whether from the parents or the former school district, the new school district can implement the IEP if the parent agrees and the new school district determines the IEP from the previous district is



appropriate and can be implemented as written. When the student's current IEP is not available, or if either the new school district or the parent believes it is not appropriate, an IEP team meeting must be conducted. The IEP team meeting must take place within a short time after the student enrolls in the new school district (normally within one week).

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## Resources

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- [Michigan Administrative Rules for Special Education \(MARSE\) With Related IDEA Federal Regulations](#)
- [Questions and Answers on Individualized Education Programs, Evaluations, and Reevaluations](#)
- [Family Educational Rights and Privacy Act](#)
- [Letter to State Directors of Special Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs](#)

Questions may be directed to the Michigan Special Education Information Line at 888-320-8384 or by email at [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov).