

# CDE Standards for Placement of Preschoolers with IEPs in Educational Programs



The following standards have been identified by the Colorado Department of Education for educational environments in which Administrative Units place preschoolers with Individualized Educational Programs (IEPs). For more information, each standard is linked to references of statute, rule, or Office of Special Education Programs (OSEP) citations. Other pertinent resources are provided.

## CDE Standards for Placement of Preschoolers with IEPs in Educational Programs

1. The program has a childcare center license in good standing that accommodates children of all ages eligible for preschool special education.
2. Classrooms serving children with IEPs always have fewer than 50% of students with IEPs, recognizing that it is best practice for children with IEPs to be represented in classrooms in natural proportions as in the community where they live. The remainder of the classroom is made up of age-appropriate non-disabled peers. If a child with an IEP is placed in a classroom with more than 50% of students with IEPs, the more restrictive placement is documented and justified in the IEP.
3. All special education and special services personnel are appropriately licensed by the CDE.
4. Culturally inclusive practices are delivered by appropriately qualified professionals.
5. Special education and related services are embedded into classroom routines (unless otherwise specified on the IEP), and in collaboration between the general education teaching team, special educators, and special services providers.
6. Supplementary aids and services that are needed and identified in the IEP are provided to enable the child to receive benefit from the program and make progress in the curriculum.
7. The program collects, uses, and appropriately reports ongoing assessment data and summative reporting for Results Matter, Colorado's process for completing OSEP Indicator 7 (Preschool Outcomes) requirements. Personnel completing children's ratings on approved authentic assessment tools are current on their Inter-Rater Reliability.
8. The program implements an evidence-based curriculum aligned with Colorado Academic Standards and the Early Learning and Development Guidelines.
9. When the educational program is not provided directly by the AU or school district, the AU has an MOU in place to ensure expectations of each party are explicit and accountability of these standards is maintained.

Preschool-aged children with an Individualized Education Program (IEP) may be placed by the Special Education Administrative Unit (AU) in educational programs they determine meet or exceed the CDE standards for educational programs.

C.R.S. §22-20-102 The final determination for the placement in a special education program of any eligible child with a disability shall be made by... a child's individualized education program team for a child from three to twenty-one years of age as designated by the governing board of the responsible administrative unit or by the governing authority of a state-operated program.

OSEP Dear Colleague Letter, January 9, 2017, states if there is a Local Educational Agency (LEA) public preschool program available, the LEA may choose to make FAPE available to a preschool child with a disability in the LEA's public preschool program.

### Additional Resources:

Office of Special Education Programs (OSEP) Dear Colleague Letter (DCL), [January 9, 2017](#) [Related to Preschool Educational Environments](#)

Division of Early Childhood (DEC) of the Council for Exceptional Children – [DEC Recommended Practices](#)

1. The program has a childcare center license in good standing that accommodates children of all ages eligible for preschool special education.

*The program must be licensed appropriately to enroll any preschool child with an IEP, including children transitioning to preschool from Early Intervention prior to the child's 3rd birthday, as well as children continuing in preschool who are age eligible for kindergarten. Please contact your licensing specialist to ensure that the child care license accommodates children who are younger than 3 years of age and up to age 7, as necessary. Head Start programs are exempt from Colorado's child care licensing requirements. These programs meet this standard when they demonstrate compliance with the Federal Head Start Performance Standards.*

#### **Citations/References**

The Individuals with Disabilities Education Act (IDEA) defines the educational environment for children with disabilities.

34 CFR §300.17 Free appropriate public education or FAPE means special education and related services that— (c) Include *an appropriate preschool*, elementary school, or secondary school education in the State involved.

Colorado childcare licensing rules and regulations.

7.702 RULES REGULATING CHILD CARE CENTERS THAT PROVIDE LESS THAN 24-HOUR CARE

All childcare centers must comply with the current “General Rules for Child Care Facilities” 7.701; “Rules Regulating Child Care Centers that provide less than 24-hour care” 7.702; “Rules Regulating Special Activities” 7.719;” 6 CCR 1010-7, “The Health and Sanitation Rules and Regulations Governing the Sanitation of Child Care Facilities in the State of Colorado C.R.S.; and the USDA CACFP Part 266.20(1.5).

7.701.11 (B)(6) Licensing Exemptions

A child care facility that is approved, certified, or licensed by any other state department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility.

#### **Additional Resources**

OSEP Dear Colleague Letter (DCL), [January 9, 2017, Related to Preschool Educational Environments](#) - In particular, the DCL describes a “regular classroom” and preschool educational environments.

2. Classrooms serving children with IEPs always have fewer than 50% of students with IEPs, recognizing that it is best practice for children with IEPs to be represented in classrooms in natural proportions as in the community where they live. The remainder of the classroom is made up of age-appropriate non-disabled peers. If a child with an IEP is placed in a classroom with more than 50% of students with IEPs, the more restrictive placement is documented and justified in the IEP.

#### **Citations/References**

In accordance with the data collection requirements in section 618(a) of IDEA, the US Department of Education, Office of Special Education Programs (OSEP) requires States to report on educational environments for preschool children with disabilities.

For data collection purposes, OSEP defines a Regular Early Childhood Program as a program that includes a majority (at least 50 percent) of nondisabled children (i.e., children who do not have IEPs).

## CDE Standards for Placement of Preschoolers with IEPs in Educational Programs

Colorado Revised Statutes affirms Least Restrictive Environment (LRE).

C.R.S. §22-20-102 (2) It is the intent of the general assembly, in keeping with accepted educational principles, that children from three to twenty-one years of age with disabilities shall be educated in the least restrictive environment to the maximum extent appropriate.

IDEA defines Least Restrictive Environments.

34 CFR §300.320(a)(5) The IEP must include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class.

34 CFR §300.115 The public agency responsible for providing FAPE to a preschool child with a disability must make available the full continuum of alternative placements, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, to meet the needs of all preschool children with disabilities for special education and related services.

### Additional Resources

Definition of Indicator 6 [20 U.S.C. 1416 (a)(3)(A)] - Percent of children with IEPs aged 3 through 5 attending an early childhood program in the following settings:

Indicator 6A: Attending a regular early childhood program and receiving the majority of special education and related services in the regular early childhood program

Indicator 6B: Attending a separate special education class, separate school, or residential facility

Indicator 6C: Receiving special education and related services in the home

CDE Exceptional Student Services Unit Technical Assistance: [Making Least Restrictive Environment Placement Decisions for Preschool Children, Ages 3 through 5](#).

### 3. All special education and special services personnel are appropriately licensed by the CDE.

#### Citations/References

IDEA defines prepared professionals.

34 CFR §300.156. IDEA requires that State Education Agencies (SEAs) ensure that personnel who provide special education and related services are adequately prepared, trained, and have the content knowledge and skills necessary to serve children with disabilities.

#### Additional Resources

[The Early Interventionist/Early Childhood Special Educator \(EI/ECSE\) Standards](#) support the licensure of ECSEs who are required to serve children in preschool special education per the [Staff Approval Matrix](#).

### 4. Culturally inclusive practices are delivered by appropriately qualified professionals.

#### Citations/References

Colorado Revised Statutes define practices.

C.R.S. §26.5-4.205 (2)(f) Quality standards - evaluation – support. Standards for preschool services that, at a minimum, are aligned with the Colorado Early Learning and Development Guidelines across all early childhood domains approved by the Early Childhood Leadership Commission and with the Colorado Academic Standards adopted by the State Board of Education pursuant to Section 22-8-1005, are culturally inclusive, and are supported by the Department (of Early Childhood) in implementation.

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C.R.S. §26.5-4-206 (1)(a) Preschool Special Education Services - department collaboration - memorandum of understanding. The CDEC and CDE shall: support local implementation of best practices.

### Additional Resources

[Culturally Responsive Teaching](#) is a necessary starting point for engaging learners whose experiences and cultures are traditionally excluded from mainstream settings, this includes children with disabilities who are traditionally excluded from learning alongside peers. Culturally responsive teaching is an asset-based approach.

5. Special education and related services are embedded into classroom routines (unless otherwise specified on the IEP), and in collaboration between the general education teaching team, special educators, and special services providers.

### Citations/References

In accordance with the data collection requirements in section 618(a) of the Act, OSEP requires States to report on educational environments for preschool children with disabilities.

This data collection requires States to report on the number of preschool children with disabilities who attend a Regular Early Childhood Program and ***whether they receive the majority of hours of special education and related services in the Regular Early Childhood Program or another location.***

OSEP DCL, January 9, 2017

Special education and related services delivered in the child's classroom in the course of daily activities and routines in which all children in the classroom participate (e.g., "circle time" and "learning centers"), would be considered as being received in the Regular Early Childhood Program. However, services delivered in other locations that remove the child from the opportunity to interact with nondisabled children would not be considered as being received in the Regular Early Childhood Program. These include, but are not limited to, services delivered in a 1:1 therapeutic setting, or in a small group comprised solely of children with disabilities in another location within the building where the regular early childhood program is located.

### Additional Resources

Supporting standards can be found at [ECTA - Making Sound LRE Decisions](#) and [Indicators of High-Quality Inclusion](#).

6. Supplementary aids and services that are needed and identified in the IEP are provided to enable the child to receive benefit from the program and make progress in the curriculum.

### Citations/References

IDEA defines special education.

34 CFR §300.39 (b)(3) Specially Designed Instruction (SDI) refers to adaptations to the content, methodology or delivery of instruction that:

- Address the unique needs of a child that result from the child's disability
- Ensure access to the general education curriculum so that the child can meet the educational standards that apply to all children

## CDE Standards for Placement of Preschoolers with IEPs in Educational Programs

Exceptional Children's Educational Act (ECEA) Rules describe where services can be provided.

2.43(1)(a)(i) Instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings.

IDEA requires that the content of the child's IEP include information related to enabling the child to be involved in and progress in the general education curriculum.

34 CFR §300.320 (1)(i), how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children)

34 CFR §300.320 (1)(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities

34 CFR §300.320 (4)(ii) "...and a statement of the program modifications or supports for school personnel that will be provided for the child – to be involved in and make progress in the general education curriculum..."

### Additional Resources

Division of Early Childhood (DEC) of the Council for Exceptional Children supports high impact special education practices. The [DEC Recommended Practices](#) were developed to guide practitioners and families on the most effective ways to improve learning outcomes and promote the development of young children, birth through five years of age, who have or are at-risk for developmental delays or disabilities.

[7. The program collects, uses, and appropriately reports ongoing assessment data and summative reporting for Results Matter, Colorado's process for completing OSEP Indicator 7 \(Preschool Outcomes\) requirements. Personnel completing children's ratings on approved authentic assessment tools are current on their Inter-Rater Reliability.](#)

### Citations/References

[OSEP Annual Reporting for Preschool Outcomes \(Indicator 7\) CDE's Preschool OSEP Exit Data Collection](#)

IDEA requires all U.S. states and territories to report annually to OSEP on outcomes for preschoolers with disabilities as part of their Annual Performance Report (Indicator 7). Preschool Outcomes (Indicator 7) are tied to child progress between their entry and exit from preschool special education services. To meet this accountability requirement, teachers and administrators must follow specific records management procedures in their Results Matter assessment systems.

IDEA defines State's monitoring activities.

34 CFR §300.600 (b) The primary focus of the State's monitoring activities must be on—

- (1) Improving educational results and functional outcomes for all children with disabilities; and
- (2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

### Additional Resources

Definition Indicator 7 [20 U.S.C. 1416 (a)(3)(A)] - Percent of preschool children aged 3 through 5 with IEPs who demonstrate improvement in the following areas:

Indicator 7A. Positive social-emotional skills (including social relationships)

Indicator 7B. Acquisition and use of knowledge and skills (including early language/ communication and early literacy)

Indicator 7C. Use of appropriate behaviors to meet their needs

CDE Web Page, [Indicator 7 - Preschool Outcomes](#)

## 8. The program implements an evidence-based curriculum aligned with Colorado Academic Standards and the Early Learning and Development Guidelines.

### Citations/References

IDEA defines the purpose of Special Education.

34 CFR §300.39 (b)(3)(ii) Special education. To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

34 CFR §300.320 (2)(i)(A) Definition of individualized education program. A statement of measurable annual goals, including academic and functional goals designed to—Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum.

U.S. Dept. of Education Office of Special Education, Dear Colleague Letter, [Nov. 16, 2015 Guidance on FAPE](#)

To help make certain that children with disabilities are held to high expectations and have meaningful access to a state’s academic content standards, we write to clarify that an individualized education program (IEP) for an eligible child with a disability under the Individuals with Disabilities Education Act (IDEA) ***must be aligned with the State’s academic content standards for the grade in which the child is enrolled.***

### Additional Resources

DCL, January 9, 2017, noted above was written to *“reaffirm the position of the U.S. Department of Education (ED or Department) that all young children with disabilities should have access to inclusive high-quality early childhood programs where they are provided with individualized and appropriate supports to enable them to meet high expectations.”* that previously outlined in the DCL November 16, 2016 Guidance on FAPE cited in this section.

CDE Web Page, [Colorado Academic Standards for Preschool](#)

[Questions and Answers Addressing the Needs of Children with Disabilities and the Individuals with Disabilities Education Act's \(IDEA's\) Discipline Provisions](#), OSEP Q&A, July 19, 2022 - Some States and early childhood programs have adopted more stringent rules regarding the disciplinary removal of preschool-aged children from their programs and... Such practices recognize the significance of lost instruction and support to young learners’ development. For example, Head Start’s Program Performance Standards explicitly state that programs “must prohibit or severely limit the use of suspension due to a child’s behavior” and that “[a] program cannot expel or unenroll a child from Head Start because of a child’s behavior.”

Preschool programs designated by the public school system as a provider of IDEA services must follow the specific disciplinary provisions that apply to all children ages 3 to 21 with an IEP. These apply whether the child attends a public preschool program operated by the school district, or a preschool program operated by public agencies other than a school district (such as Head Start or community-based childcare), as well as those placed in a private preschool program by the school district to ensure the provision of FAPE.

C.R.S. §22-33-106.1 limits the suspensions and expulsions of children in grades preschool through second grade and requires districts to report on any children in these grades who are removed from class, suspended or expelled, and the incident that led to the disciplinary action.

9. When the educational program is not provided directly by the AU or school district, the AU has an MOU in place to ensure expectations of each party are explicit and accountability of these standards is maintained.

### Citations/References

C.R.S. §22-20-102 (3) It is further the intent of this part 1 to ensure that there is a coordination of all services available to children with disabilities and to promote interagency operating agreements or contracts between administrative units, other public agencies, nonprofit organizations, and approved facility schools for the provision of appropriate services for children with disabilities.

OSEP DCL, January 9, 2017, clarifies a continuum of placements.

State educational agencies and Local Educational Agencies (LEAs) should engage in ongoing short- and long-term planning to ensure that a full continuum of placements is available for preschool children with disabilities. To achieve this goal, a variety of strategies, including staffing configurations, community collaboration models, and professional development activities, that promote expanded preschool options are available.

### Additional Resources

[Dear Colleague Letter on IDEA Services in Head Start](#), October 5, 2022- OSEP and the Office of Head Start strongly encourage SEAs, LEAs, and Head Start programs to prioritize building and maintaining collaborative relationships to ensure that young children with disabilities eligible under IDEA Part B and enrolled in Head Start programs receive FAPE in the LRE. The companion document, [Guidance on Creating an Effective Memorandum of Understanding to Support High Quality Inclusive Early Childhood Systems \(2022\)](#), provides strategies and considerations to effectively formalize working partnerships.

[Questions and Answers Addressing the Needs of Children with Disabilities and the Individuals with Disabilities Education Act's \(IDEA's\) Discipline Provisions](#), OSEP Q&A, July 19, 2022 - IDEA's disciplinary protections are available to children with disabilities who attend public preschool programs operated by the LEA, those who attend preschool programs operated by public agencies other than LEAs (such as Head Start or community-based childcare), and those who are placed in a private preschool program by the LEA in order to ensure the provision of FAPE. When a child with a disability is placed in a program that is not operated by the LEA, it is critical that program staff are informed of relevant IDEA requirements, including the discipline protections afforded to preschool children with disabilities when their behavior does not meet school or program expectations.

## WHERE CAN I LEARN MORE?

### Full statutes and guidance available at:

- [Search IDEA Part B Statute](#)
- [Colorado Revised Statute Online](#)
- U.S. Dept. of Education Office of Special Education, Dear Colleague Letter, [January 9, 2017 Related to Preschool Educational Environments](#)
- U.S. Dept. of Education Office of Special Education, Dear Colleague Letter, [Nov. 16, 2015 Guidance on FAPE](#)
- U.S. Dept. of Education Office of Special Education, Q&A, [Questions and Answers Addressing the Needs of Children with Disabilities and the Individuals with Disabilities Education Act's \(IDEA's\) Discipline Provisions](#)

For more information, [Contact CDE Early Childhood Special Education](#)