



COLORADO
Department of Education



COLORADO
Department of Human Services

FREQUENTLY ASKED QUESTIONS

AU Notification Opt Out Policy for Children Transitioning from Early Intervention Colorado (Part C) to Preschool Special Education (Part B)

Overview

Administrative Unit (AU) Notification Opt Out refers to the process for giving families with a child potentially eligible for preschool special education an option to choose not to have Early Intervention (EI) Colorado notify the State Education Agency (SEA) and the AU in the area in which the child resides that the child may be eligible for preschool special education services. AU Notification Opt Out does not apply to children referred to EI Colorado fewer than 90 days prior to the child's third birthday. This document reviews common questions and answers related to AU Notification and the EI Opt Out Policy.

Relevant Terms

AU Notification –Notification sent to the AU by the CCB informing them of a child potentially eligible for preschool special education. The AU notification is the referral from EI Colorado to preschool special education.

Community Centered Boards (CCBs) – are non-profit agencies that serve individuals with disabilities and developmental delays from birth throughout the life span in the local community. There are [20 CCBs](#) across the State that contract with the Colorado Department of Human Services to provide early intervention services.

Personally Identifiable Information (PII), as used in Early Intervention Services means, but is not limited to:

- a) The infant or toddler's name; or,
- b) The name of the infant or toddler's parent or other family member; or,
- c) The address of the infant or toddler, or their family; or,
- d) A personal identifier, such as a Social Security Number or other biometric record; or,
- e) Other indirect identifiers such as the child's date of birth, place of birth, or mother's maiden name; or,
- f) Other information that, alone or in combination, is linkable to a specific infant or toddler by a person in the early intervention community, who does not have personal knowledge of the relevant circumstances, to identify the infant or toddler with reasonable certainty; or,
- g) Information about a child whose identity is believed by the Early Intervention Program to be known by the requester of that information.

Special Education Administrative Unit (AU) – the school district or board of cooperative services that is providing educational services to exceptional children and that is responsible for the local administration of Colorado's Exceptional Children's Education Act Rules.

Relevant Data:

Early Intervention Colorado Data Summary 2014-15	
Percent of children who exit Early Intervention and go on to receive Preschool Special Education	50%
Percent of children exiting Early Intervention evaluated for Preschool Special Education and found eligible	75%
Children in Part C who are considered “potentially eligible” for Part B at 2 years 3 months and therefore presented with AU Notification Opt Out	82%
Families with children determined to be potentially eligible for preschool special education who did not opt out of AU notification	91%
Families who opted out of AU Notification and later revoked that decision	27%
Families who first opted out and then revoked opt out whose transition activities were late or did not occur	57%

Frequently Asked Questions and Answers

What is AU Notification Opt Out?

The AU Notification Opt Out is an EI Colorado Rule which requires that EI service coordinators inform families, at the time that a child is approaching three years of age, of their procedural safeguard to prevent, through written request, the transmittal of personally identifiable information about his or her child and family, to the Special Education Administrative Unit (AU) and the Colorado Department of Education (CDE). The Early Intervention Rule states “The service coordinator shall, prior to notifying the special education Administrative Unit in which a child who is potentially eligible for preschool services resides and the Department of Education, inform the parent of the opt-out policy, as defined in Section 7.970, B”.

When a parent has made a written request to opt out of having the EI system notify the AU, the EI system does not share any information with the AU or CDE of the *potentially eligible* child. When the child turns 3 years old, EI services will discontinue without the child being referred by the CCB to the AU for Preschool Special Education. In those cases, the AU has no involvement in the child’s transition out of EI services.

Are all families in Early Intervention Colorado presented with the AU Notification Opt Out?

No, only families whose child has been determined to meet the *potentially eligible for preschool special education* criteria are presented with the AU Notification Opt Out. Children who do not meet the criteria of *potentially eligible for preschool special education* are not referred to the AU. Therefore, their families should not be presented with an opportunity to opt out of AU notification.

Additionally, children referred to the Early Intervention system fewer than 90 days prior to their third birthday are not presented with the AU Notification Opt Out.

How is *potentially eligible for preschool special education* (Part B under IDEA) defined in Early Intervention Colorado and how does it relate to the AU Notification Opt Out Policy?

A child *potentially eligible for preschool special education* services is defined as a child who is enrolled in EI services, and who has not met all outcomes on his or her Individualized Family Service Plan (IFSP) and/or is demonstrating a delay in any developmental domain, based on the expertise of a member of the IFSP team. The CCB is responsible for ensuring at least one member of the IFSP team review current assessment information and determine if a child is *potentially eligible for preschool special education* prior to presenting the AU Notification Opt Out to families. Most families of children receiving early intervention services meet the definition of *potentially eligible for preschool special education*. Families of children who do not meet the criteria as *potentially eligible for preschool special education* are not presented with the AU Notification Opt Out since a referral for special education is not appropriate.

Would there be a circumstance where a child referred as *potentially eligible for preschool special education* does not exhibit a developmental delay upon evaluation?

The CCB is required to notify the AU of all children that have been determined potentially eligible. The determination of *potentially eligible for preschool special education* occurs at one point in time, prior to the presentation of the Opt Out, between 2 years, 3 months and 2 years, 9 months. Some children may make substantial gains in development during the time in between the AU Notification and the Part B evaluation.

For Children referred to Early Intervention Colorado at least 90 days before the child's third birthday, when should the AU Notification Opt Out be presented?

If the family does not opt out, federal Part C regulations require that the AU Notification be made no fewer than 90 days, and no more than 9 months prior to the child's third birthday. Specific processes and timelines for AU Notification, between 90 days and 9 months prior, shall be agreed upon by the AU and CCB and defined in local interagency agreements. Children referred by EI Colorado to the AU at least 90 days prior to the child's third birthday are entitled to have eligibility for special education established and, when eligible, IEP services begin on or before the child's third birthday.

May a parent change their mind about AU Notification Opt Out?

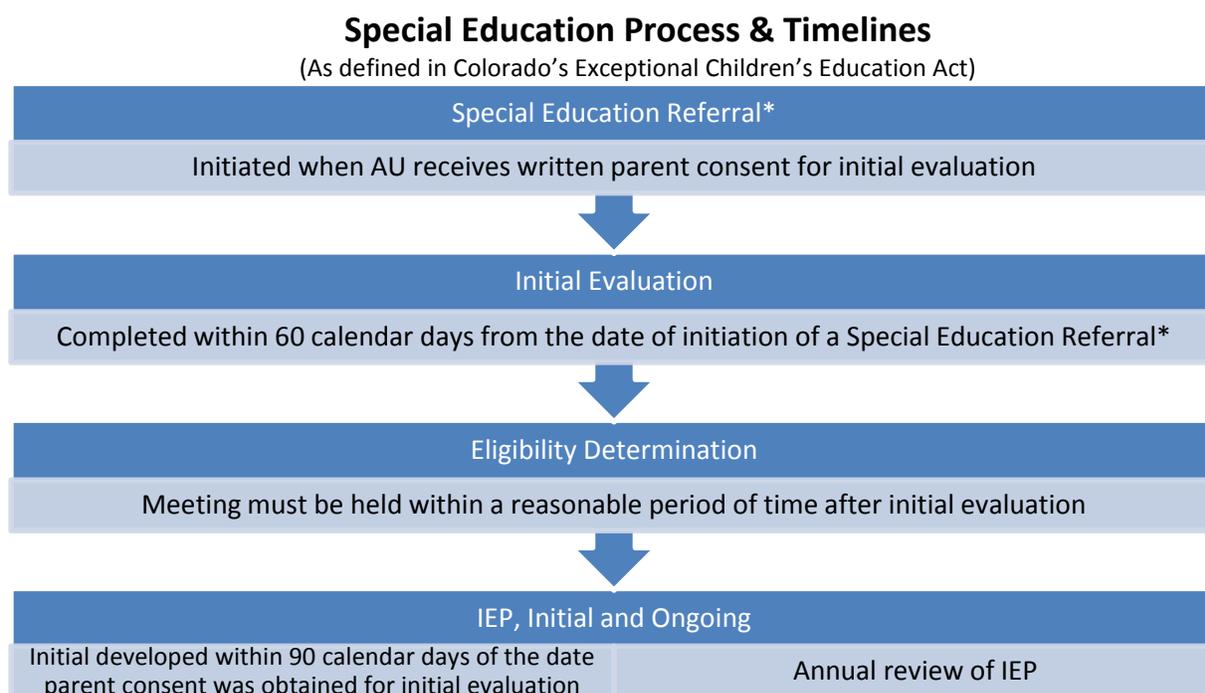
Yes, a parent may revoke his or her choice to opt out of AU Notification at any time by providing a written revocation to the CCB. A little more than one in four (27%) families who opted out later changed their minds and the LEA was subsequently notified.

What are the consequences of a parent revoking his or her choice to opt out of AU Notification?

When a family revokes his or her choice to opt out more than 90 days prior to the child's third birthday, the family is entitled to have eligibility established and, if the child is found eligible, an Individualized Education Plan begins on or before the child's third birthday. Ensuring timely AU notification of potentially eligible children allows families to consider their options for publicly funded preschool services and helps support a smooth transition between EI and Preschool Special Education services.

When a family revokes his or her choice to opt out fewer than 90 days prior to the child's third birthday, the AU may not be able to conduct evaluation, establish eligibility, and develop an IEP

before the child’s third birthday. Not surprisingly, the majority of families who revoked their opt out had transition activities conducted late or not at all. While the AU will do everything they can to respond within the window of time between the referral and the child’s third birthday, it is not reasonable to expect the AU to complete a process within a matter of days or a few weeks that can typically take several months. AUs follow specific evaluation and IEP service timelines and requirements under Colorado’s Exceptional Children’s Education Act (see special education process flow, below) which allow up to 60 days from the time the AU receives parental consent for evaluation, and up to 90 days for initial IEP development. Therefore, the closer the AU notification is made to the child’s third birthday, the less likely it is that the AU will be able to complete the evaluation, eligibility determination, and, for children found eligible, the initial IEP processes, before the child’s third birthday.



What should be communicated to families about their right to revoke AU Notification Opt Out?

All personnel working with children under age 3, from both EI and AU systems, are responsible for communicating to families consistently and accurately about what will happen once referred for preschool special education, as well as the allowable timelines for the activities. Below are some talking points that can be used to train EI and AU personnel:

- The closer to the child’s third birthday the family makes the decision to revoke AU Notification Opt Out, the less likely it is that the AU can perform required evaluation, eligibility determination, and initial IEP development by the child’s third birthday.
- Families need adequate time to learn about publicly funded preschool special education services and to understand the steps and timelines in the process for evaluation and eligibility determination
- Transition can occur in a more thoughtful and effective manner when the AU is given adequate time to provide needed information, resources and services to families.

- A parent may stop the process at any time and no evaluation or initiation of special education services can begin without parent consent.
- Creating the time needed for transition activities allows for children and their families to be more prepared for preschool special education and to better adjust to a new service setting. It gives sending and receiving providers more time to support the child and family prior to, during, and after transition.
- Colorado's Exceptional Children's Education Act (ECEA) Rules allow for a special education evaluation to be completed within 60 calendar days of the date that the AU receives written parental consent. The initial Individualized Education Plan (IEP), if the child is determined eligible, must be developed within 90 calendar days of the date that parental consent was obtained to conduct the initial evaluation.

What happens for families who do not opt out of AU notification?

Families with children determined to be *potentially eligible for preschool special education* who do not opt out of AU notification have basic referral information shared with the AU in which the child resides 10 days after the AU Notification Opt Out was presented. This sharing occurs without written consent from the family. Basic referral information includes the child's name, date of birth, and contact information for the parent(s). The EI service coordinator must ask parents who do not opt out if they would like to have additional current information regarding the EI services shared with the AU. It is helpful to communicate to the family that this additional information informs and may streamline the preschool special education evaluation process. This additional information may be shared with written parental consent and may include current assessment information, and a copy of the most current IFSP. Upon receipt of the AU Notification, the AU initiates the special education eligibility process.

When the AU is notified more than 90 days prior to the child's third birthday, the child's family is entitled to request an evaluation for special education eligibility determination, and, if found eligible, an IEP is implemented on or before the child's third birthday.

If a transition conference was held without an AU representative because the family initially chose to opt out of AU Notification, and later revokes their AU Notification Opt Out, must another transition conference be held to include a Preschool Special Education (Part B) representative?

No, there is no requirement to hold an additional transition conference if one already occurred. However, pertinent information about transition to publicly funded preschool special education should be shared with the family, and steps to transition the child smoothly to the new setting should be developed with the family. This information should be documented on the transition plan. The transition plan should be considered an evolving, individualized, and iterative plan, which is revised as needed throughout the transition process.

May the AU conduct screening prior to scheduling an evaluation for children referred to Preschool Special Education (Part B of IDEA) from Early Intervention Colorado (Part C)?

Screening may be conducted for children referred for special education in alignment with the State Rules for the Exceptional Children's Education Act and the federal Individuals with Disabilities

Education Act Regulations. Once a special education referral has been initiated, screening activities should be described in the IDEA Part B Prior Written Notice and parental consent must be obtained.

AU child find teams are encouraged to thoughtfully consider the purpose of conducting screening for children determined *potentially eligible for preschool special education*, as EI Colorado providers will have ongoing assessment, progress monitoring, and child outcomes data, all of which may inform the evaluation process for special education. Any EI Colorado information available should be considered as a part of the body of evidence for establishing eligibility for special education services.

Must AUs report data to CDE on children transitioning from Early Intervention Colorado to Preschool Special Education?

AUs report data to the Colorado Department of Education on children referred from Early Intervention in their End of Year collection. Data are reported at an aggregate level from the state to the U.S. Department of Education's Office of Special Education Programs for the State Performance Plan, under Part B Indicator 12, and is utilized as one factor in making AU Determinations.

AUs are required to report delay reasons in the following situations: a) the date of the evaluation is more than 60 calendar days from the date parent consent for evaluation was received; b) the initial eligibility meeting is held after the child's third birthday; and/or c) the child is over three years of age on the date the IEP was implemented. These data are analyzed by CDE against the child's third birthdate, the date of AU notification from the CCB, as well as other related data fields.

Are there allowable circumstances under which a child transitioning from early intervention is not entitled to have Part B services start on or before the child's third birthday?

AUs are required to report a reason for delay code in their end of year data collection for any child determined eligible for Part B services who received EI services immediately prior to the Part B evaluation and whose Part B services do not begin on or before the child's third birthday. There are allowable exceptions to having services in place on or before the child's third birthday, such as family request or the child's birthday not falling on a school day. In the 2015-16 End of Year Collection a reason code was added to indicate when the referral was not received at least 60 days prior to the child's third birthday from the CCB.

What data are reported to CDHS by CCBs related to children transitioning from Early Intervention Colorado to Preschool Special Education?

The following data indicators are reported to CDHS by CCBs: a) Date referred to the AU (required for children who are potentially eligible for preschool special education services); b) Reason for late notification; c) Opt out date; d) Transition plan date; e) Reason for late plan; f) Transition Conference date; g) Reason for late conference; h) Exit reason; and i) Exit date.

Relevant Resources:

- **Key Differences between Early Intervention and Preschool Special Education:**
<http://www.cde.state.co.us/early/candbcomparison>
- **CDE and CDHS Side by Side on Required and Permitted Roles of CCBs and AUs for Early Intervention Colorado (Part C) Implementation of Birth to Age 3 Child Find Requirements (see page 7 for Transition):** <http://www.cde.state.co.us/early/early/cfpreresources-0>
- **State of Colorado Interagency Agreement on Transition:**
<http://eicolorado.org/index.cfm?fuseaction=Policies.content&linkid=643>
- **Early Intervention Colorado Opt Out Policy:**
<http://www.eicolorado.org/index.cfm?fuseaction=Policies.content&linkid=643>
- **Early Transition Professional Learning Online modules:**
<http://www.cde.state.co.us/early/presped-pd-onlineselfpaced>

Relevant Legal Citations:

- **Early Intervention Federal Authority** 20 U.S.C., 1435(a)(4), 1436(d)(8), and 1437(a)(9); 34 C.F.R., Sections 303.209, 303.344(h), 303.211 and 303.401
- **Early Intervention State Authority:** 22-20-118(2), 27-10.5-103 (1) (a); 27-10.5-704(1)(d); and 27-10.5-705 (3) (b) C.R.S. (2014)
- **Early Intervention Colorado State Plan under Part C of IDEA, 2015:** 7.970 Transition Steps and Services
- **Special Education Rules & Regulations:** <http://www.cde.state.co.us/spedlaw/rules>

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