

14 - DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

197 BUREAU OF MENTAL RETARDATION

Chapter 4 JOINT REGULATIONS BETWEEN THE DIVISION OF SPECIAL EDUCATION, DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES AND BUREAU OF MENTAL RETARDATION, DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION.

SUMMARY: These regulations provide for the orderly transition of developmentally delayed children from preschool services to school programs and for the coordination of the delivery of services to mentally retarded children 5-20 by the Departments of Mental Health and Mental Retardation and Educational and Cultural Services and local school administrative units.

1. Statement of Purpose Basis Statement

These joint regulations have been developed in order that developmentally delayed children ages 0 to 5 and mentally retarded children ages 5 to 20 shall benefit from the appropriate range of services from the School Administrative Units, the Bureau of Mental Retardation and the Department of Educational and Cultural Services. Division of Special Education; to assure coordination of these services, to delineate clearly agency responsibilities; and to improve interagency communications and relations.

2. Parental Role

Permission from the child's parent(s)/legal guardian/ surrogate parent shall be obtained before any initial plan developed by the Pupil Evaluation Team will be implemented in accordance with any current statutory and/or regulatory requirements.

Permission from the child's parent(s)/legal guardian shall be obtained before any plan developed by the Interdisciplinary Team will be implemented in accordance with any current statutory and/or regulatory requirements.

3. Definitions

A. Bureau of Mental Retardation, Department of Mental BMR Health and Mental Retardation.

B. Child Development Worker - performs in-home programming CDW for the developmentally delayed children from birth to school entrance; coordinates with other agencies for the developmentally delayed children.

- C. Community Services Coordinator - serves school-aged CSC mentally retarded children and adults with primary focus being case management and not direct service.
- D.
 - (1) Children 0-5 years with demonstrated developmental delays Develop in two or more areas of development; and/or a delay in mentally the speech/hearing area, or, Delayed Children
 - (2) Children who have a specific diagnosis/disability which may interfere with their developmental growth, or,
 - (3) Children 0-5 years who can be considered at-risk for future developmental problems - the medically at risk, the environmentally disadvantaged, and the child with sensory, motor and/or mental disabilities.
- E. Department of Human Services DHS
- F. Division of Special Education, Department of Educational DSE and Cultural Services.
- G. The severity of the situation warrants an immediate Emergency change in living arrangement.

Placement

- H. Intermediate Care Facility for the Mentally Retarded. ICF/MR A facility may be licensed as an ICF/MR Nursing Home (medical) or an ICF/MR Group Home (non-medical).
 - (1) An ICF/MR Nursing home is a facility which meets appropriate State licensing requirements and federal certification requirements and provides in a residential setting at least 8 hours a day of licensed nursing supervision-which coordinates health treatment, rehabilitation and habilitation services for mentally retarded persons, or persons with related conditions to assist each individual to reach his/her maximum functioning capabilities.
 - (2) An ICF/MR Group Home is a facility which meets appropriate State licensing requirements and Federal certification requirements and provides a protective setting, 24 hours a day non-nursing supervision of the mentally retarded persons with related conditions to assure the coordination of habilitation, health and rehabilitation services to assist each individual to reach his/her maximum level of functioning capabilities.
- I. A team of persons established, and whose meetings are Interdisciplinary conducted, in accordance with professionally accepted standards and whose purpose is to evaluate a BMR client's Team needs and to develop an individual prescriptive program.

- J A joint meeting intended to incorporate both the IDT IDT/PET and PET procedures set forth by the respective State agencies with the further intention of encouraging a smooth transition with the decision-making process relating to individual children. IDT/PET joint procedures outlined in these regulations are not intended to supersede or replace current statutory requirements.
- K. Individual Program Plan. A detailed written plan that IPP outlines a BMR client's specific strengths/motivators, projects client's-growth for 3 to 5 years, enumerates client needs, outlines client goals and objectives along with an enumeration of service objectives to facilitate the implementation of the client's plan. The Individual Program Plan shall be formulated by an appropriately constituted Interdisciplinary Team.
- L. Administrative Unit. All legally constituted school administrative units (Community School Administrative Districts, individual towns, Education - Unorganized Territories, etc.).
- M. Legal Guardian. For the purposes of these regulations legal guardian shall be defined as the person having legal care and custody of the child age 0 to 18. Children who are 18 to 20 years of age are presumed to be their own guardian unless otherwise indicated.
- N. Mentally Retarded Children Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.
- (1) Subaverage intellectual functioning is defined as an intelligence quotient obtained by assessment with one or more of the individual administered general intelligence tests, e.g., Wechsler scales, Stanford Binet, Cattell or comparable tests. Individuals obtaining a score more than two standard deviations below the mean (average) score (approximate I.Q. score of 70) will be assessed as having subnormal intelligence.
- (2) Adaptive behavior is defined as the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group. Level of adaptive behavior shall be appropriately determined through the use of developmental scales such as AAMD Adaptive Behavior Scales, Vineland Social-Maturity Scales, Fairview Developmental Scale, Callier-Azusa

- (3) Supplemental Security Income S.S.I.- A program for blind, disabled, and the elderly which is based on income and resources. Monthly amounts are comprised of state and federal funds. For students younger than 18 living with their parents, parents' income is taken into account. For students older than 18 not living with their parents, any support from parents is taken into account. Anyone who received S.S.I. is eligible for Medicaid (Title 19). Funds generated by S.S.I. must first be used to meet basic human needs. Once these needs are met, the remaining funds may be used for additional purposes. Where designated by the Social Security Administration, BMR administers personal funds for some clients as representative payee.

T. Ward. A child who is in the legal custody of the Department State of Human Services.

U. Surrogate. A surrogate parent is an individual appointed by the Commissioner of the Department of Educational and Cultural Parent Services or his/her designee to act independently on behalf of an exceptional student in safeguarding that exceptional student's rights in the special education decision making process.

4. Eligibility and Referral

A. BMR determines eligibility of services based upon developmental delays (ages 0 - 5) and/or formal evaluation leading to diagnosis of mental retardation.

B. Each administrative unit determines eligibility (5 - 20) in accordance with PL 94-142 and 20 - A MRSA, Chapter 303.

C. Parents, school personnel or community professionals may initiate referrals to an administrative unit and/or to BMR by utilizing attached form for BMR (Appendix A) or by requesting a P.E.T. meeting within an administrative unit.

5. Cooperative Planning/Programming

A. Preschool

Preschool. Each administrative unit, BMR and DSE will work together to identify and locate preschool handicapped children. If the identification process leads to a referral and acceptance for BMR programming, then the CDW may have direct involvement in home programming prior to school entrance. In those areas where preschool handicapped coordination projects are in place, existing procedures shall be utilized.

Where preschool coordination projects do not exist, BMR (through its regional offices and the Infant Development Center) and DSE (in conjunction with the affected administrative units), will use the following procedures to assure the at transition of developmentally delayed children into public schools occurs in planned and organized manner.

(1) BMR

- a. Shall report the existence of developmentally delayed children (0-5) to preschool handicapped coordination projects in December of each year. Where preschool handicapped coordination projects do not exist, BMR shall report to administrative unit's personnel in December of each year.
- b. May arrange for development of an IPP by December of each year for children who will be school age that following year.
- c. Shall notify members of the IDT, including the administrative unit and/or preschool personnel, of the IDT meeting.
- d. Shall indicate the severity of the child's handicapping condition and the probability of the child's participation in an existing administrative unit's program.
- e. Shall seek parental permission for the release of BMR information to the appropriate administrative unit.
- f. Shall assure, at the IDT meeting, that transitional plans for entering the education system are developed with assigned responsibilities for implementation.
- g. Shall transfer all records to appropriate administrative unit by March 1st of each year, if permission of the child's parent/legal guardian is obtained.

(2) Each Administrative Unit Shall:

- a. Determine the need for P.E.T. prior to the child entering school in the fall after preschool screening (conducted by an administrative unit or preschool project with BMR assistance as appropriate) and after receiving the information from BMR outlined in 5 A).

- b. Notify the child's BMR worker, if a P.E.T. is to be held, to determine the need for additional information or further transitional plans.
- c. Invite the child's BMR worker to participate in any P.E.T. arranged during the child's first year to evaluate and monitor the child's program and make recommendations concerning the continued involvement of BMR.

B. School Age 5-20 General

Each administrative unit, BMR and DSE shall work together to assure that cooperative planning occurs for the delivery of appropriate services to their shared client population. The following regulations describe the responsibilities of each party in carrying out the cooperative planning effort.

(1) Each Administrative Unit shall:

- a. Refer child to BMR as child's needs dictate (Form Appendix A).
- b. Notify parents/legal guardian/surrogate parent of the BMR referral for children under 18 years of age.
- c. Coordinate, through the P.E.T. process, with the consent of the parent/legal guardian, the BMR worker's involvement, upon BMR referral acceptance
- d. Reassess the student's need during his/her 16th year and each subsequent year until completion of a high school program.
- e. Participate in a joint P.E.T./IDT meeting, by December of the student's last year, held to develop a transition plan for the student/client from his/her educational program to adult services.

(2) BMR shall:

- a. Accept referrals based upon: 1) the presence of mental retardation; 2) the granting of permission by the parents or legal guardian; and 3) the need for services or the need for planning for an adult program.

- b. Participate, with consent of the child's parent/ legal guardian in the P.E.T. to determine level of BMR involvement.
- c. Provide liaison between home and school as appropriate.
- d. Assist in the continuity of the program outside the school day.
- e. Share evaluation data among the agencies with the consent of the child's parent/legal guardian.

(3) IDT/PET shall:

- a. Discuss the educational and residential needs of the student.
- b. Assign responsibility for the development, location and facilitation of both the educational and residential placement. The principle of least restrictive environment shall apply.
- c. Stress proximity of the program, least restrictive environment and transportation in its decision-making process.
- d. Reconvene within 30 days to approve the placement, if mutually acceptable educational and residential alternatives are located and placement has occurred.
- e. Reconvene if mutually acceptable educational and residential alternatives cannot be located to determine the optimal educational/residential placement from the alternatives located.
- f. Determine transition plans and assign responsibilities.
- g. Discuss feasibility, time frames, and/or strategies for the child's eventual return to his/her family, once placement is made outside of the natural home.
- h. Report annually to the Special Education Director on progress made toward attaining the goal of return to the family.

(4) The State Department of Educational and Cultural Services shall:-

- a. Be responsible for arranging financial support for educational costs (DECS).

- b. Determine responsibility, if a conflict over administrative unit responsibilities arises, as provided under 20 MRSA, Chapter 213.

D. Conflict

If a conflict arises over which administrative unit is responsible for delivering special education services, the administrative unit in which the child's legal guardian is physically residing is encouraged to assume temporary financial and programmatic responsibility until such conflict can be resolved.

Determination of responsibility shall be made by the Commissioner of Education, as provided under 20-A MRSA, Chapter 213.

E. Planned Client/Student Respite Care:

If scheduled respite care will cause more than one consecutive week's absence from school, the BRM case worker and the Director of Special Education shall determine type and amount of interim service need and shall jointly coordinate the procurement of educational service. If the respite care is more than one week and not in the context of a state institution, this shall constitute a change in placement and a P.E.T. shall be convened.

F. Community placement out of BMR Institutions.

- (1) May make community placements from BMR institutions for non-educational reasons.
- (2) Shall define and describe the child's placement needs through the IDT process.
- (3) Shall identify specific institutional and regional staff responsible for locating appropriate residential and educational placement through the IDT process.
- (4) Shall notify the sending school and administrative unit (where the child originated) when a specific, tentative placement is located. Such notification shall be by the assigned BMR worker.
- (5) Shall convene an IDT/P.E.T. once tentative residential and education placements are located and invite both sending and receiving school districts to attend.

- (6) Shall make available, upon request, educational staff from the institution to assist with program design and transition before and after the actual placement.

G. Emergency Placements

(1) BMR shall:

- a. Notify the administrative unit of the request for emergency placements, if time permits, to enable its Special Education Director and the case worker to discuss events leading up to the request.
- b. Consult with the administrative unit's Special Education Director on types of emergency placements that could meet both the residential educational needs of the student/client.
- c. Notify the administrative unit's Special Education Director within 2 working days of the placement, if time does not permit prior consultation, and indicate the expected duration of the placement.
- d. Convene an IDT/P.E.T. within 10 days of the emergency placement to address residential and educational plans, if the placement constitutes a change in the IPP/IEP.
- e. Be responsible for arranging/coordinating any available financial support for the board/care and treatment components of the program.

(2) The Administrative Unit shall:

Convene an IDT/P.E.T. within 10 days of the emergency placement to address residential and educational plans, if the placement constitutes a change in the IPP/IEP.

(3) The Department of Educational and Cultural Services, Division of Special Education, shall:

Be responsible for arranging financial support for educational costs.

H. Educational Placement

(1) The Administrative Unit shall:

- a. Have primary fiscal responsibility for the board/care and educational components of the placement for children not in custody of the Department of Human Services.
 - b. Assure implementation of all procedural safeguards in accordance with federal and state statutes.
- I. Placement of a Child in the Care and Custody of the Department of Human Services

This sub-section covers children in the care or custody of the Department of Human Services who are placed in a special purpose private residential school or residential treatment facility.

State P.E.T. shall accept transfer from an administrative unit of all the responsibilities as outlined in these regulations at the end of the first year of placement.

6. Due Process

The appeal procedures shall be the same procedures currently used by the Division of Special Education. 20 - A MRSA § 7207.

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 15, 1996

APPENDIX A

REFERRAL TO BUREAU OF MENTAL RETARDATION

NAME: _____ D.O.B. _____

Parents Name/Address/Phone Number:

Administrative Unit's Contact
Person/Address/Phone Number:

Handicapping Condition: _____

Brief Description of Current Services: _____

Services Being Requested from BMR: _____

Is Family Aware of Referral? _____ YES _____ NO

Comments: _____

APPENDIX B

NOTIFICATION OF IDT (Preschool Children)

Child: _____ D.O.B. _____

Parents Name/Address _____ CXC/CDW _____
_____ Address: _____
_____ Tel. _____

Handicapping, Condition: _____

Brief Description of current services: _____

Date: _____ Place _____ Time _____
 (attached is explanation of IDT process).

RESPONSIBILITY GRID FOR IEP/ITP COMPONENTS

| | <u>BMR CDW</u> | <u>BMR CSC</u> | <u>LEA</u> | <u>DSE</u> |
|---|--------------------|------------------------------|-----------------|------------|
| Home based special instruction for developmentally delayed students | P | N | N | N |
| School based special program 3-5 yr. | P/S | N | P if avail.) | S |
| Family Support | P (0 - 5) | P (5-on) | S (5-20) | N |
| Medical Services | P (0 - 5) | P | N | N |
| Specialized Education) (5-20) | N | N | P | S |
| Related Services - Speech, OT, PT | P (0 - 5) | S | P | S |
| Evaluations | P (0 - 5) | P | P | S |
| Program Evaluation: | | | | |
| a. I.E.P. | S | S | P | S |
| b. I.P.P. | P | P | S | N |
| Referral to Vocational Rehabilitation | N | P (20 on) S (16 on) | P | N |
| Vocational Options or Adult Program | N | P | N | N |

| | | | | |
|---|---|---|---|---|
| Placement in Residential or Foster Home Non-State Ward | P | P | N | N |
| Advocacy | P | P | P | P |
| Placement in ICFMR's | P | P | N | N |

P - Primary
S - Secondary