

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER a: SERVICE DELIVERY

**PART 314**  
**EDUCATIONAL SERVICES**

**Section**

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AUTHORITY NOTE: Implementing the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, pars. 5005, 5012 and 5012.1)[20 ILCS 505/5,12 and 12.1].

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**Section 314.10 Purpose**

Under federal and state laws, children are entitled to a free, public education appropriate to their needs. Those unable to benefit from the education experience without additional supports are entitled to special education services. These rights extend to all children, including those for whom the Department of Children and Family Services is legally responsible. The purpose of these rules is to identify the regular education, special education, and preschool education services which must be provided to children for whom the Department is legally responsible.

**Section 314.20 Definitions**

**"Case Study Evaluation"** means the assessment activities performed by the responsible public school district in accordance with 23 Ill. Adm. Code 226, Special Education, to determine a child's eligibility for special education services.

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**"Department"** means the Illinois Department of Children and Family Services.

**"Early Intervention (EI) Services"** means those developmental/educational, social, and health services provided to developmentally delayed infants and toddlers (0 to 3 years of age) designed to maximize their development and eventual independence. Early intervention services include, but are not limited to: speech and language services, occupational therapy, physical therapy, social work, case management, medical/health services, psychological services, transition services, therapeutic day care, and respite services. Early intervention programs may serve children who are developmentally delayed, have conditions that typically result in delay, or are at risk of substantial developmental delay.

**"Education Assessment"** means an ongoing process by which a caseworker reviews the child's education history and identifies current educational needs for further assessment by a public school district or early intervention program.

**"Exceptional Children"** means all children designated by 23 Ill. Adm. Code 226 as eligible for special education programs and services pursuant to Article 14 of the School Code (Ill. Rev. Stat. 1991, ch. 122, pars 14-1.01 et seq.) [105 ILCS 5/Art. 14].

**"General Education Development or GED Programs"** means those programs provided by school districts and community colleges to prepare students for a high school equivalency certificate.

**"ISBE"** means the Illinois State Board of Education.

**"Individualized Education Plan/Program (IEP),"** means the document prepared by the public school district pursuant to 23 Ill. Adm. Code 226 which identifies the specific special education services, class placement, and related services that will be provided to a child. The IEP also includes education goals, and service frequency, quantity and duration. The services delineated in the child's IEP are based on the results of the multidisciplinary conferences conducted by the public school district.

**"Initial Health Screening"** means a screening conducted by a physician or other provider qualified under Illinois law to furnish primary medical and health services. The initial health screening shall be completed within 24

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hours after the commencement of temporary protective custody and shall be of sufficient scope to permit the Department to ascertain enough about the current health of the child to identify:

any health needs requiring immediate attention, and

any health information needed to make an informed placement decision.

**"Multidisciplinary Conference (MDC)"** means a meeting of personnel from various disciplines, including but not limited to psychology, education, social work, health, etc., to determine a child's eligibility for special education services.

**"Pre-Kindergarten Programs for Children at Risk of Academic Failure (Pre-K)"** means discretionary, developmentally appropriate, education programs provided by school districts to children ages 3 to 5 who do not qualify for early childhood special education, but who are at risk of academic failure. Pre-kindergarten program components include: screening, education, parental involvement and evaluation.

**"Special Education"** means those instructional and resource programs and related services, unique materials, physical plant adjustments, and other special educational facilities described or implied in Article 14 of The School Code which, to meet the unique needs of exceptional children, modify, supplement, support, or are in place of the standard educational program of the public schools, The term includes speech pathology and vocational education when such are incorporated into the IEP.

**"Surrogate Parent"** means a person (generally the foster parent or relative caretaker) appointed by the Illinois State Board of Education to serve as the ward's educational advocate in accordance with 23 Ill. Adm. Code 226. The surrogate parent has the authority to sign the request for case study evaluation, consent for the case study evaluation, initial educational placement, and educational reevaluations for Department wards. The surrogate parent is also the person authorized to access the Illinois State Board of Education due process system for children for whom the Department is legally responsible.

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**"Tutoring Services"** means child specific, one-on-one or group instructional services designed to support and supplement the child's educational growth and development. These services are generally provided to address some type of academic problem (i.e., failing grade(s), class deficiency report(s), behind in grade level).

### Section 314.30 Education Policy

- a) The Department shall make reasonable efforts to ensure that all children in Department custody are enrolled in school within two school days after being taken into custody, or being moved to a new placement requiring a change in schools. In no event will any child remain unenrolled by the Department for more than five school days. These reasonable efforts shall include, but are not limited to: requesting school records from previous schools, assisting the caretaker in the enrollment process, and arranging for transportation.
- b) The Department shall make a determination as to whether it is in the best interest of the child to continue enrollment in the current school, even though the child has been moved to a placement outside of the school district. If the child is enrolled in a special education program, the Department shall ask the current school to convene immediately an IEP conference to determine whether the child should continue in the current school. If it is determined that the child should remain in the current school, the Department will advocate with the appropriate school district or other appropriate governmental entity for the provision of transportation to maintain such a ward in his/her current school. Where a change of school would cause serious educational or emotional harm to the child, the Department shall assure the provision of transportation to maintain the child in his or her school.
- c) Foster parents or other caregivers shall be responsible for giving consents for the following school related activities: field trips within the state of Illinois, routine social events, school enrollment, sporting events, and cultural events. For other situations that arise which require a consent from a child's parent or guardian, the Department shall be contacted. For situations relating to special education services, the Department and the surrogate parent must be contacted. Surrogate parents appointed by Illinois State Board of Education are the only persons authorized to provide consent to special education services.

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- d) Children for whom the Department is legally responsible who are eligible for special education services are entitled to receive the protections, services, and due process provided under state and federal laws. The Department shall make all reasonable efforts to ensure that such children are classified as eligible for special education services only in accordance with mandated case study evaluation practices provided under State and federal law (23 Ill. Adm. Code 226, Special Education and 20 U.S.C. 1400 et seq., Individuals with Disabilities Education Act).
- e) Children for whom the Department is legally responsible shall not be deprived of planned family or sibling visitation or other family contact as punishment for school performance or for conduct at school.
- f) Children for whom the Department is legally responsible shall not be enrolled in GED programs in lieu of enrollment in a regular secondary school program.
- g) Tutoring services shall not be used in lieu of school attendance except where indicated by an exercise of judgement by an educational, psychological, developmental or medical professional and documented in the child's education plan.

### **Section 314.40 Educational Assessment**

- a) The Department will provide an educational assessment for all children entering Department custody. This assessment, part of the comprehensive assessment, shall be completed sufficiently in advance of the case plan to incorporate the contents of the assessment into the case plan. If an equivalent evaluation is being used, the written results of this assessment may be received after preparation of the case plan, but in no event more than 60 days after DCFS receives court-ordered temporary custody. The educational assessment shall include the following minimum components:
  - 1) identification of the child's current school and grade level;
  - 2) the child's educational history (including a determination if the child has in the past, or is currently, receiving any early intervention, pre-kindergarten, or special education services);

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- 3) an identification of educational goals, educational needs, identifiable educational problem(s), and the need for a case study evaluation; and
  - 4) a review of the child's medical history, and medical screening report, including results of initial vision and hearing screening.
- b) The educational assessment shall include any additional testing, evaluations, or screenings that may be appropriate, provided, however, that any special education needs shall be assessed and met in conformity with applicable state and federal law (20 U. S. C. Sec. 1400 et seq., Individuals with Disabilities Education Act, and 23 Ill. Adm. Code 226, Special Education).

### **Section 314.50      Education Plan**

- a) The Department shall prepare an education plan (as part of the client service plan) for each child in custody. The education plan shall assure that a child, while in Department custody, receives a public education of a kind and quality comparable to the public education provided to children not in Department custody. The education plan shall be completed within 30 days after commencement of court-ordered temporary custody.
- b) If a child three and over is not currently enrolled in school, the plan shall provide for when and how the child will be enrolled, and how the child's educational needs will be met prior to such enrollment. Children should be enrolled within two days after entering Department custody or being moved to a new placement requiring a change in schools. In no event will any child remain unenrolled by the Department for more than five school days.
- c) The education plan shall contain the following minimum information:
  - 1) Identification of the school in which the child is enrolled;
  - 2) How each specific educational problem, need, or goal (as identified in the educational assessment) will be addressed; and

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- 3) What, if any, services or other supports will be needed, and how such services or supports will be provided.
- d) The education plan shall be re-evaluated every six months in conjunction with the client service plan.

### **Section 314.60 Special Education**

- a) Children for whom the Department is legally responsible will be classified as eligible for special education services only in accordance with mandated case study evaluation practices and multidisciplinary conferences provided under state and federal law. Furthermore, no child should be considered or determined eligible for special education services solely on the basis of his or her placement or other living arrangement, or the fact that he or she is in the custody or guardianship of the Department of Children and Family Services.
- b) Children for whom the Department is legally responsible who are eligible for or receiving special education services are entitled to have a surrogate parent appointed for them by the Illinois State Board of Education (ISBE) to serve as their educational advocate in accordance with 23 Ill. Adm. Code 226.

### **Section 314.70 Pre-school Education**

The Department will ensure that children for whom the Department is legally responsible receive the same access to pre-school education programs as would be available to eligible children not in the custody of the Department. In meeting this obligation, the Department shall make all reasonable efforts to enroll all wards meeting the enrollment criteria of individual pre-school education programs available at no cost or at nominal cost to the Department. For purposes of this Part, pre-school education programs include early intervention services, pre-kindergarten programs for children at risk of academic failure (Pre-K), pre-school special education programs and Head Start.

### **Section 314.80 School Records**

Individual child case records shall contain current information concerning the child's school and progress in school, educational history, basic educational screening, and copies of the child's individualized educational plans. The Department shall ensure that a current immunization record is contained in the case record or health passport for each child, and will ensure that a current immunization record is promptly available to personnel responsible for enrolling the child in school.

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### **Section 314.90 Administrative Case Reviews**

- a) The initial administrative case review conducted pursuant to 89 Ill. Adm. Code 305, Client Service Planning, shall include the following:
  - 1) a determination as to whether an education plan has been developed for the child;
  - 2) a determination as to whether the child is currently enrolled in school;
  - 3) if the child is not currently enrolled in school, a determination whether there is adequate documentation of the reasons why the child was not enrolled in school and what other plans have been made to ensure that the child receives an appropriate education; and
  - 4) a determination whether the educational screening required by this Part has been completed.
  
- b) At each subsequent administrative case review, the following items shall be considered:
  - 1) the current educational status of the child, including the progress made on the education plan;
  - 2) any information received from the teacher(s) for the child with regard to the child's current educational status;
  - 3) identification of educational concerns and the need for support services.

### **Section 314.100 Education Expenses**

The Department shall ensure the provision of education related services outside the mandated responsibility of public school districts or the Illinois State Board of Education. Foster parents shall not bear the financial burden of any charges associated with a child's education.