



## MONTANA STATE HOSPITAL POLICY AND PROCEDURE

### SPECIAL EDUCATION SERVICES

**Effective Date:** August 5, 2015

**Policy #:** SS-02

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- I. PURPOSE:** To ensure that patients up to the age of 19 at Montana State Hospital (MSH) have been assessed for special education services and provided these services.
- II. POLICY:** MSH identifies patients who meet the Office of Public Instruction (OPI) Criteria for special education services. Patients at MSH who are under 19 years of age by September 10 of the current school year and desire special education services will be served by special education teachers for the duration of their stay at MSH according to a Memorandum of Understanding (MOU) with the Anaconda School District.
- III. DEFINITIONS:**
- A. Child with a Disability – A child evaluated in accordance with the regulations of the Individuals With Disabilities Education Act as having a disability and who because of the disability needs special education and related services.
  - B. Special Education – Specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.
  - C. IDEA – Individuals with Disabilities Education Act, a federal law.
  - D. FAPE “Free Appropriate Public Education” – special education and related services that:
    - 1. Are provided at public expense under public supervision and direction and without charge;
    - 2. Meet the accreditation standards of the board of public education, the special education requirements of the superintendent of public instruction, and the requirements of the Individuals With Disabilities Education Act;
    - 3. Include preschool, elementary school, and high school education in Montana; and
    - 4. Are provided in conformity with an individualized education program that meets the requirements of the Individuals With Disabilities Education Act.
  - E. Patient or Guardian – If the patient is an adult without a guardian, the term “patient or guardian” refers to the patient. If the patient is a minor or has a guardian, the term “patient or guardian” refers to the guardian.

- F. IEP – Individual Educational Program designed to deliver FAPE to a student.
- G. IEP Team – An interdisciplinary team which includes the patient, the patient’s guardian, a special education teacher and other members including key members of the patient’s MSH Treatment Team, as appropriate to determine the services necessary to provide FAPE under an IEP to a child with a disability while admitted to MSH.

**IV. RESPONSIBILITIES:**

- A. Social Work Manager – Train social workers to immediately identify patients who may be eligible for special education services at MSH and make appropriate referrals.
- B. Rehabilitation Services Program Manager – Serve as a liaison between MSH and the Anaconda School District; provide support, accommodations, and arrangements for special education teachers and their services; keep the MOU up to date; and forward invoices for approval and payment.
- C. Social Workers- Immediately identify patients who may be eligible for special education services at MSH and make appropriate referrals to the Anaconda School District.
- D. Rehabilitation Services Administrative Assistant – Assist with identifying patients who may be eligible for special education; and assist social workers in maintaining a database of student information.

**V. PROCEDURE:**

- A. When a patient is admitted to MSH, the Rehabilitation Services Administrative Assistant will:
  - 1. Assist with the identification process of patients up to 19 years of age by September 10 of the current school year. Monitor the information in the Special Education Spreadsheet in the electronic health record. The spreadsheet will include the hospital unit, name, date of birth, age, admission date and assigned social worker.
  - 2. Inform the assigned social worker, Social Work Manager and Rehabilitation Services Program Manager that the patient may meet the criteria for special education services.
  - 3. Monitor the Special Education Spreadsheet on a monthly basis to ensure all information is current and accurate. If information is not correct, the Rehabilitation Services Administrative Assistant will notify the Social Work Manager. The assigned social worker will update the spreadsheet at least monthly to reflect the patient’s special education status.

- B. The patient's social worker will complete the Initial Social Assessment within 7 days of admission per policy. As part of the Social Assessment, the social worker will discuss education history, educational interests, and potential need for special education services. If the patient does not have a High School Diploma and is 19 years of age or younger, the social worker will inform the patient or guardian that the patient has an opportunity to receive special education services while at MSH.
- C. If the patient or guardian indicates an interest in special education, and the patient meets the eligibility criteria, the social worker will obtain consent using the Request for Transfer of Student Records and Informed Consent for Evaluation for Special Education (see attachments). The social worker will contact the Anaconda School District to request special education services. The date of consent and contact with the School District will be entered into the Special Education Spreadsheet by the social worker.
- D. The patient or guardian has the right to refuse special education services. If the patient or guardian refuses to sign the consent form, the refusal will be noted by the patient's social worker in the Initial Social Assessment or progress notes. The patient's or guardian's interest in special education services will be considered during the periodic treatment plan reviews, noted in the social work progress notes, and documented in the Special Education Spreadsheet.
- E. The social worker will contact OPI, or use the OPI AIM (Achievement in Montana) data system after access and training has been provided by OPI, to obtain school records. If records cannot be accessed through the AIM system, the social worker will send the Informed Consent for Release of Education Records and Request for Transfer of Student Records directly to the school identified by the patient or guardian as last attended. Documentation will be provided within the Special Education Spreadsheet.
- F. When records are received, the social worker will forward the records to the Anaconda School District for review of the patient's eligibility for FAPE. If education records are not received within 30 days from admission, or if the patient's education records are received but do not indicate special education eligibility, the social worker will contact Anaconda School District and request an evaluation to determine the patient's eligibility for FAPE under IDEA. During the evaluation process, MSH staff will cooperate with Anaconda School District staff to provide records and staffing for interdisciplinary input to complete the evaluation.
- G. If, after review of records and/or evaluation by the Anaconda School District, the patient is found eligible for FAPE, the social worker and the Anaconda School

District will facilitate the convening of an IEP Team including appropriate MSH staff.

- H. If, after review of records and/or evaluation by the Anaconda School District, the patient is found not eligible for FAPE, the social worker will provide written notice of ineligibility to the patient and guardian and enter the notice in the patient's chart and on the Special Education Spreadsheet.
- I. The patient's IEP will be prepared by the Anaconda School District's assigned Special Education Teacher with the input of the IEP Team, and will cross-reference and be coordinated with the patient's treatment plan. The patient's treatment plan will be prepared by the treatment team and will cross-reference IEP services as part of the patient's long term goals, short term goals, and interventions. The treatment team will coordinate the treatment plan with the IEP to include overlapping issues of behavior, secondary transition, discharge planning, and other treatment activities or interventions.
- J. The patient's medical record will reflect the patient's eligibility for FAPE, the patient and guardian's consent, as well as the patient's ability and willingness to participate in special education services.
- K. Special Education services will be implemented with considerations regarding the safety, stability and ability of the patient to participate, as determined by the treating Licensed Independent Practitioner (LIP) and treatment team.
- L. The Social Work Manager, in collaboration with the Director of Quality Improvement, will audit all records for this patient population at MSH to assure that procedures have been followed. The Special Education Spreadsheet will be reviewed monthly during the social work staff meeting, to confirm that it includes each patient's current status, services, and/or achievement of goals. For any patient, who for any reason, is not participating in special education (e.g. discharge, lack of consent, decision to terminate, aged out, completes IEP and qualifies for diploma) the spreadsheet will be updated for that month and the patient dropped from the next month's spreadsheet.
- M. The Social Work Manager, in collaboration with the Director of Quality Improvement, will monitor this process through a Utilization Review report and provide feedback and training to the social workers to ensure that all patients who meet criteria described above are receiving special education services. The Social Work Manager will also keep on file a copy of the monthly reviewed spreadsheet.

**VI. REFERENCES:** 20 U.S.C. § 1400 et seq., 34 CFR Part 300 et seq.; Title 20, Chapters 1-10, M.C.A., A.R.M. 10.16.101 et seq. Memorandum of Understanding Between Montana State Hospital & School District #10 – Special Education Services.

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- VII. **COLLABORATED WITH:** Director of Clinical Services, Social Work Manager, Office of Legal Affairs Attorney, Rehabilitation Services Program Manager, OPI.
- VIII. **RESCISSIONS:** #SS-02, *Special Education Services* dated August 1, 2011
- IX. **DISTRIBUTION:** All hospital policy manuals.
- X. **ANNUAL REVIEW AND AUTHORIZATION:** This policy is subject to annual review and authorization for use by either the Administrator or the Medical Director with written documentation of the review per ARM § 37-106-330.
- XI. **FOLLOW-UP RESPONSIBILITY:** Director of Clinical Services
- XII. **ATTACHMENTS:**
  - Attachment A – Informed Consent for Release of Education Records;
  - Attachment B – Request for Transfer of Student Records;
  - Attachment C – Special Education Revocation Consent;
  - Attachment D – Special Education Prior Written Notice Revoke Consent;

\_\_\_\_\_/\_\_\_\_/\_\_\_\_  
 John W. Glueckert                      Date                      Time  
 Hospital Administrator

\_\_\_\_\_/\_\_\_\_/\_\_\_\_  
 Drew Schoening                      Date                      Time  
 Director of Clinical Services

## Informed Consent for Release of Education Records

Patient Name \_\_\_\_\_  
Date of Birth \_\_\_\_\_  
Patient Number \_\_\_\_\_

I understand that because I am not yet 19 years old, I may be eligible to continue my formal education. In order to determine eligibility, Montana State Hospital must obtain my education records for evaluation. I would like the opportunity to continue my formal education and hereby give Montana State Hospital permission to request my full education records, including any and all special education records. As a local education agency in the State of Montana the Administrative Rule of Montana, 20-1-213, transfer of school records would apply to this request.

I also understand evaluation of my education records may determine that I am not eligible to continue my formal education. This does not disqualify me from participating in the regular education programs currently offered at Montana State Hospital.

I understand that by requesting my records, I am disclosing my admission to Montana State Hospital. I understand that my medical records are protected under Federal Confidentiality Regulations and cannot be further disclosed without my written consent unless otherwise provided for in the regulations.

_____ Signature of Patient	_____ Date
_____ Signature of Witness	_____ Date
_____ Expiration Date	

Address of School District \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# REQUEST FOR TRANSFER OF STUDENT RECORDS

\_\_\_\_\_ (student name) has enrolled in \_\_\_\_\_

\_\_\_\_\_.

**The following records are requested:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

**Please send the records to:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**If you have any questions, please contact:**

**Name:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Phone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Date of Request:** \_\_\_\_\_

**Means of Request:** \_\_\_\_\_

**Other/Followup:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A copy of the Administrative Rule of Montana, 20-1-213. Transfer of school records is attached.

**20-1-213. Transfer of school records.** (1) Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

(2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall notify the requestor in writing or electronically providing the reasons why the local educational agency or accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited school shall provide the date by which the requested records will be transferred.

(3) A local educational agency or accredited school may not refuse to transfer files because a student owes fines or fees.

(4) The files that are forwarded must include education records in the permanent file, special education records, and any disciplinary actions taken against the student that are educationally related.

(5) A local educational agency or accredited school may release student information to the juvenile justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records are released under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy Act of 1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official that the information will not, except as provided by law, be disclosed to any other party without prior written consent of the parent of the student.

(6) The superintendent of public instruction is encouraged to contact other states or provinces and may enter into reciprocal records transfer agreements with the superintendent of public instruction or a department of education of any state or province. The superintendent of public instruction shall supply a copy of any reciprocal records transfer agreement that is executed to the county superintendent of each county that may be affected by the agreement.

(7) Upon request, the local educational agency or accredited school shall transfer by mail or electronically a copy of the permanent file to a nonpublic school or facility.

(8) As used in this section, "local educational agency" means a public school district or a state-funded school.

Effective Date: Section 3, Ch. 157, L. 1997, provided: "[This act] is effective July 1, 1997."

#### 10.16.3560 SPECIAL EDUCATION RECORDS (reads in part)

(2) Each special education record shall include access log, referral, permission for evaluation, evaluation data including summaries of assessments, test protocols and other information that are not subject to sole possession requirements of FERPA, child study team reports, individualized education programs, and periodic reviews of the individualized education program.

**FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)**

**34 C.F.R. Part 99**

**SUBPART D---MAY AN EDUCATIONAL AGENCY OR INSTITUTION DISCLOSE PERSONALLY IDENTIFIABLE INFORMATION FROM EDUCATION RECORDS?**

**Sec. 99.31 Under what conditions is prior consent not required to disclose information?**

(reads in part)

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is, subject to the requirements of Sec. 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

**PURPOSE:** CFR 300.300(b) (4) A parent/guardian or adult student may revoke (withdraw) consent, in writing, for the continued provision of special education and related services (parents are not required to use a specific form for their revocation). If a parent revokes consent in writing, the district must honor the revocation and provide the parent with prior written notice identifying the date the district will stop providing services. The district may not use due process or mediation procedures to challenge the parent's revocation. Beginning the effective date indicated in the prior written notice, the district may no longer provide special education and related services to the child. The district is not required to amend the child's education records to remove references to the child's receipt of special education and related services. Once the revocation is effective, the student is no longer entitled to receive special education or related services, and the district will not be considered in violation of the requirement to make FAPE (a free, appropriate public education) available to your child.

**REVOCAION (WITHDRAWAL) OF CONSENT FOR SERVICES**

Date: \_\_\_\_\_

To: \_\_\_\_\_ *School District*

Re: \_\_\_\_\_ *Child*

By signing below, I acknowledge that:

1. The district will stop providing special education and related services to my child beginning the date identified in the written notice that will be given to me by the district;
2. The district cannot use dispute resolution options to challenge my right to terminate special education services for my child;
3. The district will no longer be required to conduct reevaluations, convene an IEP team meeting, or develop an IEP for my child;
4. The district will not be considered in violation of the requirement to make a free appropriate public education (FAPE) available to my child;
5. The district is not required to amend my child's education records to remove references to my child's receipt of special education and related services; and
6. My child will be subject to all of the same requirements that apply to general education students, such as academics, statewide and districtwide assessments, extracurricular activities, graduation requirements, discipline, and all other general education requirements.

**I revoke my consent** for special education and related services to be provided to my child or myself if I am an adult student.

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*Child's full name/Date of birth*

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*Parent/Guardian/Adult student signature*

*Date*

**\*\*PARENTS MUST BE GIVEN PRIOR WRITTEN NOTICE AFTER THEY REVOKE CONSENT\*\***

**NOTE:** The information provided herein supersedes the response to Question 9 in the OPI Evaluation Report Guide dated August, 2008.

**PURPOSE:** CFR 300.300(b) (4) A parent/guardian or adult student may revoke (withdraw) consent, in writing, for the continued provision of special education and related services (parents are not required to use a specific form for their revocation). If a parent revokes consent in writing, the district must honor the revocation and provide the parent with prior written notice identifying the date the district will stop providing services. The district may not use due process or mediation procedures to challenge the parent's revocation. Beginning the effective date indicated in the prior written notice, the district may no longer provide special education and related services to the child. The district is not required to amend the child's education records to remove references to the child's receipt of special education and related services. Once the revocation is effective, the student is no longer entitled to receive special education or related services, and the district will not be considered in violation of the requirement to make FAPE (a free, appropriate public education) available to your child.

### **PRIOR WRITTEN NOTICE - REVOCATION OF CONSENT**

Date: \_\_\_\_\_

To: \_\_\_\_\_ *Parent(s)/guardian(s)/adult student*

Re: \_\_\_\_\_ *Child/Date of birth*

**The purpose of this prior written notice is to inform you that, while the district believes that your child continues to be in need of services, the district will stop providing special education and related services to your child, based on your written revocation of consent.**

Services to your child will be discontinued on: \_\_\_\_\_  
*Date*

When you revoke (withdraw) consent for the continued provision of special education services for your child, the district may not challenge your decision using any formal dispute resolution options. The district must honor your revocation within a reasonable time after you have provided the district with the written revocation.

Once your revocation is effective, your child will no longer be considered a child with a disability for educational purposes. This means that your child will no longer be eligible to receive a free appropriate public education (FAPE) as defined under the Individuals With Disabilities Education Act (IDEA), and will no longer be entitled to protections he or she received when identified as a child eligible for special education.

The district will not be required to conduct reevaluations, convene an Individualized Education Plan (IEP) team meeting, or develop an IEP for your child. Your child will be subject to all of the same requirements that apply to general education students, such as academics, statewide and districtwide assessments, extracurricular activities, graduation requirements, discipline, and all other general education requirements.

Revocation of consent is not retroactive. Your child's records will not be amended to remove references to the receipt of special education and related services prior to your revocation of consent.

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*District Superintendent or Designee*

*Date*

**NOTE:** The information provided herein supersedes the response to Question 9 in the OPI Evaluation Report Guide dated August, 2008.