Quality Child Care for ALL:
Recommendations for Implementation

Presented to CYFD
July 1, 2007

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QUALITY CHILD CARE FOR ALL
Statewide Task Force

The Early Childhood Interagency Action Team Vision

We believe New Mexico's families are the fabric of our state. Our children weave our future. We will create a comprehensive, high-quality, early learning system accessible to all families.

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Introduction

I. History of Quality Child Care for ALL

In 2004, at the request of the New Mexico Children, Youth and Families Department (CYFD), Office of Child Development (OCD), the Center for Development and Disability (CDD) at the University of New Mexico (UNM) was asked to draft recommendations for the establishment of inclusive child care practices in our state. A statewide Task Force was assembled to consider specific issues, including barriers, solutions, and recommendations for improvement of childcare in New Mexico that would be inclusive and of high quality. Task Force members represented many stakeholder groups including parents, child care providers, higher education personnel, state agency representatives, and disability and family advocates. This Quality Child Care for ALL Task Force met throughout the winter and spring of 2004 to craft recommendations for CYFD for the establishment of inclusive child care throughout New Mexico. Those recommendations are found in *Quality Child Care for ALL: Recommendations for Success* (http://cdd.unm.edu/ecspd/PDFs/QUALITYCCFORALLFINAL.pdf) which summarizes the deliberations and decisions of the Task Force. It also delineates an action plan for our state in proceeding with the establishment of an inclusive child care structure that provides high quality child care for all children.

One recommendation of the 2004 Task Force was the determination of levels of care and accompanying levels of support anticipated when children with additional developmental needs are enrolled in child care settings. These recommendations were developed following a review of processes and experiences by other states, guidance from state agencies, the personal experiences and reflections of parents and providers, and a review of the professional educational literature involving child care services. The result of the Task Force recommendations in this area is summarized in Table 1.

Task Force recommendations, *Quality Child Care for ALL: Recommendations for Success,* were disseminated widely throughout the state at CYFD's direction. As reported above, it is available online and remains a reference for those seeking to develop and strengthen inclusive child care in our state.

II. Quality Child Care for ALL - 2007 Task Force

The Quality Child Care for ALL - 2007 Task Force was assembled in the Spring of 2007 and charged with developing draft criteria for the identification of needed supports and services

Table 1. Recommended levels of support.

LEVEL 1 - ENVIRONMENTAL SUPPORT
(Available to ALL Providers)

Child Care Setting Support	Family Support	Needed Infrastructure Supports
♦ General support ♦ Environmental management questions ♦ Environmental assessment ♦ Training ♦ Needs assessment ♦ Parent training for all	♦ Ongoing information and training ♦ Family is part of team planning supports	♦ Access to training and technical assistance on a local level that exceeds current capacity and expertise of TTAPs ♦ Training for TTAP staff and expansion of available local training supports.

LEVEL 2 - PARENT/PROVIDER TEAM CONSULTATIVE SUPPORT
(Estimated 20-30% of children in care require this level of support)

Child Care Setting Support	Family Support	Needed Infrastructure Supports
♦ Brief child care professional consultation which is available consistently ♦ Monitoring ♦ Child identified/specific supports ♦ Observation ♦ Ongoing consultation	♦ Family is part of training team and those eligible to receive training available to staff. ♦ Brief consultation to family regarding general information. ♦ Information gathering from parent for IEP/IFSP if appropriate	♦ Technical assistance agreements with LEA and EI agencies ♦ Access to specialized consultants working with an identified child ♦ Training, information, and support for TTAP staff and expansion of available local training supports

LEVEL 3 - COMPREHENSIVE SUPPORT
(Estimated 5-8% of children in care require this level of support)

Child Care Setting Support	Family Support	Needed Infrastructure Supports
♦ Opportunities for additional adult to participate in the room during limited periods ♦ Adaptive equipment ♦ Environmental modification (ramp, table, etc.) ♦ Specialized diets ♦ Specialized supports (ex: OT, PT, RN, LPN, SLP, Developmental Specialist, Behavioral Specialist, Psychologist, Special Education Teacher, Family Support Services, Advocacy, etc. ♦ Referrals/Resources/Collaboration	♦ Consultation with family regarding what is effective/not effective. ♦ Guidance to family regarding consistency of home and care approaches. ♦ Ideas for follow through. ♦ Family information about procedural safeguards. ♦ IEP/IFSP attendance if appropriate.	♦ On-site support from specialized personnel. ♦ Financial support to access specialized equipment; may be school district, SSI, Medicaid, and ADA consultation and guidance. ♦ Incentive care vouchers for access to services for children in described eligibility categories.

LEVEL 4 - EXTENSIVE SUPPORT
(Estimated 1-2% of children in care require this level of support)

Child Care Setting Support	Family Support	Needed Infrastructure Supports
♦ Change adult/child ratio (including 1:1) ♦ Transportation ♦ Specialized medical monitoring (for established medical need such as seizures, etc.) ♦ Specialized mental health supports ♦ Specialized certification requirement ♦ Utilization and maintenance of specialized equipment ♦ Specialized staff skill	♦ All supports listed above	♦ ADA consultation and guidance. ♦ Additional funds for identified child specific supports, such as specialized transportation, extensive medical needs, etc. This may include enhanced or differentiated funding for extended staffing.

to begin implementation of Levels 3 and 4 of (see Table 1). Initial considerations of this charge were altered through the action of the New Mexico 2007 Legislature which appropriated funds for a pilot project to implement recommendations of the 2004 Task Force. Therefore, the Task Force was asked to address two specific questions which included: a) recommendations for determination of child eligibility for a differential rate as described in Level 3 (Comprehensive Support) and Level 4 (Extensive Support); and b) recommendations for determination of provider eligibility in providing enhanced support to children eligible for the differential rate. In addition, the Task Force recommended a timeline for implementation of the pilot and guidance to CYFD around considerations in implementing both the child eligibility and provider eligibility criteria.

Three strong themes emerged during Task Force deliberations, and are reflected in all of the resulting recommendations. These include:

- Desire for simplification of processes for families and providers in determining eligibility and accessing supports;
- Desire for utilization of existing processes, resources, and systems already available through CYFD; and
- Desire for establishment and maintenance of strong, ongoing communication from and with CYFD that reflects transparency in processes and decision making.

A wide range of resources was utilized in this process, both as preparation for the work of the Task Force and throughout the development of recommendations and finalization of this report. The work other states have done to create differential rate(s) for child care was considered. Correspondence or conversations with staff from state agencies in Nebraska, New York, Maryland, Oklahoma, Oregon, Montana, and Iowa were invaluable in preparation of these recommendations. Their processes for determining and documenting individual needs were reviewed. In addition, the National Child Care Information Center was accessed for information and clarification as to best practices and approaches in establishing differential rates in New Mexico.

The professional literature was also considered. Knowledge of barriers to, as well as successes, in providing inclusive care was essential to developing recommendations for both child eligibility and provider eligibility for proposed differential rates (Devore & Hanley-Maxwell, 2000; Lombardi, 2003; Shaw et al., 2001; Stoneman, 2001). The barriers that emerged with New Mexico's earlier involvement in "MAP to Inclusive Child Care" in 2000 were consistent in the literature with concerns for: limited financial and administrative support; difficulty in recruiting

and retaining trained personnel; and differences in philosophy and attitudes across agencies and service systems (Shaw et al.).

The Task Force members were provided with background information and guidance for the discussion and deliberation at the meetings. All resulting recommendations were evaluated in terms of the following considerations:

- Is this decision cost effective?
- Is this decision efficient?
- Is this decision reflective of family-centered practices?
- Is this decision in alignment with community and cultural practices?
- Is there regulatory alignment?

The Task Force was first convened on April 2, 2007, to address issues of individual child eligibility for differential rates (Appendix A). A structured worksheet was used to guide the discussion and to help prioritize the group's recommendations. The group was reconvened on May 25, 2007, to address its second task, provider eligibility for differential rates when serving eligible children with disabilities, using a structured worksheet format to develop recommendations for provider eligibility (Appendix B). Throughout the Task Force deliberations, members utilized background information developed through CDD research and input from each of the stakeholder groups represented to arrive at the resulting recommendations.

A list of Considerations (Appendix C), developed from a synthesis of the work of the previous Quality Child Care for ALL Task Force (2004), and information received from other states, was used as supporting information for Task Force members during their deliberations. In addition, the Task Force agreed on an outcome statement with supporting strategies, as well as a timeline for implementation of the proposed pilot for statewide inclusive child care.

This document includes sections on recommendations from the meetings, including child and provider eligibility, outcomes and strategies, and timelines for implementation.

A draft of the resulting recommendations was disseminated to Task Force membership for final review and input following each meeting. The final recommended format for determination of child eligibility for the differential rate is found in Appendix D.

Child Eligibility for Differential Rate

I. Recommendation – Eligibility Documentation

Eligibility for differential rate will be based on the earlier recommendations of the 2004 Task Force, including: a) presence of an IEP or IFSP and eligibility for Part B or Part C services; b) documentation of medical diagnosis indicating special care needs; c) history of difficulty finding and maintaining child care due to the child's documented special needs; d) having specific behavior issues; and d) individual child needs as documented above.

II. Recommendation – Family Income

Differential rate, above the basic child care rate, will be available to all children, regardless of family income. Family eligibility for general rate subsidy based on income for child care services will continue. However, if a child qualifies for the differential rate because of special needs, the cost of his/her child care may be subsidized above the basic child care rate, regardless of family income eligibility.

III. Recommendation – Differential Rate Will Not Supplant Existing Services

While all children must have access to quality child care, the Task Force recognizes that child care is not a therapeutic service and must not supplant other systems of care for children such as Early Intervention or Preschool Special Education services. Rather, child care must be supported by existing systems of care for children, including IDEA (Individuals with Disabilities Education Act), Part B (Preschool Special Education), and Part C (Early Intervention). Additional information about IDEA and its relation to child care in New Mexico may be found in Appendix E of this document.

IV. Recommendation – Funding Follows the Child

The differential rate is based on child eligibility and documentation of need. The funding will follow the child. Therefore, if a child changes care settings, the differential rate will move with him to his new child care setting. Individual child care support needs will be re-evaluated periodically. Children's needs may increase or decrease over time and the differential rate will be adjusted accordingly.

V. Recommendation – Application for Differential Rate

Eligibility criteria will be established through a "weighted" system that identifies individual child needs. A simple application tool (Appendix D) will be made available for determining eligibility and at what level of subsidy children might qualify. Documentation, such as that described earlier, must accompany the application.

VI. Recommendation – Collaboration Across Agencies and Systems

Existing systems of care, including Early Intervention and Special Education, must be accessed for identified services such as screening and evaluation. There must be a commitment to collaboration between and among state agencies and service providers at all levels, including within local communities.

VII. Recommendation – Uses of Differential Rate(s)

Differential rate(s) will be used to support the inclusion of individual children with special needs in quality child care settings in a variety of ways, including, but not limited to, additional staff training and reduction of adult/child ratios.

■ Eligibility of Providers (Group/Center and Home)

I. Recommendation – STAR Rating

The proposed eligibility criteria to garner a differential rate for child care providers should be that they have obtained the 3 STAR rating or higher within the CYFD child care system.

II. Recommendation – Waiver of STAR Rating

Because some communities in our state do not have a child care provider at or exceeding the 3 STAR rating, other considerations will be made regarding providers for families whose children are eligible for the differential rate in those communities. Such providers (group/center or home provider) who wish to serve eligible children and receive the differential rate may apply to CYFD for a time-limited waiver of the 3 STAR rating. This application will include the development of a plan and timelines for compliance with the 3 STAR level of care rating. Providers obtaining a waiver and committing to a plan for achieving the 3 STAR rating would have one year to reach expectations of this level. Registered providers (many of which

are family providers) pursuing this path would be expected to complete the 18 hour course. Determination of waiver approval and the ability to access the differential rate will be made by CYFD on a case-by-case basis.

III. Recommendation – Child to Child Ratios

Eligibility for the differential rate would be maintained if, at a minimum, at least one child not receiving or eligible for the differential rate was enrolled for each child that was receiving the differential rate. Thus, no more than 50% of the children enrolled in one setting should be eligible for or receiving the differential rate in order to maintain a minimum inclusive ratio.

IV. Recommendation – Assurances

Providers must make available written assurances that their programs are maintaining the criteria established by the STAR rating system; they must comply with HIPAA and IDEA rights to confidentiality; and they must have a procedure for maintaining the confidentiality of records.

■ Program Requirements (Group/Center and Home)

I. Recommendation –Skill

Eligible providers, at the 3 STAR level, are expected to have basic knowledge of child development, curriculum implementation, and knowledge of red flags for developmental delays.

II. Recommendation – Training

Eligible providers are expected to access TTAP resources for training and technical assistance on topics including local resources, referral information, and how to access the differential rate. Training must include disability specific supports. The higher education community can and should be accessed for a variety of training supports as well.

III. Recommendation – General Guidance

The CYFD will create a simple booklet with guidance around expectations for the differential rate program. This booklet can include a list of resources, checklist of skills, knowledge and expectations, as well as an orientation to the program.

IV. Recommendation – Record Keeping

An Individual Child Care Plan (ICCP) must be developed for each child receiving a differential rate and reviewed and updated at least every six months (more frequently if needed) during the pilot stage of the program, and then annually thereafter at a minimum. The ICCP must be very simple and must include: documented rationale for differential rate (see DRAFT Special Needs Subsidy Rating Scale; Appendix D); a simple report of planned use of additional funds (i.e., staff training, adaptive equipment, decreased ratios, etc.); identification and documentation of staff to provide care identified on the ICCP; documentation reflecting a child's withdrawal from the program or if no longer utilizing rate, as well as notification to CYFD of change of status.

V. Recommendation – Staff Qualifications

Current expectations for staff qualifications in the 3 STAR level would apply for providers pursuing the differential rate.

VI. Recommendation – Interface With Other Systems of Care

Providers would interface with the inclusion specialist(s) and parents in developing the ICCP; providers would work collaboratively with early intervention provider(s), public schools, behavioral therapists, etc. when involved.

■ Support Needed by CYFD – What CYFD Will Need

I. Recommendation – Roster of Providers

The CYFD will need an updated roster of providers (3 STAR, higher, or waived) eligible for the differential rate. This list will be put on the New Mexico Kids website: http://www.newmexicokids.org/ utilizing the New Mexico KIDS registry, and updated regularly.

II. Recommendation – Access to Information

The CDD Library and Information Network for the Community (LINC) and Baby Net will provide information to families inquiring about the differential rate program. The CYFD will disseminate information to other referral sources, building on existing systems.

III. Recommendation – Establish Processes and Dissemination Plans

The CYFD will need: contact information for eligible providers, Inclusion Specialists, and parents; a process to document the determination of eligibility for differential rates; a process to document the determination of utilization of differential rates; a record keeping process for tracking expenditures; a process for tracking notification when a child changes care setting; communication links with Inclusion Specialists, child care licensing, providers, and families; and guidance for community links with specialists outside the child care setting.

IV. Recommendation – Individual Child Care Plan

The CYFD will need a very simple template for the ICCP. It should include: a) a statement of differential rate and need for rate review if changes are made; b) a statement of special equipment purchased for the child. Any equipment purchased for a child should follow the child if still needed when he/she leaves the child care setting; c) equipment covered by other funds such as revolving loans, that require one-time capital outlay; d) statement of additional staffing and/or training needs; and e) statement of need for reduced ratios.

V. Recommendation – Information Dissemination

The CYFD will need a plan for dissemination of information about differential rates and the application process, widely and thoroughly across the state.

VI. Recommendation – Application for Rate

The CYFD will need to identify a process for application to be conducted between the family and the child care provider.

■ Support Needed From CYFD

I. Recommendation – Documentation

The CYFD must develop and disseminate a way to determine, document, and track needs of children receiving the differential rate. Much of this can be achieved through the DRAFT Special Needs Subsidy Rating Scale.

II. Recommendation – Dissemination

The CYFD should develop a public awareness and training campaign to inform the public and providers about this program and to disseminate information widely. This effort can include information about: how to use the process; how providers can become eligible if they are less than a 3 STAR provider; and what skills and competencies providers need to demonstrate and document if they are less than the 3 STAR level.

III. Recommendation – Dissemination

The CYFD should share information about the differential rate with PED and NM FIT at a state and local level.

Support Needed by CYFD: What Licensing Will Need

I. Recommendation – Communication

The CYFD must establish strong and consistent communication links with providers, Inclusion Specialists, TTAPs, parents, and others. Communication must include information for providers working toward the 3 STAR rating; including the process by which determination is made for child eligibility and for provider eligibility for serving that child, the objective formula employed in that process, and the transparency by which that process is implemented. For instance, no one involved as a provider should be making a decision about his or her own eligibility for an enhanced rate.

II. Recommendation – Clear Determination of Provider Qualifications

Licensing must have clear guidance for providers as to what their eligibility plan will look like and what expectations they will have to meet if they have less than the 3 STAR level. It is expected that a majority of differential rate slots will go to providers at the 3 STAR or higher level.

III. Recommendation – Clear Statement of Ratios for Inclusive Standards

Articulate to providers the expectation of minimum of one child receiving differential rate to one child not receiving or eligible per site, including home or relative care.

IV. Recommendation – Provider Training

Through the TTAPs, CYFD must provide training to providers regarding requirements for records management, ICCP provisions, etc.

Support Needed From CYFD Licensing

I. Recommendation – Oversight

The CYFD must provide oversight by local annual licensing monitors with checks of documentation of service(s). This may include review of eligible providers, provision of care, staff requirements, and presence of an ICCP.

II. Recommendation – Communication

Licensing must maintain regular communication with providers, Inclusion Specialists, TTAPs, etc.

III. Recommendation – Evaluation Plan

Licensing must create an evaluation plan at the outset and at all levels of the process to assess utilization, access, and satisfaction. Evaluation should include quantitative information, as well as qualitative, narrative, and anecdotal information from participants.

Outcomes

All children will be well served in safe, developmentally appropriate child care settings, by well-qualified staff prepared to support their growth and nurture their development as individuals.

I. Strategies

- If determined eligible, children with special needs will receive differential rate supports as needed.
- Eligible programs/providers will be identified, informed of processes, and receive appropriate compensation on a child-by-child basis.

- The CYFD will track child eligibility, CYFD payment to eligible programs, and communicate processes to Licensing, families, Inclusion Specialists, and identified, eligible programs/providers.
- The CYFD will communicate processes to Licensing, families, and Inclusion Specialists.
- The CYFD will ensure accommodations and adaptations on ICCPs are provided.
- Process will be evaluated from inception through first year, with adjustments made accordingly; results will be reported by CYFD to child care community, families, and other interested parties.

Timelines

- July 2007 – Qualifications and job description for Inclusion Specialist drafted (see Appendix C, Consideration 9).
- July 2007 – CYFD, Licensing, TTAPs, providers, DDPC, NM FIT, and PED invited to participate in strategic planning process to design pilot.
- August 2007 – Draft child care guidelines adopted for pilot.
- August 2007 – Begin public awareness campaign about the inclusive child care initiative.
- September 2007 – Forms for provider eligibility, ICCP, child application process, etc., finalized.
- September 2007 – CYFD and Licensing will: a) identify lead person(s); b) create flow chart delineating process for eligible child and eligible provider; c) monitor the eligibility process; d) create method for gathering contact information; and e) designate timelines for eligibility determination, etc.
- September 2007 – Program training begins for providers interested in becoming eligible for the differential rate.
- October 2007 – Training through TTAPs to all providers regarding ADA requirements for reasonable accommodations and access to care.
- November 2007- Inclusion Specialist hiring completed.
- November 2007 – CYFD articulates the eligibility processes internally, and simulates application through case-based discussion. Process is adjusted as required.
- December 2007 – List of eligible providers published and disseminated to early intervention programs, public schools, and others through website and multiple media.

- December 2007 – Child eligibility application begins at local level at CYFD-designated office, such as the CC Services Bureau, and application is submitted to CYFD for determination within a 10 day/two week turnaround time.
- January 2008 – Pilot begins.
- March 2008 – CYFD evaluates process with input from Inclusion Specialists, TTAPs, Licensing, parents, providers, and others.
- April 2008 – Process is adjusted as evaluation suggests.
- June 2008 – CYFD continues to evaluate process with input from Inclusion Specialists, Licensing, TTAPs, parents, and providers. Child Care for ALL Task Force members are invited to be part of the evaluation process.
- July 2008 – Final report completed by CYFD with recommendations for continuation.

Additional Considerations

The need for well trained child care staff was reflected throughout the deliberations of the Task Force members. It is apparent that systemized, ongoing training for child care staff be available in order to ensure quality services for all children and the safe and successful inclusion of children with special needs. This is reflected in the professional literature as well (Devore & Hanley-Maxwell, 2000; Dinnebell, McInerny, Fox, & Juchartz-Pendry, 1998; Shaw et al., 2001)

Over the past several years, several training initiatives have targeted the TTAP system to support child care providers serving children with special needs. These initiatives included Project Jericho which began in 2003, and was funded by the New Mexico Developmental Disabilities Planning Council (DDPC) to support TTAPs in Taos and Silver City until 2006.

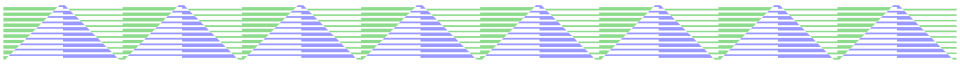
In addition, the New Mexico Public Education Department has funded a TTAP training program to improve the TTAPs' ability to support the inclusion of children with disabilities in the Albuquerque Metro area, Las Cruces and Roswell. Staff needs assessment, direct mentoring, site visits to AIM High providers, development of specific training modules, and training of Program Development Specialists have been the focus of this initiative.

In 2006, CYFD contracted with the CDD to build upon recommendations made by the 2004 Quality Child Care for ALL Task Force. Disability-related training has been provided to all eight TTAPs to help build capacity at a local level. Priority areas addressed modifications and adaptations to the child care setting, laws and regulations relative to inclusive care, and guidance in working with families.

Support for local providers must be readily available to child care personnel. Issues which first emerged in the MAP to Inclusive Child Care work, including the lack of financial and administrative support, difficulties in recruiting and retaining skilled care staff, and differences in philosophy and attitude, must be addressed consistently and directly. Because of the level of training that has been provided, this can be accomplished by utilizing the trained staff of the TTAP programs, application of the law and related regulations, and action by leadership at all levels, including all state agencies responsible for ensuring quality services to ALL New Mexico's children.

Summary

New Mexico's commitment to quality care for ALL children has begun to be realized, through allocation of funds to pilot differential rates for inclusive child care and by reconvening the Quality Child Care for ALL Task Force in 2007. With membership representing a wide range of stakeholders, the Task Force has worked hard to provide recommendations to state leadership. Through the review of efforts from other states, a review of the related literature, and openness to the ideas and suggestions of each other, the Quality Child Care for ALL Task Force has delivered recommendations, a timeline, and expected outcomes for our children.



"All children will be well served in safe, developmentally appropriate child care settings by well-qualified staff prepared to support their growth and nurture their development as individuals."

The Quality Child Care for ALL Task Force - 2007

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Appendix A

QUALITY CHILD CARE FOR ALL: STATEWIDE TASK FORCE
April 2, 2007

Today's Tasks: Explore the implementation of a differential rate that will be paid to providers when they enroll a child with special needs in their program.

I. Define eligibility criteria that will be used to determine if a child is eligible for differential rate.

II. Delineate determination process for level of care needed by child.

III. Delineate process for enlisting specific care and supports beyond those available in child care.

IV. Define eligibility criteria that will be used to determine if child is eligible for differential rate.

V. What is happening in New Mexico today?

What other states are doing and what models are employed:

Maryland: To be eligible for the rate adjustment, there must be a signed and dated statement from a physician, licensed psychologist or licensed social worker that verifies the existence of a diagnosis of a mental or physical disability and provides a description of the condition. The disability must cause the child to be incapable of self care, as appropriate for the child's age. Further, the inability to provide self care must be significant enough to necessitate additional supervision or specialized care.

Nebraska: To be considered a child with a special need, the child must have one or more of the following conditions that are not related to chronological age:

1. Emotional impairment including behavioral impairment; requires special equipment or assistance;
2. Developmental age level lower than chronological age and requires assistance via special supervision;
3. Movement impairment: requires assistance or unable to move;
4. Sensory impairment: requires special environment modifications or assistance;
5. Speech impairment: requires special equipment or assistance;
6. Hygiene: requires assistance or is dependent;

7. Feeding: requires special equipment or assistance;
8. Toileting: requires assistance or special equipment;
9. Medical conditions: requires respiratory aids or special procedures;
10. Therapy required: physical, occupational, speech or respiratory;
11. Medications: requires assistance or special procedures.

These special needs must be documented by a physician or licensed/certified psychologist.

New York: The increased rate for children with special needs is only available to children who have one or more of 11 conditions specified; these are derived from New York's education regulations or Head Start's performance standards. The conditions include the following: visual impairment; deafness; hard of hearing; orthopedic impairment; emotional disturbance; mental retardation; learning disability; speech impairment; health impairment; autism; or multiple handicaps (two or more of the conditions above).

Oklahoma: Scoring process is implemented, determining level of care required across developmental considerations and need including: complexity of care; amount of attention required by child as compared with child's age group; child's self-sufficiency with daily tasks as compared with child's age group; communication skills; behavioral issues; cognitive or comprehension abilities. To apply for special needs rate, the child must be income-eligible and participating in SSI, early intervention, or special education.

Oregon: Child eligibility includes a child birth – 17 who has a physical, developmental, mental, emotional, behavioral, or medical disability AND requires extra supports or accommodations to be in child care. These are supports that cannot reasonably be paid for within typical child care rates. Family eligibility includes an income less than 85% or Oregon's median income AND parents need child care to be employed or to attend post-secondary education programs.

Montana: A Child Care Plan is developed to determine the level of skill required by a provider to care for a child. Categories of child care need include medical needs; self-sufficiency with daily tasks; mobility; communication skills; need for supervision, monitoring, and intervention; cognitive or comprehension abilities; and other considerations.

Iowa: Preschool children eligible for special education services may be served through a variety of settings that provide the Least Restrictive Environment for that child and that are contracted by the AEA or LEA and which comply with specific conditions and standards. Special education services may not pay for child care but may be provided in an inclusive preschool setting serving typically developing children. Individual child contracts are developed (IEPs) with needs weighted and instructional dollars applied by weight of needs.

No state indicated that child care dollars be spent for specialized therapies or therapeutic placements.

Original Task Force Recommendations: (Pg. 16, Recommendations for Success)

B. Eligibility

- *Having an IFSP/IEP and eligible for Part C or Part B services; or*
- *Having a documented medical diagnosis indicating special care needs; or*
- *Having past difficulty in finding and maintaining child care due to the child's special needs; or*
- *Having specific behavior issues.*

What eligibility criteria might New Mexico consider for determining if a child is eligible for differential rate?

Specific conditions or need areas identified? (MD, NE, NY, IA)

Documentation by physician, psychologist, or other? (MD, NE, NY, MT, IA)

Income eligible? (OK, OR)

Eligible/participating in SSI, Early Intervention, or Special Education? (OK, IA)

Level of need defined and weighted? (IA, OK, OR, MT)

Other?

Rationale and considerations addressed in decision-making process:

Is this decision cost effective?

Is this decision efficient?

Is this decision reflective of family-centered practices?

Is this decision in alignment with community and cultural practices?

Is there regulatory alignment?

Delineate determination process for level of care need by a child for increased modification and adaptation.

What other states are doing:

Determination based on percentage or degree of delay or need. (IA, OR, OK, MT)
State agency determination with documentation, checklist, and weighted calculations. (IA, MT, OR, OK).

Panel determination with consideration of documentation. (OK)

Presence of IEP, IFSP, SSI enrollment, etc. (OK, IA)

Medical/psychological/diagnostic documentation. (NY, NE, MD, IA, OK)

Other?

Original Task Force Recommendations: (Pg. 15, Recommendations for Success)

A. Levels of Support

1) Team Decision

Level of Support and anticipated support is a team decision that includes parents and other adults invested in the child's care. The team may include, for example, teachers, child care professionals, therapists, neighbors, advocates, and other family members as appropriate. The team plans for supports, rather than assuming a level of need based solely on a diagnosis…

What process might New Mexico employ to determine level of service need by a child?

Rationale and considerations addressed in decision-making process:

Is this decision cost effective?

Is this decision efficient?

Is this decision reflective of family-centered practices?

Is this decision in alignment with community and cultural practices?

Is there regulatory alignment?

Delineate process for enlisting specific care and supports beyond those available in child care.

Child specific care plan and documentation. (OR, OK, MT, IA)

Determination of direct services from other entities. (OK, MT, IA)

Determination of provider training from other entities. (OK, MT, IA)

Use of special education and early intervention supports for LRE. (IA)

Other?

Original Task Force Recommendations: (Pg. 14, Recommendations for Success)

I. Framework for Implementation

…Therefore, a formal interagency agreement (IA) between CYFD, PED, and DoH is recommended, with delineation of roles and responsibilities in this effort…

What options might New Mexico utilize?

Rationale and considerations addressed in decision-making process:

What is current availability?

Is this decision efficient and cost effective?

Is this decision reflective of family-centered practices?

Is this decision in alignment with community and cultural practices?

Will we need an MOU or other process at local and/or state levels?

Is there regulatory alignment?

Will there need to be an adjustment in state regulations across agencies?

Appendix B

Quality Child Care for ALL Task Force Meeting
May 25, 2007
Provider Eligibility for Differential Rate Worksheet

Table of Contents

I. CERTIFICATION OF PROVIDERS

I.A. Group Provider - Quality Qualifications	Notes	Recommendation
1. AIM High Provider and Level?		
2. National Certification Type of Certification		
3. Inclusive Standards Agreements Staff to child ratio Child with disability to typical peer		
4. Agreement with all requirements of CYFD-Licensing and ADA guidance		
5. Assurances of compliance with HIPAA and IDEA [1] rights to confidentiality • Written assurance/staff training • Confidentiality of records		

I.A. Home Provider - Quality Qualifications	Notes	Recommendation
1. AIM High Provider and Level?		
2. National Certification Type of Certification		
3. Inclusive Standards Agreements Staff to child ratio		
4. Agreement with all requirements of CYFD-Licensing and ADA[2] guidance (see Appendix C, **Consideration 8)**		
5. Assurances of compliance with HIPAA[3] and IDEA rights to confidentiality • Written assurance/staff training • Confidentiality of records		

I.B. Group Provider - Program Requirements	Notes	Recommendation
1. Demonstration of basic skills • Knowledge of referral sources/processes • Knowledge of child development • Knowledge of red flags regarding developmental delays		
2. Demonstrated knowledge of training sources/resources • TTAPs • Parents		

[1] Individuals with Disability Education Act – Legislation mandating free and appropriate education for children eligible for special education; all personal information and records are considered confidential, including those shared across agencies and programs.

[2] Americans with Disabilities Act – regulatory requirements for public accommodation, including child care accommodation.

[3] Health Insurance Portability and Accountability Act – Legislation assuring confidentiality in patient records and other quality assurances of care. Information and child record sharing with DoH/FIT program would require compliance with HIPAA regulations.

• EI/Public Schools systems • Other specialized providers		
3. Record keeping systems • ICCP[4] for each eligible child to be reviewed and updated every 6 months (see Appendix C, **Considerations 1 & 2)** • Documented rationale for differential rates • Identification and documentation of staff qualified to provide care on ICCP • Notification to state when child withdraws or is no longer utilizing rate		
4. Documentation of expenditures of differential rates per eligible child (ex. staff training, adaptive equipment, decreased ratios, etc.) (see Appendix C, **Considerations 3 & 4)**		
5. Documentation of staff qualifications • Training records/skills/certifications • Developmental specialist certification • Other documentation		
6. Interface with other systems of care: • Participation with Inclusion Specialist and parents in ICCP development • Involvement and coordination with EI, Public Schools, Behavioral Therapist, etc.		

I.B. Home Provider - Program Requirements	Notes	Recommendation
1. Demonstration of basic skills • Knowledge of referral sources/processes • Knowledge of child development • Knowledge of red flags regarding developmental delays		
2. Demonstrated knowledge of training sources/resources • TTAPs[5] • Parents • EI/Public Schools systems • Other specialized providers		
3. Record keeping systems • ICCP for each eligible child to be reviewed and updated every 6 months • Documented rationale for differential rates • Identification and documentation of staff qualified to provide care on ICCP		

[4] Individual Child Care Plan – A child care plan developed for each child with special needs enrolled in a child care setting.
[5] Training and Technical Assistance Programs – a network of early care support programs throughout the state.

• Notification to State when child withdraws or no longer utilizing rate • Documentation of current staff skill and training		
4. Documentation of expenditures of differential rates per eligible child (ex. staff training, adaptive equipment, decreased ratios, etc.)		
5. Documentation of staff qualifications • Training records/skills/certifications • Developmental specialist certification • Other documentation		
6. Interface with other systems of care: • Participation with Inclusion Specialist and parents in ICCP development • Involvement and coordination with EI, Public Schools, Behavioral Therapist, etc.		

II. CYFD GUIDANCE FOR ACCOUNTABILITY

II.A. Support Needed by CYFD	Notes	Recommendations
1. Roster of all certified providers (group and home).		
2. Contact information for Inclusion Specialists, parents, providers, etc.		
3. Process to document the determination of eligibility for differential rates.		
4. Process to document the determination of utilization for differential rates.		
5. Record keeping process for tracking expenditures; (see Appendix C, **Consideration 5**)		
6. Process for tracking notification when a child changes care setting; (see Appendix C, **Consideration 11**)		
7. Communication links with Inclusion Specialists, CC Licensing, providers, and families.		
8. Identification of pilot sites for implementation.		
9. Guidance for community links with specialists outside child care setting.		

II.B. Support Needed From CYFD		
1. Description of documentation for determination needed for tracking.		
2. Description of documentation for utilization needed for tracking.		
3. Regular communication with families, providers, Inclusion Specialists for tracking, approval, inception of timelines, etc.		

III. LICENSING GUIDANCE FOR IMPLEMENTATION

III.A. Support Needed for Licensing	Notes	Recommendations
1. Communication links with providers, Inclusion Specialists, TTAPs, etc.		
2. Clear determination of provider qualification requirements for differential rates.		
3. Process for determining certification of qualified providers for differential rates.		

III.B. Support Needed From Licensing	Notes	Recommendations
1. Regular review of certified providers and service provision, staff requirements, ICCP in place, national certifications, etc.		
2. Regular communication with CYFD, Inclusion Specialists, TTAPs, etc.		
3. Determination of ratios, and other inclusion quality parameters.		
4. Periodic evaluation of process at all levels, with an established evaluation plan (see **Considerations 7**).		

IV. ROLL-OUT OUTCOMES AND TIMELINES

IV.A. Outcomes	Notes	Recommendations
1. All children will be well served in safe, developmentally appropriate child care settings, by well-qualified staff prepared to support their growth and nurture their development as individuals.		
2. C~~hildren with special needs will be identified. If determined eligible through the assessment process, they will receive differential rate supports as needed.~~ If determined eligible, children with special needs will receive differential rate supports as needed.		
3. ~~Certified~~ Eligible programs will be identified, informed of processes, and receive appropriate compensation on a child-by-child basis.		
4. CYFD will track eligibility, payment to certified programs, and communicate processes to Licensing, families, Inclusion Specialists, and identified, certified programs/providers. CYFD will track participating children through numbers, location, etc.		

CYFD will communicate processes to Licensing, families, Inclusion Specialists.		
5. CYFD will monitor ICCPs and expenditures by certified programs receiving differential rates.		
6. Process will be evaluated from inception through first year, with adjustments made accordingly; results will be reported by CYFD to child care community, families, and other interested parties.		

IV.B. Timelines	Notes	Recommendations
July 2007- Qualifications and job description for Inclusion Specialist drafted (see Appendix C, **Considerations 9**).		
July 2007 – CYFD, Licensing and TTAPs invited to participate in strategic planning process to design pilot.		
August 2007 – Draft child care guidelines adopted for pilot, including program and staff qualifications for program certification.		
September 2007 – Forms for certification, ICCP, parent application process, etc., finalized.		
September 2007 – Program training begins for AIM High providers interested in becoming certified for differential rate.		
October 2007 – Training through TTAPs to all AIM High providers regarding ADA requirements for reasonable accommodation and access to care.		
October 2007 – CYFD and Licensing identify lead person(s) and flow chart delineating process for child eligibility, provider certification, and monitoring, with contact information, timelines for determination, etc.		
November 2007 – Training for all providers available through TTAPs regarding ADA requirements for reasonable accommodation and access to care		
November 2007- Inclusion Specialist hiring completed.		
November 2007 – CYFD and Licensing present process to Offices of Early Care within CYFD, and simulate application through case based discussion. Process is adjusted as required.		
December 2007 – Certification of providers published and disseminated to EI programs, public schools, and others.		
December 2007 – Eligibility determination begins with Inclusion Specialists.		
January 2008 – Pilot begins.		

March 2008 – Licensing evaluates process with input from Inclusion Specialists, TTAPs, CYFD, parents, and providers.		
April 2008 – Process is adjusted as evaluation suggests.		
June 2008 – CYFD evaluates process with input from Inclusion Specialists, TTAPs, parents, and providers.		
July 2008 – Final report completed by Licensing (???) with recommendations from pilot.		

Appendix C

List of Considerations

1. Many states develop an "Individual Child Care Plan" (ICCP) for children eligible for a differential rate payment for child care.

2. This plan discusses what the enhanced rate will be used for. It can be added to a child's IFSP or IEP.

3. Possible uses are to buy special equipment, add another staff person for all or part of the day, to train staff, or to reimburse the provider for an enrollment space in the class to reduce classroom ratios.

4. Rates are to pay for child care support, not for therapies.

5. States vary on the extent they expect dollar for dollar accountability for how the differential rates are spent. Washington State found it too difficult to have providers be overly specific about how every dollar of the differential rate is spent.

6. Families whose children are possibly eligible for EI or Public School Special Education Services are given referral/contact information and encouraged to seek that support. At least one state makes involvement with these systems a requirement (if eligible) to receive the differential rate for child care.

7. Oregon and Alaska both reported that their differential rate program is under-utilized.

8. Differential rates are paid for child care for children whose needs would cause an unreasonable burden on a center/provider or fundamentally alter the way they do business (ADA). Providers are expected to make *reasonable accommodations* to provide care for a child with special needs without the assistance of a differential rate.

9. It is important to have people who are familiar with early childhood development/special needs determine eligibility for differential rate. In Montana, eligibility workers without that experience were inconsistent about who were determined eligible and the actual established rates were also inconsistent.

10. Some states have an additional fund that pays for upfront costs, such as constructing a ramp or purchasing special equipment. In NM, the Child Care Facility Revolving Loan Fund provides low-interest loans for any upgrades to child care facilities.

11. If child changes providers, then a new plan is developed with the new provider.

12. Providers are not obligated to accept child care subsidy payments from the state.

13. Providers who do accept child care subsidy rates must accept that rate as full payment for child care; they may not charge the families for additional payment.

Appendix D

Eligibility Determination for Differential Rate Payment

1. Completion of Special Needs Subsidy Rating Scale. Completion of scoring sheet to determine percentage of increased provider rate. This would be completed in a meeting with the child's parents, the provider, and the Inclusion Specialist (soon to be hired at all eight TTAPs).

2. Collection and review of supporting documents from Physicians, Behavioral Health Professionals, or other supporting documents such as an IFSP, IEP or medical records.

3. Development of an Individual Child Care Plan which would become an addendum to a child's IFSP or IEP for children served in EI or Public School systems. This again would be completed by the parents, provider and inclusion specialist.

4. Documentation of provider's need to go beyond reasonable accommodations. Documentation of determination that providing child care would subject the provider to an unreasonable burden or fundamentally change the way they do business.

5. Submission of all documents to CYFD (differential rate not based on family income).

Special Needs Subsidy Rating Scale

Child's Name: **Date of Birth:**	**Date Completed:**
Parent Name:	**Parent Name:**
Address:	**Address:**
Provider Representative: **Phone:**	**Name of Center (if applicable):**
Interview Completed by: **Phone:**	**Provider/Center Address:**

Begin by considering the care this child will need in the child care setting. Each category below contains statements describing how much additional care this child needs, ranked from lowest to highest. A score of "0" indicates that the care required for this child is similar to care required by other children of a similar age at the center. Use the blank spaces to note the child's needs if they fall in between the benchmarks provided.

1. Medical Needs

Child's needs can be met by child care providers with general knowledge.	0
Child requires medical attention, mental health intervention, or monitoring by caregiver who has received special instructions from the parent or service provider.	1
	2

	3
Child requires medical attention by a caregiver who has received some specialized training regarding the child's medical or mental health needs in addition to instructions from parents and others.	4
	5
	6
	7
The child care provider must have specialized training related to the child's medical or mental health needs and consults frequently with a medical or mental health professional.	8
	9
Child requires on-site medical attention by a licensed medical or mental health professional and the child care provider must have specialized training related to the child's medical or mental health needs.	10

Notes:

2. Self-Sufficiency with Daily Tasks:

Child requires no more intervention to take care of daily tasks than other children of a similar age.	0
Child requires only minor assistance with eating and/or toileting.	1
	2
	3
	4
Child requires considerable and regular assistance in eating and/or toileting.	5
	6
	7

	8
Child requires total assistance with eating and toileting.	9
Child care provider will need to learn specific feeding techniques such as tube feedings or ostomy care.	10

Notes:

3. Mobility

Child's mobility is similar to other children of the same age.	0
Child is able to move independently with minor support.	1
	2
	3
	4
Child requires assistance but can help with transfers, pivoting, and positioning.	5
	6
	7
	8
Child is unable to help with positioning or movement, needs frequent re-positioning.	9
Because of the child's muscle tone or size, the child requires full assistance and is difficult to move.	10

Notes:

4. Communication Skills:

Child's communication skills are similar to other children of the same age.	0
	1

	2
	3
Child has limited verbal skills. One-on-one communication is required to gain the child's attention, simplify instructions, or to understand the child's speech or gestures. Child may use alternative methods (see above) to supplement his or her verbal skills.	4
	5
	6
	7
Child relies entirely upon alternative methods such as sign language, picture boards, gestures, facial expressions, etc., to communicate needs and/or to understand requests made.	8
	9
Child is unable to communicate needs and wants, and is unable to use alternative communication methods.	10

Notes:

5. Need for Supervision, Monitoring, and Intervention:

Child requires the same level of supervision/monitoring needed by other children of the same age.	0
	1
Child needs some assistance to initiate, respond to, or engage in peer interactions that are safe, positive, and appropriate.	2
	3
Child has behaviors which frequently require adult intervention but are not a threat to the child's or other children's safety.	4
	5

	6
The child must remain within the child care provider's eyesight at all times, but may not need frequent intervention.	7
	8
	9
The child must remain within the child care provider's eyesight at all times and needs frequent intervention to prevent harm to self and others.	10

Notes:

6. Cognitive or Comprehension Abilities:

Child's level of understanding is similar to that of other children at the same age.	0
Child is able to understand and problem-solve with some special attention from an adult.	1
	2
	3
	4
Child needs to be given one instruction at a time and may need reminders of what was asked of him or her to complete instructions.	5
	6
	7
Child's inability to understand significantly interferes with participation in activities.	8
	9
Child is unable to recognize danger, is unable to follow instructions without one-on-one assistance, and has difficulty processing basic sensory information about the environment. (Note: Does not include vision or hearing as primary difficulty).	10

Notes:

7. Other Special Considerations not Included in Previous Categories:
If there are other considerations relating to the amount of supervision or care required for the child **that are not included in the above categories,** use the chart below to describe these needs. Assign a rating based on how much more supervision or care this child will need above what would be required by other children of a similar age. **Insert descriptive statements for this category.**

Child requires no more assistance than other children of similar age.	0
Child requires only minor assistance.	1
	2
	3
	4
Child requires considerable and regular assistance.	5
	6
	7
	8
Child requires total assistance.	9
Child care provider will need to learn specific techniques or strategies for this child.	10

Notes:

Special Needs Subsidy Rating Scale
SCORING WORKSHEET

Instructions:

1. Enter the points from each category of the *Special Needs Subsidy Rating Scale* in the **Points** column of the Scoring Chart.

2. Multiply this by the **Weighting** value to arrive at the **Score** for each category.

3. Add the scores together and enter the **Total Score.** If less than 110, enter 100. Do not enter more than 300. If the score is higher than 300, enter 300.

4. Subtract 100 from the total score and enter as a percentage in step 2 of the dollar calculation chart. This percentage could range from 10% to a maximum of 200%.

5. Insert this percentage in Step 2 of the Dollar Calculation Chart. Select either the hourly or monthly rate for care depending on the child care need.

6. Calculate the additional amount to be paid by multiplying either the hourly or monthly amount in the Dollar Calculation Chart (Step 1) by the percentage (Step 2).

7. Add this additional amount to the basic rate identified in Step 1 to calculate the total special needs subsidy rate. This result represents the amount the child care provider will be paid during the provisional approval period of 45 days. After that date a final amount determination will be made based on the child's completed Child Care Plan.

1. Scoring Chart

Categories	Points	Weighting	Score
1. Medical Complexity of Care		x 7	
2. Self-Sufficiency with Daily Tasks		x 5	
3. Mobility		x 5	
4. Communication Skills		x 6	
5. Supervision, Monitoring, Intervention		x 11	
6. Cognitive or Comprehension Abilities		x 7	
7. Other Considerations		x 5	
Total Score If less than 110, enter 100 If more than 300, enter 300			
Subtract 100			- 100
Result Enter this as a percentage in Step 2 below			%

2. Dollar Calculation Chart

	Hourly	Monthly
Step 1: Use either the hourly column or the monthly column depending on whether the child care will be provided on an hourly or full-time monthly basis.		
Step 2: Multiply the rate by the percentage you arrived at in the above Scoring Chart.	x %	x %
Step 3: This is the additional amount to be authorized for special care.		
Step 4: Add the additional amount authorized to the rate identified in Step 1 to calculate the total child care special rate.		

Appendix E

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Questions and Answers about the IDEA & Child Care in - New Mexico -

1. **What is the IDEA?**
   The Individuals with Disabilities Education Act (IDEA) guarantees children **with** disabilities the same access to education as children who do not have disabilities.' Congress passed the IDEA in 1975 in response to frequent discrimination against children with disabilities in public school systems. All states must meet the minimum *federal IDEA* standards regarding the educational rights of children with disabilities. However, *state* laws can expand these rights.

2. **Who is eligible for services under the IDEA?**
   Children ages 0 to 21 with certain disabilities are eligible for these services.

   Infants and toddlers (ages 0-3) are eligible for **Early Intervention (EI) services** under the IDEA. EI services are coordinated in New Mexico by the **Family Infant Toddler Program (FIT),** run by the Department of Health. Children eligible for these Early Intervention Services are those children who have:

   (1) A developmental delay;
   (2) An established physical, mental, or neurobiological condition that has a high probability of resulting in developmental delay; or
   (3) A biological medical or environmental risk for developmental delay.2 See Endnote 2 for detailed definitions of (1) - (3).

   School-age and preschool children (ages 321 or children who will turn 3 during the school year) are eligible for IDEA's **Special Education and related services.** These services are provided for by the **local school district.** Children eligible for these services must have:

   (1) mental retardation, hearing impairments, speech or language impairments, visual impairments, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and
   (2) who, by reason thereof, needs special education and related services.[3]

3. **What services can families receive under the IDEA?**
   Early Intervention Services (0-3): Early Intervention services are services designed to meet the developmental needs of an eligible child and the needs of the family related to enhancing the child's development. Related services, for example, can include audiological services, family training, counseling and home visits, and respite services.[4]

   Some states charge fees for these services based on a sliding scale and/or require access to public/private insurance. For children receiving such services in New Mexico, the Family Infant Toddler Program (FIT) will access Medicaid or

private insurance, if the family has coverage. If not, all services will be paid for by the Department of Health. There is an array of 16 services that can be utilized to meet the child and family outcomes on the IFSP.

Special Education and Related Services (3-21): Families and children can receive any service that is necessary to help a child benefit from her special education program.[5] All services under the IDEA for children 3-21 are free[6] and based on each child's educational need,[7] not on her disability.[8]

Special education means specially designed instruction, such as adapting the content or delivery of classroom instruction, at no cost to the parents, to meet the unique needs of a child with a disability.[9] Related services are transportation and developmental, corrective, and other supportive services that help a child with a disability benefit from special education. Related services, for example, can include speech-language pathology services, psychological services occupational and physical therapy, school health services, and parent counseling and training.[lO]

4. How do families apply to receive services?
   Local educational agencies (LEAs) have an obligation under federal law to "actively and systematically seek out" all persons aged 3 to 21 who would be eligible for special education.[ll] Likewise, the state must identify, locate, and evaluate children ages 0 to 3 with disabilities who would be eligible for early intervention services.[12] Child care providers can refer children they think may be eligible, although the family must consent in writing to an assessment.

   A parent of a child ages 3 or older should contact the local school district. For help in locating the correct school district and office you can call:
   - Public Education Department, Special Education Bureau (505) 827-1457

   If a parent and/ or child care provider is concerned about the development of a child birth to age 3, they can make a referral to their Family Infant Toddler (FIT) provider agency in their community. For help in locating the provider agency in their community you can call:
   - Department of Health, Family Infant Toddler (FIT) Program (505) 827-2578 or toll-free 1 (866) 696-1472.

5. What is an IEP?
   - An Individualized Educational Program (IEP) outlines a child's special education and related services.[13] An IEP is for preschool (ages 3 to 5) and school-age children.
   - A committee consisting of parents,[14] regular and special education teachers, a representative from the LEA, and anyone else the parent or local school district feel should be present, formulate the IEP plan at a collaborative meeting.
   - An IEP is an agreement between the parent and the school district to provide a special education placement and other services for the child.
   - The IEP must include the child's present levels of performance, measurable annual goals, and the child's special education and related services.[15] If a child does not participate in the regular classroom or in general nonacademic and extracurricular activities, the IEP must explain why[16] and list supports and program modifications to allow participation in the general classroom.[17] A parent must provide written consent to the services to be provided.[18]

- The committee reviews the IEP at least annually, or when either a parent or a teacher request a meeting for a new assessment, lack of anticipated progress by the child, or other matters.[19]

6. What is an IFSP?

- An Individualized Family Service Program (IFSP) is very similar to an IEP, but an IFSP is for Early Intervention (EI), children ages 0 to 3.
- An IFSP may include the infant/toddler's present levels of development, the major expected outcomes for the infant/toddler and her family, the specific EI services necessary to meet the needs of the infant/toddler and her family, the natural environments in which the services will be carried out, and steps to help the infant/ toddler transition to preschool or other services.[20]
- An IFSP is evaluated annually and reviewed at least every 6 months or more frequently if the infant/toddler or family needs it.[21]
- An IFSP is to be conducted in the native language of the family.[22]

7. What role can child care providers play in the IEP /IFSP process?

At the discretion of the parent or agency, other individuals with "knowledge or special expertise regarding the child," (IEP) or "as appropriate, persons who will be providing services to the child or family" (IFSP) may participate in the IEP or IFSP meeting and planning.[23] This could include child care providers. Child care providers can give input on services or technology that would enable the child to participate in their program.

At a minimum, however, the initial and annual IFSP meeting in New Mexico should include:

- Parents
- Other family members, at the parents' request
- An advocate or person outside the family, at the parents' request
- The Early Intervention Service Coordinator
- A person directly involved in conducting evaluations and assessments of the child *and*
- Personnel who will be providing services to the child and family.[24]

Please see Endnote 16 to see who is required to participate in an IEP Team.[25]

8. What placement can families and children obtain under the IDEA?

- The IDEA is designed to guarantee children with disabilities of all ages the opportunity to participate, learn, interact, and succeed in the school setting.
- Children with disabilities in school are assured a Free Appropriate Public Education (FAPE), which is special education and related services at no cost to the child or her/his parents.[26] F APE must be based on the child's educational need.[27] Placement is based on the child's individual needs and skills as outlined on her IEP, and not on her/his disability.[28]
- Inclusion is an important goal of the IDEA. Also, for preschool and school-age children with disabilities, the IDEA requires that they be placed in the Least Restrictive Environment (LRE).[29] The LRE is an educational setting where a child with disabilities can receive a free appropriate public education (FAPE) designed to meet his or her education needs while being educated with peers without disabilities

to the maximum extent appropriate. LRE applies to extracurricular and nonacademic activities as well,[30] which can include child care.

- EI (age 0 to 3) has a "Natural Environment" requirement similar to the LRE.[31] A "natural environment" includes a child's home and "community settings in which children without disabilities participate,"[32] and "settings that are natural or normal for the child's age peers who have no disabilities,"[33] such as child care.

9. How are IDEA services provided at a child care?
   If services are listed in the IEP or IFSP, they can be provided through regular visits by teachers, developmental specialists and other related service personnel, and therapists to the child care or preschool setting. School or early intervention personnel can work with the child care staff to systematically embed the individualized goals for children into the curriculum activities and classroom routines.

   The school or early intervention personnel consult and partner with the child care staff in order to enhance the participation of children in common preschool activities, and may present ways in which activities or environments may be adapted to promote the child's participation and learning.

10. Can a family get child care or after school care through their IEP /IFSP?

    IEP

    - Children with disabilities, *from ages* 3 *to* 5, may receive preschool or child care services, or a consultation to the child care program in their IEP. The IDEA makes grants available to states to extend special education services to eligible preschool aged children.[34] Some school districts may try to limit reimbursement for placement in private preschools where there is no universal public preschool, but this is not allowed if the placement is the result of the IEP.[35]
    - If after-school care or extended day is a related service that is necessary for a *school-age child* to benefit from her special education, then a family could receive after-school care through an IEP.[36] The related service must be connected to the child's education and needs, not family or other issues (as is the case in an IFSP).

    IFSP

    - Part C of IDEA (0-3 years of age) will not fund child care in New Mexico, however families may able to access respite care (similar to baby-sitting) to give them a break from care giving. Families should talk to their FIT service coordinator if they are interested in respite care services for their family.
    - *Early Intervention* expressly considers the family's needs and strengths as well as the child's.[37]

11. What assistive technology is available to child care providers for children with disabilities under the IDEA?
    - Assistive technology means any equipment, off-the-shelf or customized, used to increase, maintain or improve the functional capacities of children with disabilities.[38] Some examples of assistive technology are computers, transportation aids, glasses, and hearing aids.
    - If assistive technology helps a student benefit from her special education placement, including child care, then the technology must be provided by

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the school district.[39] Parents do not have to pay for the equipment.[40]

- The need for assistive technology must be considered in every child's IEP,[41] and it is an EI[42] service that must be considered in the IFSP process. If the IEP team decides that the child needs access to those devices in non-school settings, for example child care, in order to achieve a FAPE, the LEA must allow the child to use a school-purchased assistive technology device at home or in other settings.[43]

12. What rights do parents have if the child is denied services or a parent does not like her child's placement?
    Parents or the child's representative have the right to a due process hearing if they disagree with their child's IEP or IFSP or on any matter relating to the child's evaluation, placement and services under the IDEA,[44] A parent can disagree in whole or in part with the IEP or IFSP. In New Mexico, <u>parents have access to the following options for resolving disputes with their child's IFSP:</u>
    - Mediation
    - Due Process Hearing
    - Complaint Letter

    You can call the New Mexico Department of Health and request mediation, where a trained impartial and unbiased mediator will assist both parties to come to an agreeable resolution. A mediation meeting must be held within 30 days of your request.

    If you do not choose mediation, you can request a Due Process Hearing. However, choosing mediation does not deny your right to request a due process hearing. Due Process Hearings are formal hearings in which you are able to provide information about your case before a state-appointed hearing officer. You may be accompanied by an attorney.

    If you still feel your rights have been violated, and are dissatisfied with the resolution of your dispute, you can write a complaint letter to the FIT Program Manager at:

    Department of Health, Long Term Services Division
    1190 St. Francis Drive, P.O. Box 26110
    Santa Fe, NM 87502-6110

    The Department of Health has 60 days in which to reach a decision about your complaint.

    If a parent wishes to contest their child's IEP, the resolution process is very similar to the one described above, with some differences. A detailed fact sheet explains the IEP resolution options for parents. It is called the "Parent and Child Rights in Special Education" Fact Sheet, available at http://www.ped.state.nm.us/seo/library /parentrights.pdf (or call (505) 827-1457 for a copy).

Useful Resources

- **Child Care Law Center,** San Francisco, CA. Call (415) 394-7144 if you would like information about child care issues. We are a national and California child care support center for legal services programs. We also provide counsel and advice over the telephone. The following are some of our legal services:
  - Answer legal questions regarding child care legal issues during our telephone intake hours: Monday, Tuesday and Thursday from 12p.m. to 3p.m. (pacific standard time)
  - Publish many useful publications. Visit our website at www.childcarelaw.org.
  - Conduct trainings for parents, teachers, community agencies, and others regarding legal issues affecting child care.
  - Occasionally we provide legal representation in impact cases.
- **New Mexico Department of Health, Family Infant Toddler Program (FIT),** (877)-696-1472, (505) 827-2578, or visit www.health.state.nm.state.nm.us/hsd/fit.This is IDEA's Part C Early Intervention Services for New Mexico, for children ages 0 - 3.
- **New Mexico Public Education Department Special Education Bureau,** 505-827-1457, http://www.ped.state.nm.us/seo/index.htrn.This is IDEA's Part B Special Education Department for children ages 3 - 21. You can contact them to find out which school district is in charge of administering special education services for children ages 3 - 21.
- **Navajo Nation Office of Special Education,** (928) 871-6338 or (505) 722-1454, http://www.osers.navajo.org/.
- **Navajo Nation "Growing Beauty,"** (505) 368-6536, http://www.osers.navajo.org/nmecistafflist.htrn. This program helps responsible state agencies to provide information about early childhood intervention services to Navajo families who may be eligible (for children ages 0-5).
- **Native American Pueblo Parent Resources (NAPPR),** (505) 345-6289, http://nappr.org/. NAPPR is a source of information and services for families and organizations, and advocates for quality services for Native American children and their families an local, state and national levels.
- **Parents Reaching Out,** (800) 524-5176 or visit www.parentsreachingout.org.This is a statewide nonprofit organization that is a resource connection for families, including assisting families with early intervention issues.
- **Project Jericho,** (505) 262-0801 or visit http://www.altamiranm.org/program.htrnl.This project, part of Alta Mira Specialized Family Services, assists both providers and parents on best practices for the inclusion of infants and children ages 0 - 5.
- **Tresco, Inc.,** (505) 528-2200, or visit http://trescoinc.org/. Tresco is an early intervention services provider for families and children birth to three in the Las Cruces Area. They provide respite and personal care among many other services.
- **Protection and Advocacy Systems, Inc.** is an organization of advocates working together with people who have disabilities in promoting and protecting their legal and service rights. **Native American Protection and Advocacy Office,** Shiprock: (505) 566-5887, www.nativelegalnet.org. **New Mexico Protection and Advocacy Office,** Albuquerque: (505)-256-3100 or (800) 432-4682, http://www.nmpanda.org.
- **For an expansive list of Parent Training and Information Centers and Community Groups,** which provide training and information to parents of infants, toddlers, school-aged children, and young adults with disabilities and the professionals who work with their families in your state, visit http://www.yellowpagesforkids.com/help/nm.htrn or call the **Technical Assistance Alliance for Parent Centers (the Alliance)** at (612) 827-2966 to reach the parent center in your state.

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- **Easter Seals**, a national non-profit that provides both resources and inclusive child care services. A list of centers and services can be found at their website: http://www.easter-seals.org.
- **New Mexico Child Development Program**, (505) 827-7689, http://www.ecs.org/dbsearches/search_info/PreK_ProgramProflle.asp?state=NM.This program, run by Children, Youth and Families Department, Office of Child Development, funds early care and education services for children from birth to age 5 and their families. This program funds early care and education services for children from birth to age 5 and their families. Programs are collaboratively planned in communities to meet service gaps, and they may include pre-kindergarten, home visiting, programs for infants of teen parents, and provider resource and support programs. Eligibility differs with each program.
- **New Mexico Children, Youth and Families Department, Child Care Services Bureau**, (505) 841-4825, (505) 827-7946, or visit http://www.newmexicokids.org.This is the Licensing as well as the Subsidy Agency for child care providers in New Mexico.
- **Early Childhood/Even Start Program of New Mexico**, (505) 827-6562, http://www.nmlites.org/programs/nmevenstartjindex.html.This program, run by New Mexico Department of Education, provides funding for family literacy programs to improve the educational opportunities of young children and their parents.
- **Healthy Child Care America: New Mexico**, at http://www.newmexicokids.org/HCCA/default.htm. This national initiative strives to provide safe, healthy child care environments for all children including those with special needs, and health and mental health consultations and support for families and providers. 1-800-691-9067 is the number for the Health and Safety Question Line for providers.
- **University of New Mexico Center for Development & Disability (CDD)**, (505) 272-1040, http://cdd.unm.edu. The mission of the CDD is the full inclusion of people with disabilities and their families in their community through interdisciplinary training, dissemination of information, provision of exemplary direct service and technical assistance, and research.
- **National Dissemination Center for Children with Disabilities,** http://www.nichcy.org/stateshe/nm.htm#other.This site has a large collection of New Mexico state resources, including parent organizations, disability organizations, and state agencies. They also have publications for parents on creating IFSP's and IEP's.
- **Boundless Playgrounds**, (860) 243-5854, www.boundlessplaygrounds.org.This nonprofit helps communities develop playgrounds that are accessible to children with disabilities.
- **Lekotek's AblePlay Website**, http://www.ableplay.org/.This one-of-a-kind website provides information and ratings of toys and products for children with special needs.
- **Texas Migrant Council**, (505) 233-4083, or visit www.tmccentral.org.This organization has a New Mexico location that serves the needs of migrant families and children.
- **National Early Childhood Technical Assistance Center (NECTAC)**, (919) 962-2001 OR (919) 843-3269 (IDD), http://www.nectac.org/. NECTAC provides technical assistance on numerous topics relating to early childhood, including inclusion, early intervention, quality assurance, and much more.
- **National Early Childhood Consortia for Indian Children with Special Needs (NECCICSN)**, (520) 871-7865, paulas@dns.nncs.ihs.gov. NECCICSN provides technical assistance and promotes information-sharing among tribes and other government agencies that work with children with special needs.
- **Tri-TAC**, Tribal Child Care Technical Assistance Center through the National Child Care Information Center (NCCIC), (580) 762-8850, killscrow@cableone.net, http://www.nccic.org/tribal/.

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Endnotes:
These endnotes are legal citations for the information above. If you are having trouble understanding these citations, please speak with a reference librarian in your local law library. To look up the laws that apply to you, visit your local law library. Do not hesitate to look up the law and know your rights.
[1]20 U.S.C. § 1400 et.~.
[2]20 U.S.C. § 1432(5); New Mexico Administrative Code 7.30.8.10 (F), cited as NM ADC 7.30.8.10 (F), available at www.health.state.nm.us/ltsd/fit/. Developmental Delay is a discrepancy between chronological age and developmental age, after correction for prematurely, in one more of the following areas of development: cognitive, communication physical/motor (including vision and hearing), social or emotional, adaptive. To be eligible for services under the definition of developmental delay, a child must demonstrate 25% or more discrepancy between chronological age, after correction for prematurity and developmental age. The extent of the child's delay must be documented. A determination of developmental delay shall not be based upon behavior related to cultural or language differences. For infants twelve months of age or younger, the professional judgment/clinical opinion of an interdisciplinary team may be used in lieu of the above evaluation process, to interpret and document evidence of delay significant enough for eligibility. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations. An established condition is a diagnosed physical, mental, or neurobiological condition that has a high probability of resulting in developmental delay. A delay in development mayor may not be exhibited at the time of diagnosis. To be eligible
for services under the definition of established condition, the determination of the presence of an established condition shall be diagnosed by a physician. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations. A biological or medical risk for developmental delay means that without the provision of early intervention services, the child would be at risk of experiencing substantial delay because of the presence of early medical conditions as documented by a physician or other primary health care provider which are known to produce developmental delays in some children. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations. An environmental risk for developmental delay means a child who would be at risk of experiencing substantial delay if early intervention services were not provided due to factors in the child's environment. To be eligible for services under the definition of environmental risk for developmental delay two or more physical, social and/ or economic factors in the child's environment must pose a substantial threat to the child's development. For purposes of determining eligibility based on environmental risk, the IFSP team must include representation from two or more agencies with relevant knowledge of the child and family and the environmental risk factors. One of these agencies may be the early intervention provider. Professional judgment/clinical opinion shall be used in informing eligibility based on risk factors in the child's environment. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations.
[3]20 U.S.C. § 1401(3); see also 34 C.F.R. § 300.7(a)(I) (further specifying eligibility criteria for special education including multiply handicapped) .
[4]See NM ADC 7.30.8.12 for all available Early Intervention Services in New Mexico.
[5]34 C.F.R. § 300.24(a).
[6]20 U.S.C. § 1401(8)(A).
[7]34 C.F.R. Part 300, App. A.
[8]34 C.F.R. § 300.300(a)(3)(ii).
[9]34 C.F.R. § 300.26; 34 C.F.R. 300.26(b)(3).
[10]34 C.F.R. § 300.24.
[11]20 U.S.C. § 1412(a)(3).
[12]20 U.S.C. § 1435(a)(5); 34 C.F.R. §§303.320-303.322.
[13]20 U.S.C. § 1414(d) (IEP); 20 U.S.C. § 1436 (IFSP).
[14]Agencies must take extra steps to include parents if they cannot attend, such as enabling them to participate via conference call.
34 C.F.R. § 300.345. Id. Note, also that, "The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English." Id.
[15]20 U.S.C. § 1414(d)(A).
[16]20 U.S.C. § 1414(d) (1) (A) (iv).
[17]20 U.S.C. § 1414(d)(I) (A) (iii) (III).
[18]20 U.S.C. § 1436(e).
[19]20 U.S.C. § 1414(d) (4).
[20]20 U.S.C. § 1436(d).
[21]20 U.S.C. § 1436(b)'

[22] NM ADC 7.30.8.11 (A) (2) (b).
[23]20 U.S.C. § 1414(d)(B) (IEP); 34 C.F.R. § 303.343(a)(1)
(IFSP). 24 M ADC 7.30.8.11 (A) (3).
[25] The public agency shall ensure that the IEP team for each child with a disability includes (1) The parents of the child; (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); (3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child; (4) A representative of the public agency who (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general curriculum; and (ill) Is knowledgeable about the availability of resources of the public agency; (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section; (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) If appropriate, the child. See 34 C.F.R. §300.344. It is important to note that when a state has a pre-school program in place, the child care provider/pre-school teacher may also be considered the 'regular education teacher' for purposes of the IEP Team Meeting.
[26] As used in this part, the term free appropriate public education or FAPE means special education and related services that (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include preschool, elementary school, or secondary school education in the State; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.340-300.350. See 34 C.F.R. §300.13.
[27]34 C.F.R. Part 300, App. A.
[28]34 C.F.R. § 300.300(a)(3)(ii).
[29]20 U.S.C. § 1412(a)(5).
[30]20 U.S.C. § 1414(d)(1) (A) (iii).
[31]20 U.S.C. § 1432(4)(G); see also 34 C.F.R. § 303.12(b).
[32]20 U.S.C. § 1432(4)(G); see also 34 C.F.R. § 303.12.
[33]34 C.F.R. § 303.18.
[34]20 U.S.C. § 1419.
[35] Id. § 1412(a)(10)(B); see also 34 C.F.R. § 300.401.
[36]34 C.F.R. § 300.24(a).
[37]Id.
[38]20 U.S.C. § 1401(1); see also 34 C.F.R. § 300.5.
[39]34 C.F.R. Part 300. App. A, Q. 36.
[40]Id.
[41]20 U.S.C. § 1414(d)(3)(B)(v); see also 34 C.F.R. § 300.346(a)(2)(v).
[42]34 C.F.R. § 303.12.
[43]34 C.F.R. Part 300, App. A, Q. 36.
[44]34 C.F.R. § 300.507.