

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter E. Special Education

Part 130. Procedural Requirements and Program Standards

Subpart 26. Early Childhood Special Education (Ages 3 through 5 Years)

6 CAR § 130-2601. Authority and applicability.

(a) Statutory authority.

(1) Arkansas Code § 6-41-203 defines “a child with disabilities” as an individual between the ages of three (3) and twenty-one (21) years who, because of mental, physical, emotional, or learning disabilities, requires special education services as defined by the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(2)(A) The federal Individuals with Disabilities Education Act requires that states, as a condition of eligibility to receive federal funds under Part B of the act, provide special education and related services to eligible children with disabilities beginning at age three (3).

(B) The requirements are addressed in Part B, Section 619 of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.).

(b) Applicability.

(1) This subpart is applicable to all public agencies providing special education and related services to eligible children with disabilities, ages three (3) through five (5).

(2) Rules applicable to children ages three (3) through twenty-one (21), as set out in other sections of this part, must be followed by all public agencies providing special education and related services to children with disabilities ages three (3) through five (5), unless indicated as applicable only to children from five (5) to twenty-one (21) years of age.

6 CAR § 130-2602. Early childhood special education qualified providers.

(a) Definitions. As used in this subpart:

(1) "ADE" means the Arkansas Department of Education;

(2) "Direct supervision" means on-site observation and guidance provided by a supervising early childhood special education teacher while an assigned instructional activity is performed by an assistant or aide;

(3) "Early childhood special education aide" means an individual with a high school diploma/equivalent (GED) and on-the-job training who performs tasks as prescribed, directed, and supervised by the supervising early childhood special education teacher certified/licensed by the Division of Elementary and Secondary Education;

(4) "Early childhood special education assistant" means an individual with a bachelor's degree who, following academic and on-the-job training, performs tasks prescribed, directed, and supervised by the supervising early childhood special education teacher certified/licensed by the Division of Elementary and Secondary Education;

(5) "Indirect supervision" means those activities other than direct observation and guidance conducted by a supervising early childhood special education teacher that may include:

(A) Consultation;

(B) Demonstration;

(C) Record review;

(D) Review and evaluation of audiotaped or videotaped sessions; and/or

(E) Interactive television sessions;

(6) "Paraprofessional" has the meaning given in 6 CAR § 130-237, which includes early childhood special education assistants and aides;

(7) "Qualified evaluator", see 6 CAR § 130-243;

(8) "Related services providers". Individuals providing related services must be appropriately licensed/certified by either the Division of Elementary and Secondary Education or other licensure board governing the scope of practice of the individual; and

(9) "Supervising early childhood special education teacher" means an individual who holds a valid teaching certificate/license in Early Childhood Special Education issued by the Division of Elementary and Secondary Education, or an individual who holds a valid teaching certificate/license issued by the Division of Elementary and Secondary Education and an additional licensure plan approved by the Division of Elementary and Secondary Education to obtain certification/licensure in early childhood special education and who has responsibility for the supervision of assistants/aides.

(b) Scope of responsibilities of early childhood special education providers.

(1) Supervising early childhood special education teacher.

(A)(i) The supervising early childhood special education teacher may delegate specific tasks to the assistant and/or aide.

(ii) However, responsibility to the child for all services provided or omitted cannot be delegated.

(iii) It remains the full responsibility of the supervising early childhood special education teacher to ensure that the child's IEP is implemented.

(B) Scope of responsibilities includes:

(i) Institute and document a training program for each assistant/aide, encompassing all the procedures to be performed;

(ii) Inform the parent or legal guardian about the use of an assistant/aide;

(iii) Provide and document appropriate supervision of the assistant/aide in accordance with established guidelines;

(iv) Perform evaluation;

(v) Complete due process;

(vi) Attend all conferences for children for whom the teacher is responsible;

(vii) Write and modify individualized education programs developed in accordance with 6 CAR § 130-801 et seq., and 6 CAR § 130-901 et seq.;

- (viii) Develop lesson plans with the input of the assistant/aide;
- (ix) Review and sign progress notes;
- (x) Have direct contact with the child and family;
- (xi) Delegate appropriate tasks;
- (xii) Discuss and/or refer to other professionals, agencies, and/or services;

- (xiii) Provide ongoing training for the assistant/aide; and
- (xiv) Develop schedules with the assistant/aide.

(2) Early childhood special education assistant/aide.

(A) Although the general duties of the assistant and aide are the same, the aide will require a higher level of supervision.

(B) Provided that the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to an early childhood special education assistant/aide:

- (i) Conduct screening following specified screening protocols;
- (ii) Provide direct follow-up instruction following approved lesson plans developed by the supervising early childhood special education teacher;
- (iii) Document the provision of services and results;
- (iv) Attend conferences as necessary;
- (v) Assist in the programming assessment (i.e., conduct programming assessments specified by protocols);
- (vi) Prepare materials and perform other support services as directed;
- (vii) Work with the supervising early childhood special education teacher to develop lesson plans;
- (viii) Communicate with parent/primary caregiver, Head Start staff, private preschool/day care staff, and/or other service providers regarding activities;
- (ix) Make referral or recommendations for additional services or programming to the supervising teacher; and
- (x) Perform other duties as assigned.

(C) An early childhood special education assistant/aide may not:

- (i) Perform standardized or nonstandardized diagnostic tests, formal or informal evaluation for eligibility, or interpret test results;
- (ii) Conduct parent conferences;
- (iii) Write, develop, or modify a child's IEP;
- (iv) Assist with children without following the IEP as prepared by the IEP team;
- (v) Select a child for services;
- (vi) Dismiss a child from services;
- (vii) Disclose confidential information either orally or in writing to anyone without being designated to do so by a supervisor; and
- (viii) Represent himself or herself as a certified/licensed early childhood special education teacher.

(c) Qualifications of early childhood special education providers.

(1) Supervising early childhood special education teacher is an individual who meets one (1) of the following criteria:

(A) Holds a valid teaching certificate/license in early childhood special education issued by the division; or

(B) Holds a valid teaching certificate/license issued by the division and has an additional licensure plan approved by the division to obtain early childhood special education certification/licensure.

(2) Early childhood special education assistant must:

(A) Complete a minimum of a bachelor's degree in early childhood special education or a related field, which includes but is not limited to:

- (i) Child development;
- (ii) Home economics with emphasis in child development;
- (iii) Elementary education;
- (iv) Speech-language pathology;
- (v) Psychology; or
- (vi) Education of the sensory impaired;

(B) Complete the Core and Early Childhood components of the division's Special Education Paraprofessional Training within one (1) year of employment; and

(C) Obtain, in subsequent years of employment, six (6) clock hours of continuing education/in-service training annually pertaining to the designated duties of the early childhood special education assistant.

(3) Early childhood special education aide must:

(A) Hold a high school diploma or its equivalent (GED);

(B) Complete the Core and Early Childhood components of the division's Special Education Paraprofessional Training within one (1) year of employment; and

(C) Obtain, in subsequent years of employment, six (6) clock hours of continuing education/in-service training annually pertaining to the designated duties of the early childhood special education aide.

6 CAR § 130-2603. Instructional services.

(a)(1) Teacher–pupil caseload.

(A)(i) The maximum caseload for a full-time classroom teacher is thirty (30) children with a minimum of one (1) paraprofessional.

(ii) The maximum per section or session caseload in a center-based program for preschool children with disabilities is one (1) qualified early childhood special education teacher to fifteen (15) children (1:15).

(B) The maximum allowable caseload for a classroom teacher is based on the percentage of time the individual is employed during a forty-hour work week, as set out in the Teacher/Pupil Caseload Center-Based Program Chart, Chart # 1-26 of this section.

(C) Consideration may be given to providing additional assistants/aides and/or reducing the teacher–pupil caseload when warranted due to the adaptive behavior and/or physical needs of the children.

(D) Factors to be considered in determining any downward adjustment in the teacher–pupil caseload include the:

(i) Ages of the children served;

- (ii) Number of preschool children in each age group;
- (iii) Nature and severity of disabilities;
- (iv) Square footage of the classroom;
- (v) Frequency and duration of services;
- (vi) Geographic location of the children served (teacher travel time);
- (vii) Objectives to be met within the setting;
- (viii) Number of developmental domains to be addressed; and
- (ix) Time spent in other duties (testing, screening, paperwork, preparation, conferences).

CHART # 1-26 TEACHER/PUPIL CASELOAD
 CENTER-BASED PROGRAM

DAYS OF SERVICE	FTE (40 HOUR WORK WEEK)	ALLOWABLE CASELOAD
5	1	30
4	.8	24
3	.6	18
2	.4	12
1	.2	6

CHART # 2-26 TEACHER/PUPIL CASELOAD
ITINERANT/HOME TEACHER

DAYS OF SERVICE	F.T.E. (40 HOUR WORK WEEK)	ALLOWABLE CASELOAD	
		WITH PARAPROFESSIONAL	WITHOUT PARAPROFESSIONAL
5	1	60	40
4	.8	48	32
3	.6	36	24
2	.4	24	16
1	.2	12	8

(2) **Facilities.** Facilities shall meet the Arkansas childcare licensing standards.

(b) **Home training services — teacher–pupil caseload.**

(1) The maximum caseload is sixty (60) with an aide or assistant.

(2) The maximum caseload is forty (40) without an aide or assistant.

(3) The home training responsibility may be shared by one (1) or more professionals (early childhood special education teacher, occupational therapist, physical therapist, speech-language pathologist, social worker and/or counselor, etc.) depending on the child’s needs.

(4)(A) Instruction may be augmented through the use of paraprofessionals.

(B) When using an assistant, the following activities are required:

(i) Direct, on-site supervision of an assistant with each child twice per month; and

(ii) Indirect supervision of an assistant for a minimum of fifteen (15) minutes per week for each child.

(C) When using an aide, the following activities are required:

(i) Direct, on-site supervision of an aide with each child once per week; and

(ii) Indirect supervision of an aide for a minimum of thirty (30) minutes per week for each child.

(5) Factors in determining the teacher-pupil caseload include, but are not limited to, the:

(A) Age of the children served;

(B) Severity of the disabilities;

(C) Geographic location of the children served (teacher travel time);

(D)(i) Frequency and duration of home visits.

(ii) A suggested minimum is one (1) hour per week; and

(E) Objectives to be met within the setting.

(c) Itinerant early childhood services.

(1) Definition.

(A) "Itinerant services" means those direct early childhood special education services that are provided individually or in small group settings and include the service provider traveling to the child or the child traveling to the service provider.

(B) Itinerant services may be provided by one (1) or more professionals (early childhood special education teacher, speech-language pathologist, occupational therapist, physical therapist, social worker, counselor, etc.) depending on the child's needs.

(2) Teacher-pupil caseload.

(A) The maximum caseload is sixty (60) with an aide or assistant.

(B) The maximum caseload is forty (40) without an aide or assistant.

(C) The maximum allowable caseload for an itinerant teacher is based upon the percentage of time the individual is employed during a forty-hour work week, as set out in the Teacher/Pupil Caseload Itinerant/Home Teacher Chart, Chart # 2-26 of this section.

(D)(i) Instruction provided by the early childhood special education teacher may be augmented through the use of paraprofessionals.

(ii) When using an assistant, the following activities are required:

(a) Direct, on-site supervision of an assistant with each child twice per month; and

(b) Indirect supervision of an assistant for a minimum of fifteen (15) minutes per week for each child.

(iii) When using an aide, the following activities are required:

(a) Direct, on-site supervision of an aide with each child once per week; and

(b) Indirect supervision of an aide for a minimum of thirty (30) minutes per week for each child.

(E) Factors to be used in determining the teacher-pupil caseload include, but are not limited to, the:

(i) Ages of the children served;

(ii) Nature and severity of the disabilities;

(iii) Geographic location of the children served (teacher travel time);

(iv) Frequency and duration of services;

(v) Objectives to be met within the setting;

(vi) Number of developmental domains to be addressed; and

(vii) Time spent in other duties (testing, screening, paperwork, and preparation).

6 CAR § 130-2604. Federal early childhood educational environments.

(a) Early childhood program.

(1)(A) A program that includes at least fifty percent (50%) nondisabled children.

(B) Early childhood programs include, but are not limited to:

(i) Head Start;

(ii) Kindergarten;

(iii) Reverse mainstream classrooms;

(iv) Private preschools;

(v) Preschool classes offered to an eligible prekindergarten population by the public school system; and

(vi) Group child care.

(2) Attendance at an early childhood program need not be funded by Individuals with Disabilities Education Act, Part B funds.

(3)(A) **EC: Calculating education environment.** If the student is in a classroom with more than fifty percent (50%) of his or her peers being nondisabled, calculating the time is necessary to determine the percent of time the child is with his or her nondisabled peers (time spent in regular class).

(B) **Calculations.**

(i) Percent of instruction time not spent with nondisabled peers = (hours per week spent outside of regular classroom divided by total hours of instruction per week) times one hundred (100).

(ii) Percent of instruction time spent with nondisabled peers = one hundred percent (100%) minus percent of instruction time not spent with nondisabled peers.

(C) Every child's time is based on a thirty-hour instructional week for early childhood.

Example: If a child receives speech for thirty (30) minutes two (2) times a week outside the regular class, the time is equal to 1.00 (hour). $(1.0 \text{ divided by } 30) \times 100 = 3.3\%$, then $100 - 3.3 = 96.7\%$ of the child's day is spent with his

or her nondisabled peers.

(D) State codes for placement.

(i) RG = Greater than eighty percent (80%) in regular preschool program.

(ii) RR = forty percent (40%) to seventy-nine and ninety-nine hundredths percent (79.99%) in the regular preschool program.

(iii) SC = Less than forty percent (40%) in the regular preschool program.

(b) Early childhood special education program.

(1) A program that includes less than fifty percent (50%) nondisabled children.

(2) Special education programs include, but are not limited to, special education and related services provided in:

(A) Special education classrooms in:

(i) Regular school buildings;

(ii) Trailers or portables outside regular school buildings;

(iii) Child care facilities;

(iv) Hospital facilities on an outpatient basis; and

(v) Other community-based settings;

(B) Separate schools; and

(C) Residential facilities.

(c) Home.

(1) A child does not attend a regular early childhood program or a special education program and receives some or all of his or her special education services in the principal residence of the child's family or caregivers.

(2) The term "caregiver" includes babysitters.

(d) Service provider location.

(1) A child who:

(A) Receives his or her special education and related services from a service provider; and

(B) Does not attend an early childhood program or a special education program provided in a:

- (i) Separate class;
- (ii) Separate school; or
- (iii) Residential facility.

(2) For example:

- (A) Private clinicians' offices;
- (B) Clinicians' offices located in school buildings;
- (C) Hospital facilities on an outpatient basis; and
- (D) Libraries and other public locations.

6 CAR § 130-2605. Number of days for direct services — Calendar.

The instructional calendar year for preschool services shall consist of one hundred seventy-eight (178) days of direct services funded by the preschool grant.

6 CAR § 130-2606. Extended school year services — Eligibility.

6 CAR § 130-1901 et seq., applies to preschool children with disabilities as well as school-aged children with disabilities.

6 CAR § 130-2607. Transition.

(a) **Early intervention to early childhood.** See 6 CAR § 130-2101.

(b) **Early childhood special education to school-aged program.** See 6 CAR § 130-2102.

(c) **Guidelines for implementation.**

(1) Transition from early childhood special education program to kindergarten, found in 6 CAR § 132-701 et seq.

(2) **Transition policy.** Early intervention to early childhood, an interagency agreement for implementing transition from Part C to Section 619 early childhood programs, can be found in 6 CAR § 132-701 et seq.