# CHAPTER 14: GOVERNANCE STANDARDS

<table>
<thead>
<tr>
<th>Table of Contents</th>
<th>Date of Last Revision</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chapter 14: Governance Standards</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Introduction to Due Process Procedures</td>
<td>New 7/07</td>
<td>4</td>
</tr>
<tr>
<td>Due Process Considerations: Procedural Safeguards</td>
<td>Revised 7/07</td>
<td>5</td>
</tr>
<tr>
<td>Definition of Parent</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Communicating With Parents Who Have Limited English Proficiency</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>English Language Learners</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Parents Who Do Not Want an Interpreter</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Parents Who are Unable to Read</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Divorced Parents</td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Parent Involvement</td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Data Privacy and Confidentiality</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Due Process Considerations: Referral</td>
<td>Revised 7/07</td>
<td>10</td>
</tr>
<tr>
<td>Due Process Considerations: Identification</td>
<td>Revised 7/07</td>
<td>11</td>
</tr>
<tr>
<td>Non Public School Child Find Procedures</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>Early Childhood Special Education Child Find</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>Due Process Considerations: Educational Evaluation</td>
<td>Revised 7/07</td>
<td>12</td>
</tr>
<tr>
<td>Initial Evaluation Procedures</td>
<td>Revised 7/07</td>
<td>13</td>
</tr>
<tr>
<td>Reevaluation Procedures</td>
<td>Revised 7/07</td>
<td>16</td>
</tr>
<tr>
<td>Miscellaneous Evaluation Information</td>
<td></td>
<td>18</td>
</tr>
<tr>
<td>Evaluation Report</td>
<td>Revised 7/07</td>
<td>19</td>
</tr>
<tr>
<td>Determination of Eligibility</td>
<td>New 7/07</td>
<td>20</td>
</tr>
<tr>
<td>Due Process Considerations: The IEP Team</td>
<td></td>
<td>21</td>
</tr>
<tr>
<td>IEP Meeting Notice to Parents</td>
<td></td>
<td>22</td>
</tr>
<tr>
<td>Notice to Parents Following the IEP Meeting</td>
<td></td>
<td>24</td>
</tr>
<tr>
<td>Discontinuation of Services</td>
<td>Revised 7/07</td>
<td>25</td>
</tr>
<tr>
<td>Exit Procedures</td>
<td>Revised 7/07</td>
<td>26</td>
</tr>
<tr>
<td>Due Process Considerations: Other IEP Team Considerations</td>
<td>Revised 7/07</td>
<td>27</td>
</tr>
<tr>
<td>Interim IEP</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Extended School Year (ESY) Considerations</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Alteration of School Day</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Need for Paraprofessional on IEP</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Related Services</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Secondary Transition Services</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Braille Instruction</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Least Restrictive Environment (LRE)</td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>Graduation Requirements</td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>Follow-up Review</td>
<td></td>
<td>29</td>
</tr>
<tr>
<td>Due Process Considerations: Surrogate Parents</td>
<td>Revised 8/04</td>
<td>30</td>
</tr>
<tr>
<td>Removal of Surrogate Parents</td>
<td></td>
<td>30</td>
</tr>
<tr>
<td><strong>Documentation Links:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Education Parent Advisory Committee (PAC) Guidelines</td>
<td>Revised 8/04</td>
<td>33</td>
</tr>
<tr>
<td>Minnesota Graduation Requirements</td>
<td>New 3/08</td>
<td>35</td>
</tr>
<tr>
<td>Graduation – Required Assessment for Diploma (GRAD) Questions and</td>
<td>New 3/08</td>
<td>38</td>
</tr>
<tr>
<td>Title</td>
<td>Edition</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
<td>------</td>
</tr>
<tr>
<td>Answers about Reading and Mathematics</td>
<td>New 3/08</td>
<td>40</td>
</tr>
<tr>
<td>Procedures for Accommodations, Modifications and Minnesota Test of Academic Skills</td>
<td>New 3/08</td>
<td>45</td>
</tr>
<tr>
<td>Assessment Decisions Process for Students in an Individualized Education Plan (IEP)</td>
<td>New 3/08</td>
<td>46</td>
</tr>
<tr>
<td>Graduation Exit Summary of Performance Report</td>
<td>New 3/08</td>
<td>48</td>
</tr>
<tr>
<td>Referral Procedures for Special Education</td>
<td>New 3/08</td>
<td>50</td>
</tr>
<tr>
<td>IEP Meeting Agenda</td>
<td>New 3/08</td>
<td>54</td>
</tr>
<tr>
<td>IEP Meeting Facilitator Checklist</td>
<td>New 7/02</td>
<td>56</td>
</tr>
<tr>
<td>Permission to Excuse an IEP Team Member</td>
<td>New 4/06</td>
<td>57</td>
</tr>
<tr>
<td>IEP Routing Form for All Team Members</td>
<td>New 7/02</td>
<td>58</td>
</tr>
<tr>
<td>Examples of Prior Written Notice</td>
<td>Revised</td>
<td>59</td>
</tr>
<tr>
<td>Record of Inspection and Index of Due Process Forms</td>
<td>Revised 1/09</td>
<td>60</td>
</tr>
<tr>
<td>Special Education Due Process Log</td>
<td>Revised 8/04</td>
<td>61</td>
</tr>
<tr>
<td>Guidelines on Access and Storage of Student Records/Data Privacy: Retention and Destruction of Student Records</td>
<td>Revised 10/07</td>
<td>63</td>
</tr>
<tr>
<td>Notice of Special Education File Retention Policy</td>
<td>New 8/05</td>
<td>64</td>
</tr>
<tr>
<td>Process for Storage and Destruction of Student Records</td>
<td>Revised 2/02</td>
<td>65</td>
</tr>
<tr>
<td>Special Education File Notice</td>
<td>New 9/99</td>
<td>66</td>
</tr>
<tr>
<td>Consent to Release Private Data</td>
<td>New 3/08</td>
<td>67</td>
</tr>
<tr>
<td>Receiving Students on IEPs/IFSPs from Other Districts</td>
<td>Revised 3/08</td>
<td>68</td>
</tr>
<tr>
<td>Accepting Students on Informal Agreements Between Districts and Parents</td>
<td>New 11/99</td>
<td>69</td>
</tr>
<tr>
<td>Learner Performance Review Form</td>
<td>Revised 8/04</td>
<td>70</td>
</tr>
<tr>
<td>Guidelines on Least Restrictive Environment</td>
<td>Revised 12/07</td>
<td>72</td>
</tr>
<tr>
<td>Parent Contact Documentation</td>
<td>Revised 3/08</td>
<td>75</td>
</tr>
<tr>
<td>Guidelines for Independent Educational Evaluations</td>
<td>Revised 5/07</td>
<td>76</td>
</tr>
<tr>
<td>Graduation Exit Report – Summary of Performance</td>
<td>New 4/07</td>
<td>77</td>
</tr>
<tr>
<td>Example: Graduation Exit Report Summary of Performance</td>
<td>New 4/07</td>
<td>78</td>
</tr>
<tr>
<td>Extended School Year (ESY) Guidelines and Procedures</td>
<td>Revised 8/02</td>
<td>80</td>
</tr>
<tr>
<td>Extended School Year (ESY) Discussion Process and Checklist</td>
<td>Revised 7/02</td>
<td>81</td>
</tr>
<tr>
<td>Extended School Year (ESY) Data Collection Tool</td>
<td>New 7/02</td>
<td>82</td>
</tr>
<tr>
<td>Extended School Year (ESY) Decision-Making Form</td>
<td>Revised 1/03</td>
<td>83</td>
</tr>
<tr>
<td>Extended School Year (ESY) Time Allotment Form</td>
<td>Revised 11/01</td>
<td>84</td>
</tr>
<tr>
<td>Delivery Models for ESY Services</td>
<td>New 5/03</td>
<td>85</td>
</tr>
<tr>
<td>Notification of Intent to Offer ESY Services</td>
<td>Revised 9/99</td>
<td>86</td>
</tr>
<tr>
<td>Guidelines for Alteration of Student’s School Day</td>
<td>Revised 8/99</td>
<td>87</td>
</tr>
<tr>
<td>Sample Letter Regarding Withdrawal from Public School</td>
<td>Revised 9/02</td>
<td>88</td>
</tr>
<tr>
<td>Sample Memo: Parents of Children who Attend Private School or are Educated at Home</td>
<td>Revised 3/08</td>
<td>89</td>
</tr>
<tr>
<td>Sample Memo: Administrators of Nonpublic Schools</td>
<td>New 3/08</td>
<td>90</td>
</tr>
<tr>
<td>Affirmation of Timely and Meaningful Consultation to Private Schools</td>
<td>Revised 3/08</td>
<td>91</td>
</tr>
<tr>
<td>Newspaper Article: Special Education Evaluation for Home-School or Private School Students</td>
<td>Revised 6/05</td>
<td>92</td>
</tr>
<tr>
<td>Nonpublic School Parent Referral Form</td>
<td>Revised 9/99</td>
<td>93</td>
</tr>
<tr>
<td>Procedural Safeguards Notice: Parental Rights for Private School Special Education Students</td>
<td>Revised 3/08</td>
<td>94</td>
</tr>
<tr>
<td>Guidelines: Rationale for Related Services</td>
<td>Revised 11/99</td>
<td>95</td>
</tr>
<tr>
<td>Related Services Role Descriptions</td>
<td>New 9/99</td>
<td>96</td>
</tr>
<tr>
<td>Assistive Technology</td>
<td>New 8/02</td>
<td>97</td>
</tr>
<tr>
<td>Assistive Technology Checklist</td>
<td>New 9/00</td>
<td>101</td>
</tr>
</tbody>
</table>
INTRODUCTION TO DUE PROCESS PROCEDURES

Parent involvement/due process refers to the parental rights and responsibilities, according to state and federal laws, rules, and regulations, in all aspects of initiating, developing, planning and implementing special education and related services for students with disabilities.

This chapter provides an overview of due process procedures and guidelines for students with disabilities. Each section incorporates the recent federal and state special education regulation changes. In addition, many of the sections provide links to further policy and/or procedural clarifications, as well as links to related topics.
Due Process Considerations: Procedural Safeguards

Parents of children with disabilities have a right to be involved in the educational decision-making process by being afforded the opportunity to participate in meetings related to the identification, evaluation, and educational placement of their child and examine all records relating to their child. Parents are also key members of the team at each IEP/IFSP/IIIP meeting to develop, review, or revise the IEP/IFSP/IIIP.

- Procedural safeguards are established by state and federal regulations.
- Parent(s)/Guardian(s) must be involved in all aspects of acquiring information, developing, planning and implementing programs for special education students with disabilities.

Definition of Parent

The terms "parent" and "parent/guardian" are used interchangeably throughout this manual and are defined below:

A. General. The term parent means—
   1) A natural or adoptive parent of a child, unless the court has taken away their rights to make educational decisions;
   2) A guardian, but not the State, if the child is a ward of the State;
   3) A person acting in the place of a parent (such as a grandparent, stepparent or other relative with whom the child lives, or a person who is legally responsible for the child's welfare); or
   4) A surrogate parent who has been appointed by the School Board in accordance with IDEA.

B. Foster parent. Unless State law prohibits a foster parent from acting as a parent, the State may allow a foster parent to act as a parent under Part B of the Act if—
   1) The natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and
   2) The foster parent—
      a) Has an ongoing, long-term parental relationship with the child;
      b) Is willing to make the educational decisions required of parents; and
      c) Has no interest that would conflict with the interests of the child.

Communication/Language

- Parent(s)/Guardian(s) are to be provided notice in their native language. "Native Language" means language normally used by the student in their home or learning environment.
- An interpreter will be provided for non-English speaking parent(s)/guardian(s).

Communicating with Parents Who Have Limited English Proficiency

Federal laws and state rules require schools to inform all parents of their special education due process rights. This includes parents who do not speak English or who use another communication mode. This necessitates the use of translations and interpretations for parents who are not fluent in English. The underlying goal of federal laws and rules is to enable parents to provide informed consent. In order to give informed consent, parents must receive information in a manner that they can understand. Informed consent also increases school/parent cooperation and understanding. In order to meet the intent of the law, schools should think about both the language of the parent and the best methods of communication.

One method of communication is through the use of written translations of due process materials. Parents, however, have varying abilities to speak and read in their native language and English.
For example, some parents are highly literate in their native language but do not speak or read in English. These parents may benefit from translated forms. Other parents may speak some English as well as in their native language but do not read in either. Oral interpretation may be more meaningful to these parents.

**English Language Learners (ELL)**

In Minnesota, *English Language Learners* (ELL) are defined as students who:

- First learned a language other than English; comes from a home where the language usually spoken is other than English; or usually speaks a language other than English; and
- Score significantly below the district average for students of the same age on the reading and language arts subtests of a nationally normed achievement test. Teacher evaluation of skills in understanding, speaking, reading and writing should also be considered. *(ELL Chapter)*

**Parents Who Do Not Want An Interpreter**

Many adults in Minnesota who are native speakers of another language are very fluent in English. However, cultural values, personal pride and/or the desire to not create a burden for the school may lead some parents to claim a greater degree of English proficiency than they actually possess. There may be situations where the parents refuse the right to an interpreter, but staff members suspect that they do not fully understand the complex information being presented. In all cases, it is important for school staff and parents to take some time to get to know each other and develop a trusting relationship.

When working with a family with limited proficiency in English, special education staff may wish to try the following steps:

- Contact ELL staff at the Department of Education. These staff members usually have the greatest knowledge of families with similar circumstances and may be able to mediate and/or provide suggestions.
- Explain to parents that special education can be very complicated and that many English speaking parents have trouble understanding it.
- Explain that the school needs help to understand the language and culture of all students. Place responsibility for communication barriers on the school rather than on the family.
- Consider the best interests of the child. Is the school missing critical pieces of information that can only be obtained from the family via an interpreter?

**Parents Who are Unable to Read**

Some parents (including parents of ELL students) are unable to read or write in their native language. Districts should provide oral interpretation in these cases so the parents can be involved in their child's education in a meaningful way. For ELL students, if parents are unable to read, districts are advised to have their interpreter use the translated due process forms. This is recommended for the following reasons:

- In many languages, there are no exact equivalents of special education terms. Different interpreters may use different words to explain special education concepts. Using the written translations can help increase consistency in interpretation. This is especially true if the interpreter is not trained in special education.
- Interpretation of special education documents from English into another language is complex and time consuming. Using the translated forms should greatly simplify the interpreter's task.

It is also helpful to tape record oral interpretations of special education materials. Special education is complex and the information shared at team meetings can be difficult to absorb in one sitting. A tape
recording would give parents the chance to listen to the information several times to refresh their memory.

**Parent/Guardian Notice**

- Parent(s)/Guardian(s) should be provided notice of meetings* to ensure they have an opportunity to participate. Case managers should notify parent(s)/guardian(s) of the meeting early enough to allow them the opportunity to participate.
- Parent(s)/Guardian(s) should be served notice before a proposal or refusal to perform a formal educational evaluation or reevaluation.
- Parent(s)/Guardian(s) should be served with a formal, written notice of the district's proposal or refusal to initiate or change in the identification, evaluation, or educational placement of the student, or the provision of FAPE to the student.
- Parent(s)/Guardian(s) should be informed of the procedural safeguards available to them. For a copy of these safeguards see **Notice of Procedural Safeguards: Parental Rights for Special Education.**

*NOTE: A "meeting" DOES NOT include:
- Informal or scheduled conversations
- Conversations on issues such as methodology, lesson plans, or coordination of service provisions
- Preparatory activities to develop a proposal (i.e., draft of the IEP)

**Divorced Parents**

When working with parents who are separated or divorced, remember each parent retains the right to consent or to refuse consent for evaluation, placement, and/or programming unless:
- one of the parent's rights have been terminated, or
- a court has ordered one parent not to participate, or
- one parent has been granted sole rights to make educational decisions.

If disagreement between the parents occurs, the district must offer mediation, conciliation, or may initiate a hearing. Districts should initially suggest parents settle disagreements regarding their child's special education programs in Family Court.

See related information regarding **Data Privacy.**

**Parent Involvement**

- Parent(s)/Guardian(s) must be given the opportunity to help plan their child's special education program.
- IDEA Regulations require that "parent input" be included from a variety of sources from which the districts should include in interpreting evaluation data for the purpose of determining a student's eligibility.
- Parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to: the identification, evaluation and placement and the provision of a free appropriate public education (FAPE) to the student.
- Parent notice is not required for such activities as large group screenings, individual student observation within the regular classroom, informal inventories and consultation between regular and special education personnel.

NOTE: Placement decisions may be made by the IEP team without parent participation, only if the district is unable to obtain the participation of parent(s)/guardian(s).
D A T A  P R I V A C Y  A N D  C O N F I D E N T I A L I T Y

For more information, see the following documents -- Guidelines on Access and Storage of Student Records, Destruction of Student Records/Data Privacy and Process for Storage and Destruction of Student Records

Student data shall remain confidential and be handled in the manner specified below:

A. Use the information for the purposes for which it was collected.

B. Have information available regarding district policies and procedures regarding confidential information, the types of documents that are stored, the location of file storage and duration of storage.

C. Give annual notice to parent(s)/guardian(s) of their rights under Family Educational Rights and Privacy Act and use Code of Federal Regulations, Title 34. The notice must include parent(s)/guardian(s) and student rights to:
   1. Review the educational records of their child. This includes the right to have a representative of the parent(s)/guardian(s) inspect and review the records. Parent(s)/Guardian(s) can only review the information on their own child.
   2. Request an amendment of the student's educational records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights.
   3. Consent to disclosures of personally identifiable information contained in the student's educational records.
   4. File a complaint of alleged failure to comply with the requirements of the Family Education Rights and Privacy Act and Code of Federal Regulations.
   6. Request a list of the types and locations of educational records collected, maintained, or used by the educational agency.

D. The district will keep a record of parties obtaining access to a student's records.

E. The district may charge a reasonable fee for making, certifying, and compiling copies of records unless it prevents parent(s)/guardian(s) or eligible student from exercising the right to inspect the records.

F. Consent to Release Private Data form must be completed by the parent(s)/guardian(s), prior to the release of information.

G. The district will send the parent(s)/guardian(s) a copy of the records disclosed, if requested.

H. If thought to be inaccurate or misleading, information in the educational records can be amended.
   1. The district must provide an opportunity for the content of the records to be challenged.
   2. If the content is challenged, the district must conduct a hearing.
   3. If the decision finds the information is inaccurate, the district must amend it.

I. The district may destroy educational records, subject to several exceptions (see Retention and Destruction of Student Records).

J. The parent(s)/guardian(s) will be informed when collected information is not needed. All district personnel using confidential information will be instructed regarding the policies and procedures concerning data privacy.

L. The district shall withhold information from parent(s)/guardian(s) upon request by the minor child, if the responsible authority determines that withholding the information would be in the best interest of the minor.
M. Students enrolled full-time in postsecondary educational institutions or students who have reached the age of 18 can deny access to information considered an "educational record" to parent(s) or guardian(s). However, if the parent(s)/guardian(s) report the student on their tax return they may have access to school records.

N. Signed written consent from the parent(s)/guardian(s) or eligible student must be provided before an educational agency discloses personally identifiable information from a student's educational records, unless:
1. The disclosure is to officials of another school or institution of postsecondary education where the student intends to enroll,
2. The disclosure is to the Comptroller General of the United States, the Secretary of the U.S. Department of Education, or the state and local education authorities (in connection with an audit or evaluation of state and federal programs or enforcement of compliance with federal and state legal requirements).
3. The disclosure is in connection with financial aid for which the student has applied.
4. The disclosure is to accrediting organizations to carry out accrediting functions.
5. The disclosure is to comply with judicial order. The educational agency must make reasonable effort to notify the parent(s)/guardian(s) or eligible student of the judicial order or lawfully issued subpoena before releasing the information.
6. The disclosure is made in connection with health and safety emergencies.
7. The disclosure is made to organizations conducting studies to develop, validate or administer predictive tests, improve instruction or administer aid programs. (The study conducted may not permit personal identification of parent(s)/guardian(s) or students and the information must be destroyed when no longer needed in conduction of the study).
8. The disclosure is to the parent(s)/guardian(s) of a student who is not an eligible student (over 18, or full-time in postsecondary institution) or to the student.

O. Records will be retained for five (5) years after services are no longer provided (see Destruction of Student Records/Data Privacy/Process for Storage and Destruction of Student Records).

P. Personally identifiable information on a student with disabilities may be retained permanently unless parent(s)/guardian(s) request(s) that they be destroyed.
Referral is the formal process for reviewing information related to students who show signs of needing special education. The referral process includes reviewing screening information and making a decision about whether or not to conduct a formal evaluation.

**First Step: Obtain referral information on student of concern.**

Gather as much pertinent data as possible from the person making the referral. This should include the Learner Performance Review Form completed by the teacher.

**Next: Conduct a multidisciplinary team meeting to review the student referral information (i.e., student support team - SST).**

1. The team should consist of the following personnel whenever feasible:
   - licensed special education staff,
   - principal or administrative designee,
   - student’s regular education teacher,
   - parent,*
   - and the referring person.

   * Parents must be provided with the opportunity to participate as a team member when their child is being considered for special education evaluation. The parent must be notified of the intent to develop an evaluation plan. It is recommended that parent and classroom teacher discuss concerns regarding the student prior to the referral which should be made to the building SST to implement and review the interventions already attempted, determine the need for evaluation, and assign a case manager. Attendance at the evaluation determination meeting will provide the parent with an opportunity to have any questions or concerns answered about the evaluation process and the instruments used. However, parent attendance at the meeting is not required. Parent input is required.

   If the parent wishes to be a part of the planning process but is unable to attend a meeting, the case manager should seek input and provide the parent with an opportunity to have questions answered. Attempts to include the parent in the meeting and/or opportunities for participation should be documented on the student's Parent Contact Documentation.

2. The team decides whether an evaluation should be conducted at the present time. Under regular education rule, two documented research-based interventions* are required prior to a special education referral. The team may choose to require additional documented interventions prior to making a decision.*

   * Minnesota Statute requires that before a student is referred for special education evaluation, the district must conduct and document at least two instruction strategies, alternatives or interventions “using a system of scientific, research-based instruction and intervention in academics or behavior, based on the student’s needs while the student is in the regular classroom."

   * There are situations when a student's special education evaluation team may waive the prereferral intervention requirements. This may include a student who enters the district with a documented history of blindness, deafness, mental retardation, paraplegia, autism, traumatic brain injury, or a student whose disability is well documented or has had an IEP in the last 12 months. Parents may also request an evaluation. Exception: Evaluation not required more than one time during a school year, unless the district and parent agree otherwise. The district is obligated to conduct the evaluation or formally refuse (Parental Consent/Objection Form) whenever the district is unable to convince the parent(s) to consider other interventions before proceeding to evaluation.

3. The multidisciplinary team determines the areas to be evaluated. The form Prior Written Notice for Evaluation is completed. The team decision to conduct an evaluation should be acted upon by following the appropriate steps outlined in the following Evaluation section.

NOTE: Staff may choose to use the Special Education Due Process Log to document parent(s)/guardian(s) contact and the stages of due process.
School districts are required to develop systems to identify persons with disabilities beginning at birth, students with disabilities attending school, both public and nonpublic, and students with disabilities of school age who are not attending any school. Districts have developed identification systems in accordance with requirements of non-discrimination.

### Nonpublic School Child Find Procedures

On an annual basis, informational letters are sent to private school’s administrators whose schools are located within the districts’ borders. These letters (see **Example Memo: Administrators of Nonpublic Schools**) describe the districts’ obligation to evaluate all students suspected of having a disability. The director will offer to meet with each private school administrator individually to further explain the districts’ obligations and child find (see **Referral Procedures for Special Education Evaluations**) procedures. Parent letters (see **Sample Memo: Parents of Children Who Attend Private Schools or are Educated at Home**) are provided for all parents of children who attend both private and home-school setting within the districts’ borders. Affirmations (see **Affirmation of Timely and Meaningful Consultation**) of timely consultations are signed yearly by all private school administrators. Annually, districts also publish articles (see **Newspaper Article: Special Education Evaluations for Home-School, Private School Students**) in the local papers and/or the school newsletters explaining the district's obligation to all students suspected of having a disability, including those children who are not in school and those educated in nonpublic schools or in their homes.

(Additional Private School documents: **Sample Letter Regarding Withdrawal from Public School; Procedural Safeguards Borchure; Procedural Safeguards: Parental Rights for Private School Special Education Students**).

### Early Childhood Special Education Child Find

The Early Childhood Special Education (ECSE) programs are committed to the efficient and appropriate identification of children eligible to receive early intervention services. District ECSE programs recognize the importance of, and are active contributors to interagency Child Find systems. It is the practice of these ECSE programs to accept referrals from parents, local and regional medical centers, and interagency partners as well as from the following screening efforts working within each district:

1. Child and Teen Checkups,
2. Early Childhood Screening,
3. Head Start Health and Developmental Screening

Each ECSE program will follow procedures established by their Interagency Early Intervention Committee (IEIC) within the student's county of residence for coordinating the involvement of interagency service providers to meet the comprehensive needs of young children with disabilities and their families.

**GO BACK**
Due Process Considerations: Educational Evaluation

Evaluation is the process of using formal and informal procedures to determine specific areas of a student's strengths, needs, and eligibility for special education.

A special education evaluation should reflect the student's present level of performance and serve as a basis for educational planning. An evaluation must be conducted when a student's academic, behavioral, emotional, social, physical, communication, or functional skill acquisition in the present educational setting indicates a disability and need for special education services. The purpose of evaluation is to:

A. determine whether the student meets the eligibility criteria for having a disability or, for reevaluation, determine the continuing existence of a disability;
B. determine need for special education and related services; and
C. identify student's current level of performance including specific strengths and areas of need that may be used to plan an appropriate Individualized Education Program (IEP).

When should a school district evaluate a student?

A school district should consider evaluation when:
1. the parent(s) provides written or verbal* notice that the student is disabled or otherwise requests an evaluation,
2. the adult student (age 18 or older) provides written or verbal* notice requesting an evaluation,
3. the student's teacher or other district personnel express concern that an evaluation is necessary,
4. the student's behavior and performance patterns indicate an undiagnosed disability, and
5. before discontinuing special education services.

*Although a verbal request for a special education evaluation is sufficient to trigger the school district's responsibility to consider evaluation of the student, written permission is required before the actual evaluation can begin.

- In Minnesota, as of July 1, 2003, districts cannot overturn a parent’s rejection to an evaluation or an initial placement by requesting a due process hearing. The school district does not violate its obligation under IDEA if it declines to pursue the evaluation.
INITIAL EVALUATION PROCEDURES

INTRODUCTION
An evaluation must be conducted when a student's academic, behavioral, emotional, social, physical, communication, or functional skill acquisition in the present educational placement indicates a disability and a need for a special educational placement, program, or service. An evaluation may be conducted if the student or other agency makes a request. Evaluation should be considered if the parent(s) or student over age 18 requests an evaluation. Either parent may initiate a request for initial evaluation.

STEPS IN AN INITIAL EVALUATION

First: Obtain Parental Consent

A. Complete Prior Written Notice for Evaluation which lists the proposed assessments, procedures for administration and staff who will conduct the assessments. Prior written notice question/responses must also be provided and answered. Also send the completed Parental Consent/Objection Form to gain consent for your evaluation proposal. For additional guidance, see Directions for State Due Process Forms.

When you receive the signed copy of the Parental Consent/Objection Form:

  a) If parent chooses the first option, proceed with the proposed action.
  b) If parent chooses the second option or third option, contact parent(s) and schedule a conference, facilitated IEP meeting, conciliation conference, mediation or another alternative to a due process hearing.

You may not proceed with an initial evaluation without written consent from parent(s).

Parent consent is not required before:

  1. Reviewing existing data as part of a reevaluation (see Guidelines on Reviewing Existing Data for Reevaluations, Reevaluation Procedures).
  2. Administering tests or other evaluations which are administered to all children.

Parent consent for initial evaluation is not required if:

  1. The child is a ward of the state;
  2. Despite reasonable efforts, the school is unable to discover the whereabouts of the parent of the student;
  3. The rights of the parents of the student have been terminated in accordance with state law;
  4. The rights of the parents to make education decisions have been subrogated by a judge in accordance with state law and consent for initial evaluation has been given by an individual appointed by the judge to represent the student.*

*Request current court documents regarding parent rights to make educational decisions when this is a factor

Next: Distribute copies:

A. One copy for the working file (IEP manager); and
B. Two copies should be sent to the parent(s) and/or guardian(s) for their signature; enclose a copy of the Notice of Procedural Safeguards brochure.

Finally: (After Obtaining Signed Copies) Distribute signed copies:

A. One signed copy in the student's official due process file; and
B. Parent(s)/Guardian(s) retain one copy for their records.
If a Parent Request for an Evaluation Is to Be Denied:

A. Send Parental Consent/Objection Form, Prior Written Notice and the Notice of Procedural Safeguards brochure to the parent(s)/guardian(s) within 10 school days of receipt of the written request.

1. Indicate whether the parent’s written request was to:
   a) “Initiate or change the plan of special education and related service evaluation of [your] child.” or
   b) “Initiate or change the plan of services for child.”

2. Include all of the Prior Written Notice Details.
   a) Description of each proposed action;
   b) Explanation of why the district proposes/refused to take action;
   c) Description of each evaluation procedure, test, record or report the district used as a basis for the proposed action;
   d) Description of other options the district considered and the reasons why those options were proposed;
   e) Description of any other factors affecting the proposal.

3. Inform parent(s)/guardian(s) of their right to request a due process hearing.

4. Obtain parent(s)/guardians(s) signature and distribute copies accordingly.
   a) If the parent(s)/guardian(s) chose the first option, proceed with the proposed action.
   b) If the parent(s)/guardian(s) chose the second option, contact parent(s) and schedule a conciliation conference, facilitated meeting, mediation or other alternatives to a due process hearing.

5. If a written response is not received within 14 calendar days and reasonable efforts have been made to obtain parental consent, proceed with proposed action or denial.

Completing the Educational Evaluation

A. Complete the evaluation/reevaluation within 30 school days* of the parent's/guardian's date of consent (signature).

B. The evaluation must be conducted by a multidisciplinary team including at least one teacher or specialist licensed in the suspected disability area in accordance with the evaluation plan developed as part of the referral review.

C. The team should use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the student, including information provided by the parent(s).

D. The team should not use any single measure or assessment as sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.

E. The evaluation should be administered in the student’s native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to provide and administer.

F. Assessment tools should be reliable and valid, administered by trained and knowledgeable personnel, and administered in accordance with instructions provided by the producer of the assessment.
G. Assessments selected should be tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient.

H. Assessments selected should accurately reflect the student’s aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student’s impaired sensory, manual or speaking skills.

I. Teams must use technically sound instruments to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

J. Assessments should be selected and administered so as not to be discriminatory on a racial or cultural basis.

K. Students should be assessed in all areas related to suspected disability, including if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status and motor abilities.

L. The evaluation should be sufficiently comprehensive to identify all areas of the student’s specific education and related services needs whether or not commonly linked to the disability category in which the student was classified.

*The time frame described does not apply if the parent of the student repeatedly fails or refused to produce the student for the evaluation or the child enrolls in another public school after the timeframe began, prior to the district’s determination as to whether the student had a disability. (This applies if the district made sufficient progress to insure prompt completion of the evaluation and the parent and subsequent school district agree to a specific time frame when the evaluation will be completed.

Evaluation procedures require that each student’s evaluation be sufficiently comprehensive to identify all of the student's special education and related services needs, including any needs the student has that are commonly linked to a disability other than the disability in which the student has been classified.

GO BACK
INTRODUCTION

A reevaluation must be conducted at least every three years unless the parent and school district agree it is unnecessary. Reevaluation should be considered if the child’s teacher, parent(s) or student over age 18 makes a request or if the school district staff determine the educational or related service needs warrant reevaluation. Reevaluation may not occur more than once per year unless the parent and school district agree otherwise.

At the beginning of each school year, special education case managers should review the dates from all of their special education files to determine which students are due for reevaluation throughout the year. When possible, try to space reevaluations over the course of the year so evaluators are not overloaded. For both efficiency and procedural accuracy, it may be necessary to conduct the reevaluation or plan the IEP at an earlier time.

Parents must be allowed to participate in evaluation decision-making. The special education case manager is responsible for notifying the parents of the proposed reevaluation. Parents may be contacted by phone to determine interest in participating in the evaluation determination meeting. Efforts to include parent(s) input in this process must be documented.

Regardless of level of parent participation, permission must be obtained through the use of the Parental Consent/Objection and Prior Written Notice Forms. This form also provides an opportunity for parents to give informed consent (i.e., parent signature) for the evaluation plan developed by the Child Study Team.

REEVALUATION PROCEDURES

A. Follow procedures outlined in Initial Evaluation Procedures for obtaining parent consent.

B. If parent fails to respond to a request for reevaluation:
   • Informed parent consent (i.e., parent signature) for reevaluation need not be obtained. If the parent does not return the Parental Consent/Objection Form within 14 calendar days, the school may proceed with the proposed action.

C. As a part of any reevaluation and, where appropriate, as part of an initial evaluation, a group of individuals, which must include the IEP team, including the parents, will review evaluation information to determine:
   1. Continued eligibility for special education services;
   2. Continued need for special education and related services;
   3. The student’s present levels of performance;
   4. Any additions or modifications to the special education and related services needed to enable the student to meet annual goals and objectives and to participate, as appropriate, in the general curriculum.

D. A copy of the Evaluation Report (ER) is to be provided to the parents at no cost to the parent(s).

E. A student must not be determined to be a child with a disability if the determinant factors are:
   1. Lack of appropriate instruction in reading, including the essential components of reading instruction.
   2. Lack of appropriate instruction in math; or
3. Limited English proficiency; and
4. The child does not otherwise meet eligibility criteria.

**NOTE:** An Evaluation Report (ER), which provides a review of the existing evaluation data (as well as all other required components of the ER) must be written whether or not additional evaluation data were needed. See Recommended Due Process Forms Directions for additional information about writing ERs.

**Review of Existing Data**

The definition of reevaluation includes informal measures and does not require formal evaluation on a triennial basis. Based on a review of existing data, there is a continuum of options for reevaluation ranging from re-administration of all instruments and procedures, to a determination that no additional evaluation data are needed. Regardless of this determination, all criteria components must be addressed in each reevaluation and summarized in an Evaluation Report.

Prior to the three year anniversary of the last eligibility determination, the team must make a determination, given the presenting problems and data gathered to date, whether additional evaluation data is needed to determine: continued need and eligibility for special education services, the student’s present levels of performance, and areas of need that may be used to plan an appropriate IEP (see Reevaluation Procedures for more information).

As a part of the evaluation determination meeting*, the team should review existing evaluation data on the student, including evaluations and information provided by the student’s parent(s), current classroom-based data and observations, as well as the observations of the student’s teachers and related services providers, and local or state assessments.

*The IEP case manager should review and summarize the student’s special education records and other relevant materials prior to the team meeting to facilitate the decision-making process.

Regardless of the team’s decision to conduct additional formal evaluations or not, the Prior Written Notice must be sent to the parent(s) with a description of the evaluation plan. In order to proceed with the district’s proposed action, the Parental Consent/Objection Form must be signed by the student’s parent(s). Except for initial evaluation, if a written response is not received within 14 calendar days, proceed with the proposed action or denial. Parent(s) also have the right to request further evaluation to be completed if they disagree with the proposed evaluation plan to review existing data.

On the basis of the review of existing data, as well as input from the parent(s), the team must identify what, if any, additional data are needed to determine continuing eligibility. To use existing data, apply previous test scores and evaluation findings to address:

1. whether the student continues to have a disability;
2. the present levels of performance and educational needs of the student;
3. whether the student continues to need special education and related services; and
4. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and to participate as appropriate, in the general curriculum.

These previous findings must be confirmed by current information including at least teacher observations, parent input and curriculum-based measures. It is not sufficient for the team to merely agree the student is still disabled. The team must base its decision on reliable, valid,
nondiscriminatory, comprehensive and objective sources of data. The review may be conducted "without a meeting." That is, the review of existing data may be conducted at the Child Study Team meeting without inviting the student's parent(s). Parental consent is not required for conducting such a review. However, existing evaluation data must be sent to the parents for review with a request for the parent(s) to return relevant parent information/data to be included in the review. Upon conducting the review of existing data, if the team concludes no additional data are necessary in order to determine continuing eligibility, need for services, and program plan, no formal evaluation need be conducted, unless the parent requests additional evaluation.

If after the review of existing data, the team decides that no additional formal evaluation needs to be considered, the district must notify the student's parent(s) of the team decision and reason for the determination with the Prior Written Notice. Parents have a right to request additional formal evaluation. If one or both parents request additional evaluation, the district must conduct the requested evaluation(s)*.

*Although a verbal request for a special education evaluation is sufficient to trigger the school district's responsibility to evaluate the student, written permission is necessary before the actual evaluation can begin.

After parent permission is obtained, the team may schedule a time to meet to develop a new IEP or, if the parent is present and willing, move into developing a new IEP at that meeting. The information that is used to make the determination that no additional information is needed will be used to write the Evaluation Report. This written report must address the four areas listed above.

**MISCELLANEOUS EVALUATION INFORMATION**

- If an evaluation cannot be conducted by district personnel, the expenses for an outside evaluation shall be assumed by the district (see Guidelines for Independent Educational Evaluations) for more information.
- A behavior intervention plan must include an analysis of purpose, effect, and seriousness of behavior when a conditional intervention procedure is under consideration (see Behavior Intervention Plans and Guidelines on the Use of Behavioral Interventions with Students with Disabilities.
- For a student who was previously evaluated and determined not eligible, an evaluation at a later date is considered an initial evaluation.
- For a student who entered the district from another Minnesota district and has already been identified as eligible for special education services, subsequent evaluations are considered reevaluations (for more information, see Receiving Students With IEPs/IFSPs From Other Districts.
- Norm-referenced evaluation data may be considered "current" if evaluations were conducted within 12 calendar months prior to the eligibility determination meeting.
- By grade 9, whichever comes first, the district must conduct a multidisciplinary evaluation to address secondary transition needs.
- School districts must evaluate a student with a disability before determining that the student is no longer a child with a disability, except when graduating from secondary school or exceeding eligibility for FAPE.
The Evaluation Report (ER) should include the results of the evaluation and student's present level of performance in areas evaluated, information reported by parents, relevant medical findings, and interpretation of evaluation results. This interpretation should include a discussion of whether the pupil is eligible for special education and related services as well as the IEP team’s rationale for this decision. Included in this section of the ER are the criterion(ia) for the relevant disability area(s).

Keep in mind:
1. Parents must be provided with a copy of their child’s Evaluation Report as well as the IEP/IFSP/IIIIP.
2. A student must be reevaluated at least every three years unless parents(s) and school district agree otherwise. This rule applies to all disability areas. See preceding including Review of Existing Data and Reevaluation Procedures as well as sections (Guidelines on Reviewing Existing Data for Reevaluations and Review of the Existing Data Summary Form) for additional information on conducting three year reevaluations.
3. The team shall give consideration to evaluation results provided by outside sources, but need not implement recommendations unless agreed to by the team.
**DETERMINATION OF ELIGIBILITY**

Upon completion of the administration of assessments and other evaluation measures a group of qualified professionals and the parent of the student should meet to determine whether the student is a child with a disability. The student must not be determined to have a disability if the determinant factor for the decision is:

- a. lack of appropriate instruction in reading, including the essential components of reading instruction;
- b. lack of appropriate instruction in math; or
- c. limited English proficiency; and
- d. the student does not otherwise meet the state’s eligibility criteria.

In interpreting evaluation data, to determine if the student is a child with a disability and the educational needs of the student, draw on information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, as well as information about the child’s physical condition, social and cultural background and adaptive behavior. District staff should ensure that these sources of information have been documented and carefully considered. If a determination is made that a student has a disability, an IEP will be developed.

An Individual Education Plan (IEP) is a written statement for each child with a disability that is developed, reviewed, and revised in a meeting. An IEP includes a statement of the student’s present levels of academic achievement and functioning performance including:

- How the student’s disability affects the student’s involvement and progress in the general education curriculum; or
- For preschool children, how the disability affects the student’s participation in appropriate activities.

The IEP should include a statement of measurable annual goals, including academic and functional goals designed to meet the student’s needs that result from the student’s disability to enable the student to be involved in and make progress in the general education curriculum, and meet each of the student’s other educational needs that result from the student’s disability. For students with disabilities who take alternate assessment aligned with alternate achievement standards, the IEP must include a description of benchmarks or short-term objective. The IEP must also include:

- how the student will progress toward meeting the annual goals;
- how the annual goals will be measured;
- when the periodic reports on the student’s progress toward meeting annual goals will be provided;
- a statement of the special education, related services and supplemental aids and services, based on peer-reviewed research, to be provided to the student;
- a statement of the program modifications and/or supports;
• how the supports provided should enable the student to advance toward attaining annual goals, and make progress in the general education curriculum and participate in extra-curricular and nonacademic activities;

• provide an explanation of the extent if any, for which the student will not participate with non-disabled students in regular class and extra-curricular and nonacademic activities;

• statement of appropriate accommodations necessary to measure the academic achievement and functional performance on state and district-wide assessments, with a statement why the student cannot participate in the regular assessment and the alternate assessment selected for the student;

• a projected date for services to begin and the anticipated frequency, location and duration of services and modifications;

• during grade 9, Minnesota law requires the IEP to include appropriate measurable post secondary goals based on age appropriate transition assessments related to training, education, employment and when appropriate, independent living skills. The transition IEP must also include the transition services to be provided to assist the student in reaching those goals; and

• beginning no later than one year before a student reaches the age of majority, under state law (18 in Minnesota), the IEP must include a statement that the due process rights under federal IDEA, transfer to the student upon reaching the age of majority (see Appendix A Conservatorship and Guardianship).

**DUE PROCESS CONSIDERATIONS: THE IEP TEAM**

The IEP Team must include:

• Parents/Guardian(s) of the student;

• Not less than one regular education teacher of the student, if the student is or may be participating in the regular classroom environment (requirement for SLD);

• Not less than one special education teacher licensed in the disability area;

• A representative of the district who is qualified to provide or supervise special education and is knowledgeable about the general education curriculum and the resources of the district;

• An individual who can interpret instruction implications of the evaluation results (may be another member of the team);

• Other individuals who have knowledge or special expertise regarding the student, including related services personnel;

• Whenever appropriate, the student with the disability. For transition age students, if the student does not attend the IEP meeting, the district must take steps to ensure the student’s preferences and interests were considered by the team. Representatives of participating agencies should also be invited to attend transition IEPs (with the consent of the parent);

• When appropriate, a person of same minority or cultural background as the student;

• Agency representative for transition, when appropriate;

• Other individuals at the discretion of the parent/guardian(s) or district;

• Representatives of private school, when appropriate; and
• Resident district representative, when appropriate.

Note: The revised regulations clarify that the IEP team shall include “at the discretion of the parents or the agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.” A new paragraph has been added to the regulations to clarify that the knowledge or special expertise of any of these individuals shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP team. Parents CANNOT deny district the right to invite another individual who has relevant knowledge or expertise, nor can the District deny the parents expert from participation.

A member of the IEP Team described above is not required to attend an IEP Team meeting, in whole or part, if the parent of the student with a disability and the district agree in writing, that the attendance of the member is not necessary because the member’s area of the curriculum or related services is not being modified or discussed in the meeting. The IEP Team member must be excused through written parent permission (see Permission to Excuse IEP Team Member). The Team member must submit in writing, input into the development of the IEP prior to the meeting.

IEP MEETING NOTICE TO PARENTS

Districts must take steps to ensure that one or both of the parents of a student with a disability are present at each IEP Team meeting or are afforded the opportunity to participate through notification that includes:

• Notice of a meeting early enough to ensure parents have an opportunity to attend; and
• Scheduling meetings at mutually agreeable times and places.

All notices will indicate purpose, time and location of the meeting, as well as who will be in attendance. When the purpose of the meeting is to plan for secondary transition, parents will be informed that post secondary goals and transition services will be considered, that the student will be invited and other agency personnel invited will be identified.

If parents are unable to attend, districts must keep a record of attempts to arrange for a mutually agreeable time and place, including:

• detailed records of telephone calls made or attempted and the results of the calls;
• copies of correspondence sent to the parents and responses received; and
• detailed records of visits made to the parent’s home or place of employment and the results of those visits.

A copy of the student’s IEP will be provided to the parent(s) at no cost.

IEP or IFPS for Children Ages 3-5

For students ages 3-5, the IEP Team will consider an IFSP that contains IFSP contents (including the natural environment statements) and its implementing regulations including an educational component that promotes school readiness and incorporates pre-literacy, language and numeracy skills. The IFSP will serve as the IEP if the IFSP is agreed upon by the student’s parents.
PROVISION OF SERVICES – INITIAL IEPs

Districts shall:

• Meet to develop an IEP for a student who qualifies with a disability within 30 days of the determination that the student needs special education and related services;

• As soon as possible, special education and related services will be made available in accordance with the student’s IEP;

• Make the student’s IEP accessible to regular education and special education teachers, related services providers and any other service provider who is responsible for implementation (see IEP Routing Form for All Team Members).

IEP for Transfer Students

If a student with a disability (who had an IEP in the previous district) transfers from another district within the same school year, from another school district in the State of Minnesota, the districts should provide comparable services to those described in the student’s previous IEP until another IEP is developed by the district.

If a student with a disability (who had an IEP in the previous district) transfers from another state within the same year, the district should provide comparable services to those described in the previous IEP until the district conducts an evaluation to determine eligibility for services in Minnesota and/or develops, adopts and implements a new IEP. The district should take reasonable steps to promptly obtain the student’s records, including the IEP and other supporting documents and records related to the provision of special education and related services to the student. The district should also respond promptly whenever a request is made for records from the new district. In Minnesota, it is not necessary to obtain a Release of Information Form to forward school records, including the special education records.

Development of IEP

The IEP Team should consider:

• Educationally relevant medical findings;

• The strengths of the student;

• The concerns of the parent(s)

• The results of the initial or most recent evaluation including transition evaluation and need, when appropriate;

• In the case of a student whose behavior impedes his/her learning or that of others, consider positive behavioral interventions and supports and other strategies to address the behavior and review emergency or IEP use of regulated procedures;

• In the case of a student who is blind or visually impaired, provide instruction in Braille and the use of Braille unless the IEP Team determines instruction or use of Braille is not appropriate;

• Consider the communication needs of the student; and

• For students who are deaf or hard of hearing, consider the student’s language and communication needs, opportunities for direct communication with peers and professional personnel in the student’s language and communication mode, academic level and full range of needs, as well as assistive technology devices and services.

GO BACK
Changes to Annual IEP

In making changes to a student’s IEP after the annual IEP Team Meeting for a school year, the parent of a student with a disability and the district may agree not to convene an IEP Team Meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the student’s current IEP (use Prior Written Notice).

Parents will be provided a revised copy of the IEP with the amendments incorporated. The student’s IEP Team members will be informed of the changes.

Whenever possible, districts should consolidate reevaluation and IEP Team Meetings.

NOTICE TO PARENTS FOLLOWING THE IEP MEETING

1. Obtain the parent(s)/guardian(s) response to the team decision.
   A. If the team decided to make an initial placement of a student, complete Parental Consent/Objection and Prior Written Notice Form and give or send a copy to the parent(s)/guardian(s) with the Notice of Procedural Safeguards brochure as well as a copy of the IEP.
      1. If the parent(s)/guardian(s) chooses the first option and signs the Parental Consent/Objection Form, proceed with the proposed action. Services cannot begin on an initial placement until the parent(s)/guardian(s) consent is given.
      2. If the parent(s)/guardian(s) chooses the second option, contact the parent, and if necessary schedule a private conference, a conciliation conference or mediation.
   B. If the team decided to act upon a parental request for placement or a change in services, a Parental Consent/Objection and Prior Written Notice Form should be completed and sent to the parent(s)/guardians(s) with the Notice of Procedural Safeguards brochure.
      1. If the parent(s)/guardians(s) chooses the first option, proceed with the proposed action.
      2. If the parent(s)/guardians(s) chooses the second option, schedule a private conference, a conciliation conference or mediation within 10 calendar days.
      3. If a written response is not received within 14 calendar days and you have made reasonable attempts/efforts to obtain consent, proceed with proposed action.

2. Provide copies of the written IEP to:
   A. parent(s) and/or guardian(s),
   B. resident school district,
   C. all service providers,
   D. all team members.

The student’s IEP should be:
   A. implemented as soon as possible after parent(s)/guardian(s) permission is obtained.
   B. continuous from one school year to the next.
1. **Conduct an evaluation.** “Evaluation” may or may not include formal evaluation procedures (e.g., standardized testing etc.).

2. Notify the parent(s)/guardian(s) and all team members of the time and place of the IEP meeting.

3. Discuss the student's progress, and the reason(s) discontinuation of service is being recommended. **The team should discontinue services when:**
   
   A. The student achieved IEP goals and demonstrates the ability to succeed in the general education program, or an appropriate community-based environment without special instruction and related services; **or**
   
   B. The medical condition or disease originally diagnosed has been corrected and the student no longer needs special education and related services; **or**
   
   C. The student's physical or other health impairment no longer adversely affects educational performance; **or**
   
   D. The student graduated and successfully completed graduation requirements; either prescribed by the Board of Education or as noted in the IEP/IIIP under modifications in graduation requirements.*
   
   E. The student reached 21 years of age prior to July 1 of the student’s 21st year.
   
   F. The student no longer qualifies for the special education services.
   
   G. The parent(s) requests the student be removed from service.

   *Reevaluation is not required for students who "age out" or receive a regular high school diploma. However, notice of graduation constitutes a "change of placement" which requires parental consent.

4. Complete **Parental Consent/Objection Form** and **Prior Written Notice Form**.
   
   A. If the parent(s)/guardian(s) chooses the first option, proceed with the proposed action.
   
   B. If the parent(s)/guardian(s) chooses the second option, schedule a private conference, a facilitated IEP meeting, conciliation conference or mediation or another alternative to a due process hearing within 10 calendar days.
   
   C. If a written response is not received within 14 calendar days and you have made reasonable efforts to obtain consent, proceed with the proposed action or denial.

**Please note:** If the reason for the discontinuation is parental request, after the meeting to discuss the student’s removal from services, parental signed consent is required before discontinuing service.
**EXIT PROCEDURES**

**EXIT CRITERIA**

1. The team shall discontinue special education instruction and services when:
   
   A. the student has achieved IEP/IIIP goals and objectives such that the student demonstrates the ability to succeed in the regular education program or an appropriate community-based environment without special instruction and services; 
   
   B. the medical diseases or condition originally diagnosed has been corrected and the student no longer needs special instruction and services; 
   
   C. the student’s physical or other health impairment no longer adversely affects educational performance; 
   
   D. the student graduated and successfully completed graduation requirements as prescribed by the board of education or the student's IEP/IIIP; 
   
   E. the student exceeds school age to 21 years; or 
   
   F. the student no longer qualifies for special education services. 
   
   G. Parent(s) requests the student be removed from service.

**EXIT SUMMARY**

Discontinuing special education services constitutes a significant change of placement. Therefore, the IEP/IIIP manager shall attach to the Parental Consent/Objection and Prior Written Notice Form with a written report summarizing:

A. a description of the proposed action; 

B. why the district is proposing the student exit (graduate); 

C. description of evaluations/tests/records reports used in making the proposal: 
   
   1) the student’s last IEP/IIIP goals/objectives attainment status, 
   
   2) the most recent evaluation data, 
   
   3) any other information that supports the exit. 

D. description of other options considered and rejected; 

E. recommendations for future anticipated service needs (post secondary education and training needs if the student is exiting due to graduation); see Exit Summary Report 

F. an explanation that the District will proceed with the exit/graduation and termination of services unless the parent (student age 18) makes a written objection within 14 calendar days of receiving the “Notice;”

G. a description of any other factors affecting the proposal.

**VOLUNTARY EXIT FROM GRADUATION EXIT REPORT SPECIAL EDUCATION**

When parents voluntarily withdraw their child with a disability from school to attend home school, private school or to "drop out" of school, the District’s obligation is to send the parents a letter suggesting that the District stands ready to serve the student. If and when the parent/student chooses to return to school and access special education services in the new setting or in the future, the District is obligated to provide that service. (see Sample Letter Regarding Withdrawal from Public School).

**GO BACK**
Interim IEP
For a team to determine the appropriate placement or to resolve questions regarding the content of the IEP, an interim IEP may be written for a period of no more than 60 school days.

Extended School Year (ESY) Considerations
Extended school year services should be provided when students:
- experience "significant regression" in the absence of an educational program; and
- the time required to relearn the skill lost is excessive; or
- the effects of the breaks in programming are such to prevent the student from attaining self-sufficiency the student would otherwise reasonably be expected to reach.
- ESY is a necessary component to insure FAPE.

The above decisions should be supported by data, ESY forms and procedures (see Extended School Year (ESY) Guidelines and Procedures).

Districts may not limit ESY services to particular categories of disability, or unilaterally limit the type, amount, or duration of those services.

Alteration of School Day
Alterations in a student's school day should be documented on the IEP and should be based on student needs and not on administrative convenience (see Guidelines for Alteration of Student’s School Day).

Need for Paraprofessional on IEP
The student's need for and specific responsibilities of the paraprofessional shall be described in writing on the Adaptations section of the IEP (see Paraprofessional Assistant Work Plan Request to document need for paraprofessionals).

Related Services
Related services refers to supportive services required to assist the student with a disability to benefit from special education. New federal regulations have provided additional procedures and guidance relative to the provision of Related Services (see Rationale for Related Services and Related Services Role Descriptions).

Secondary Transition Services
The IEP must address all five areas of transition by grade, whichever comes first, and include a statement of needed transition services for eligible students. A statement of interagency responsibilities or linkages must be included on the IEP before secondary services are concluded. Interagency personnel should be invited to attend IEP meetings for transition age students (see Secondary Transition Services).

Braille Instruction
For all students with blindness, the team must concur that the student's visual impairment does not affect reading and writing ability commensurate with ability. Instruction in Braille reading shall be available for each student who is blind, if the multidisciplinary team has determined reading and writing is appropriate.
LEAST RESTRICTIVE ENVIRONMENT (LRE)

See Guidelines--Least Restrictive Environment

In making placement decisions, teams must draw on a variety of sources of information to ensure that services for students with disabilities are provided in the least restrictive environment and to ensure that students with disabilities, to the maximum extent appropriate, are educated with students who do not have disabilities, to also include nonacademic and extracurricular services and activities (e.g., meals, recess, sports). A continuum of alternative placement must be available to meet the needs of students with disabilities.

Limitations on Removal from Age-appropriate Regular Classroom.

IDEA regulations prohibit the removal of a student with a disability from an age-appropriate regular classroom solely because of needed modifications in the general curriculum.

Use of Assistive Technology in a Student's Home if Needed for FAPE.

On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to be served in the least restrictive environment (Assistive Technology; Assistive Technology Checklist; Assistive Technology Contract).

GRADUATION REQUIREMENTS

See Graduation Requirements & Graduation Standards: Guidelines & Implications for Special Education Students for additional procedures and forms.

- Beginning at grade nine, the IEP team must address the graduation requirements for a high school diploma.
- Team must determine which courses, programs, or classes that must be successfully completed by regular education students are appropriate and attainable by the student.
- Team must determine those courses, programs, or classes the student can not successfully attain without special education or are not appropriate for the student.
- The IEP team must address the basic graduation standards of reading, writing, and mathematics. Decisions regarding the need for accommodations, modifications, or exemptions of these standards will be made by the IEP team.

Graduation Policy Retained--Prior Notice and Evaluation Addressed

The IDEA regulations contain the policy position that a student's right to FAPE is terminated upon graduation with a regular high school diploma, but is not terminated by any other kind of graduation certificate or diploma. The regulations also specify that:

1. Written prior notice is required since graduation from high school with a regular diploma constitutes a change in placement, school districts will be expected to provide the notice within "a reasonable time" before proposing to graduate a student, in order to ensure that there is sufficient time for the parents and student to plan for, or challenge, the pending graduation.

Evaluation is not required before graduation (i.e., the provision requiring that a student be evaluated before determining that he or she is no longer eligible under Part B does not apply if the termination of eligibility is due to graduation with a regular diploma or aging-out under State law).

GO BACK
**Considering Each Child's Performance on General and State-wide Assessments**

IDEA specifically requires that, as a condition of State eligibility for funding under Part B of IDEA, children with disabilities are included in general State and district-wide evaluation programs.

**FOLLOW-UP REVIEW**

The IEP manager shall conduct a follow-up review of the student's current performance no later than 12 calendar months after special education services have been discontinued to determine if progress in the general education setting is satisfactory, except if the student has graduated or been discontinued at age 21.

**Documentation** - Discuss the student's progress and appropriateness of current program.

A. If satisfactory progress has been made, no further action is needed. Special education services have been terminated.

B. If another Follow-up Review is necessary, identify the date and person responsible for the next review.

C. If satisfactory progress has not been made and further action is needed, identify the date and person responsible.

1) consult with the general education classroom teacher(s) to insure success of the student in the mainstream through use of curricular modification and/or interventions; and

2) If the student was discontinued within 12 months and present levels of performance (PLEPs) are available and an evaluation has been conducted within the last three years, re-evaluation is not necessary. The student can be returned to service if the student demonstrates need and continues to be a student with a disability. If the student’s PLEPs and current evaluation data are not available, an educational evaluation is necessary to return the student to special education services.

**GO BACK**
See the documentation in this chapter for more information regarding surrogate parents. (Guidelines Regarding Appointment and Training of Surrogate Parents, Letter to Prospective Surrogate Parent(s), The Surrogate Training Test, A Sample Letter to be used to Appoint Surrogate Parent to Represent a Specific Child, A Sample Letter Superintendent Could Use to Notify Surrogate Parents of their Appointment to Represent a Specific Child.

Surrogate parents are to be appointed by the School Board when no parent can be identified, the whereabouts of a parent cannot be discovered, or the child is a ward of the State (parental rights have been terminated). Surrogate parent(s) may represent the student in all matters related to identification, evaluation, and educational placement of the child and the provision of a free appropriate public education of the student.

Removal of Surrogate Parent

If the removal of a surrogate parent is being contemplated, the person in question must be notified of the time and place of the meeting at which time a vote will be taken by the School Board. The surrogate parent must also be informed of the reasons for the proposed removal. Further, the surrogate parent shall be given the opportunity to be heard on his/her own behalf.

A removal may be made for any of the following reasons:

1. Failure of the surrogate parent to represent the student in any of the parental functions described by federal regulations and state rules (e.g., giving permission to assess, attend IEP team meetings, signing notice of special education services);
2. a conflict of interest;
3. actions by the surrogate that threaten the student's well-being;
4. failure to appear to represent the student; or
5. a change in the student's eligibility for special education services.

While the participation of natural parents in team meetings and the IEP process is permissive, a lack of such participation by surrogate parents can constitute cause for their termination.

Documentation

- Individual District Policies on Data Privacy and Confidentiality (filed in each District Office)
- Copies of Assessment reports released to the public (stored at individual district level)
- PAC Membership List (filed in NWRIC Office)
- PAC Meeting Agendas and Minutes of Meetings (stored at NWRIC Office)
- Special Education Parent Advisory Committee (PAC) Guidelines
- Minnesota Graduation Requirements
- Graduation – Required Assessment for Diploma (GRAD) Questions and answers about Reading and Mathematics
- Procedures for Accommodations, Modifications and Minnesota Test of Academic Skills
- Assessment Decisions Process for Students in an Individualized Education Plan (IEP)
- Graduation Exit Summary of Performance Report
- Referral Procedures for Special Education Evaluations
- IEP Meeting Agenda
- IEP Meeting Facilitator Checklist
- Permission to Excuse an IEP Team Member
- IEP Routing Form for All Team Members
- Examples of Prior Written Notice
- Record of Inspection and Index of Due Process Forms
- Special Education Due Process Log
- Guidelines on the Retention and Destruction of Student Records/Data Privacy: Retention and Destruction of Student Records
- Notice of Special Education File Retention Policy
- Process for Storage and Destruction of Student Records
- Special Education File Notice
- Consent to Release Private Data
- Receiving Students on IEPs/IFSPs from Other Districts
- Accepting Students on Informal Agreements Between Districts and Parents
- Learner Performance Review Form
- Guidelines on Least Restrictive Environment
- Parent Contact Documentation
- Guidelines for Independent Educational Evaluations
- Graduation Exit Report – Summary of Performance
- Example: Graduation Exit Report Summary of Performance
- Extended School Year (ESY) Services Guidelines and Procedures
- ESY Discussion Process and Checklist
- ESY Data Collection Tool
- ESY Decision-Making Form
- ESY Time Allotment Form
- Delivery Models for ESY Services
- Notification of Intent to Offer ESY Services
- Guidelines for Alteration of Student’s School Day
- Sample Letter Regarding Withdrawal from Public School
- Sample Memo: Parents of Children who Attend Private School or are Educated at Home
- Sample Memo: Administrators of Nonpublic Schools
- Affirmation of Timely and Meaningful Consultation to Private Schools
- Newspaper Article: Special Education Evaluation for Home-School or Private School Students
- Nonpublic School Parent Referral Form
- Procedural Safeguards Notice: Parental Rights for Private School Special Education Students
- Guidelines: Rationale for Related Services
- Related Services Role Descriptions
- Assistive Technology
- Assistive Technology Checklist
- Sample Assistive Technology Parent Contract
- Guidelines Regarding Appointment and Training of Surrogate Parents
- Letter to Prospective Surrogate Parent(s)
- The Surrogate Training Test
- A Sample Letter to be Used to Appoint Surrogate Parent to Represent a Specific Child
- A Sample Letter Superintendent Could Use to Notify Surrogate Parents of their Appointment to Represent a Specific Child
- Notice of Procedural Safeguards Brochure
The purpose of the Special Education Advisory Council (SEAC) is to assure:

1. Parental input into the decision-making process of the Northwest Regional Interdistrict Council Special Education Cooperative.
2. To provide a communication link with the member districts’ parents and special education instructors.
3. To advocate for high quality regular and special education programs.

MEMBERSHIP:
The committee shall be limited to 8 members and shall include representatives from parents and district staff. The following are suggested areas of representation:

1. Eight parents representing children with the following disabilities (one representative from each member district):
   A. Emotional/Behavioral Disorder
   B. Specific Learning Disability
   C. Early Childhood Special Education
   D. Developmental Cognitive Disability: Mild-Moderate
   E. Developmental Cognitive Disability: Severe-Profound
   F. Visual Impairment
   G. Deaf or Hard-of-Hearing
   H. Physical Impairment
   I. Other Health Disability
   J. Autism Spectrum Disorder
   K. Traumatic Brain Injury
   L. Speech and Language Impairment
   M. Severe Multiple Impairment
   N. Deaf-Blindness

2. School Staff
   A. Seven special education teachers representing each member district from multiple disability areas
   B. Two special education students
   C. Director of Special Education, Northwest Regional Interdistrict Council Special Education Cooperative

TERMS OF MEMBERSHIP:

Meetings:
The Special Education Advisory Council shall meet at a minimum one time per year with special meetings called at the discretion of the Director of Special Education. Meetings shall be open to the public. Agendas will be set by the director in consultation with the superintendents, principals, teachers, staff and parent membership.
**Operational Procedures:**
The committee shall advise the Director of Special Education regarding current issues, program development, parental concerns and involvement, cooperative-wide guidelines and procedures.

The committee shall have access to the Superintendent of Schools through the Director of Special Education.
Minnesota Graduation Requirements

Legislation passed in 2007 changed the graduation requirements for Minnesota students. A summary of all of these changes is contained in the **Standards, State Testing and Graduation Requirements Chart**. The chart includes standards implementation and state testing implementation dates and requirements as well as student graduation requirements for all subject areas for students graduating in years 2008 through 2015. See the end of this chapter for these documents. For more in-depth information about specific language in the legislation, please visit the Office of the Revisor’s Web site.

**Minnesota Assessments**

**Purpose**

The Minnesota Assessments program has three purposes:

1. **To measure student achievement against the Minnesota Academic Standards and the Minnesota English Language Standards.** Each assessment is designed to measure student performance on the academic standards that are identified in each assessment’s test specifications.

2. **To measure the proficiency of Minnesota graduates.** Minnesota expects its high school graduates to demonstrate the skills and knowledge necessary for success beyond high school. The Basic Skills Test (BST) assesses the skills of students who entered grade 8 in the 2004-05 school year or earlier. The MCA-II/GRAD replaces the reading and mathematics BSTs for students who enrolled in grade 8 in 2005-06 (Class of 2010) or later. The GRAD Test of Written Composition in grade 9 has replaced the BST Test of Written Composition previously given in grade 10.

3. **To measure the progress of students over time.** In the past, Minnesota’s measures of student progress could only compare students from one year with students from another year. In 2007 and beyond, the year-to-year progress of each student and cohort of students will be possible. The progress scores are available in the District Student Results (DSR) file. Teacher and administrators can use progress scores when making instructional decisions at both the individual and group level.

**Overview of Minnesota Assessments**

**Title I Assessments for No Child Left Behind – Adequate Yearly Progress (AYP)**

The Title I section of NCLB requires that all public school students in grades 3-8 and in one grade in high school be assessed in reading and mathematics to measure Adequate Yearly Progress (AYP). The MCA-II's in reading and mathematics, the Math Test for English Language Learners (MTELL), and the alternate assessment Minnesota Test of Academic Skills (MTAS) are used to meet this requirement. Science is required for NCLB but is not included in AYP calculations at this time. Minnesota public schools and districts, including charter schools, are required to assess all students who are enrolled in the district during the state’s three-week testing window.\(^1\)

<table>
<thead>
<tr>
<th>Test</th>
<th>Subject</th>
<th>Grades</th>
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<tbody>
<tr>
<td>MCA-II</td>
<td>Reading</td>
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<td></td>
<td>Mathematics</td>
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<td></td>
<td>Science</td>
<td>5, 8, 9-12(^3)</td>
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<tr>
<td>MTELL</td>
<td>Mathematics</td>
<td>3-8, 11</td>
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<tr>
<td>MTAS</td>
<td>Reading</td>
<td>3-8, 10</td>
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<td>Science</td>
<td>5, 8, 9-12</td>
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\(^1\) Northwest Regional Interdistrict Council Special Education Cooperative Total Special Education System Manual--Chapter 14: Governance Standards
The testing window for the MTAS is five weeks.

2 In 2005, legislation was passed to replace the BSTs, which had been required for graduation for all students entering grade 8 in 2004-05 or earlier, with the Grade 10 Reading and Grade 11 Mathematics MCA-IIs. Students first entering grade 8 in 2005-06 are required to pass the Test of Written Composition in grade 9, the Grade 10 Reading MCA-II/GRAD and the Grade 11 Mathematics MCA-II/GRAD.

3 The high school Science MCA-II is given to students in the year they complete their instruction in life science. Students who are in grade 10 in 2007-08 are required to take the high school Science MCA-II before the end of their high school career.

**Minnesota Comprehensive Assessments – Series II (MCA-II)**
The purpose of the Minnesota Comprehensive Assessments – Series II (MCA-II) is to measure Minnesota student achievement on the Minnesota Academic Standards. In addition, the MCA-II results can be used to inform curriculum decisions at the district and school level.

The reading and mathematics MCA-IIs are paper-and-pencil assessments aligned to the Minnesota Academic Standards. These assessments are divided into four segments and contain multiple-choice (MC) and constructed-response (CR) questions. MC items require a student to select the correct or best response from a list. A CR item, unlike an MC item, requires a student to provide an answer and explain the reasoning for that answer. Mathematics assessments for the MCA-IIs also have gridded-response (GR) questions in grade 5 and above. GR items (mathematics MCA-II, MTELL) require a student to compute the correct answer and enter it.

The science MCA-IIs have figural-response (FR) questions where the student uses the technological capabilities of the computer to do such things as create a graph, click on a hot spot, or drag images or words into designated response areas. These tests, which are also aligned to the Minnesota Academic Standards, become operational in 2008 for all students in grades 5, 8 and one grade in high school. The High School Science MCA-II is given in the year they complete their instruction in life science. Students who are in grade 10 in 2007-08 are required to take the science test before the end of their high school career.

**Minnesota Test of Academic Skills (MTAS)**
The MTAS is a performance-based assessment in reading, mathematics and science for students with the most significant cognitive disabilities. It replaced the Minnesota Alternate Assessments in the spring of 2007 and features substantial reductions in the complexity of the academic content standards. Participation in the MTAS is limited to those students whose IEP team determines that a reading and/or mathematics MCA-II is not appropriate and requires that the student meets the participation guidelines for the test.

**Minnesota Diploma Assessments**
Students who entered grade 8 in 2004-05 or earlier have to pass the BSTs in order to be eligible for a diploma from a Minnesota public high school. Students initially took the Reading and Mathematics BSTs in grade 8; they initially took the BST Test of Written Composition in grade 10. Students who entered grade 8 in 2005-06 or later have to pass the GRAD tests in order to be eligible for a diploma from a Minnesota public high school. Students that don’t pass a test the first year it is given will retake the test (“retest”) until they pass it.

<table>
<thead>
<tr>
<th>Diploma Tests in 2007-08</th>
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<tr>
<td><strong>Test</strong></td>
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<tr>
<td>BST</td>
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<td>BST</td>
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<td>GRAD</td>
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<td>MCA-II/GRAD</td>
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GRAD (Graduation-Required Assessments for Diploma)
To be eligible for a diploma from a Minnesota public high school, students enrolled in grade 8 in the 2005-06 school-year or later must pass the reading and mathematics MCA-II/GRADs, and the GRAD Test of Written Composition. The Class of 2010, the first group of students required to pass the series of GRAD tests, took the grade 9 GRAD Test of Written Composition in 2007, will take the grade 10 Reading MCA-II/GRAD in 2008, and the grade 11 Mathematics MCA-II/GRAD in 2009.

Basic Skills Tests
To be eligible for a diploma from a Minnesota public high school, students who entered grade 8 in 2004-05 or earlier must receive passing scores on the Basic Skills Tests (BSTs) in reading, mathematics and written composition. The students affected by the BST regulations are primarily in grades 11 and 12 in 2007-08.

MDE Writing Alternate Assessment
This writing alternate assessment from past years will continue to be used in 2007-08 with students in grade 9.
Questions and Answers about the Reading and Mathematics
MCA-II/GRAD and the GRAD Test of Written Composition

What does GRAD mean?
GRAD, or Graduation-Required Assessments for Diploma, refers to three tests (reading, mathematics and writing) that students who entered grade 8 in 2005-06 or later must pass in order to graduate from a Minnesota public high school. Students who entered grade 8 in 2004-2005 or earlier must pass the Basic Skills Tests (BSTs) to receive a diploma.

What is the MCA-II/GRAD?
Two of the GRAD tests will be part of the Minnesota Comprehensive Assessments-Series II (MCA-II) tests associated with the No Child Left Behind (NCLB) Act. The grade 10 Reading MCA-II and the grade 11 Mathematics MCA-II will serve dual purposes. First, the state will use them to determine whether the student’s school and district have met Adequate Yearly Progress (AYP). Second, students will use them to demonstrate that they have the reading and math skills Minnesota requires for graduation.

What is the GRAD Test of Written Composition?
The GRAD Test of Written Composition is a writing test that requires students to write to a prompt, and their essay is given a score between 1 and 6. A score of 3 or more is passing.

Who must take these tests?
All students in grade 9 must take the GRAD Test of Written Composition. All students in grade 10 must take the Reading MCA-II and all students in grade 11 must take the Mathematics MCA-II. The Individuals with Disabilities Education Improvement Act (IDEA 04) says all students with disabilities must participate in statewide assessments.

For students with a disability, the IEP team decides whether and how the student participates:
1. take the MCA-II/GRAD, with or without accommodations, or
2. take the Minnesota Test of Academic Achievement (MTAS) for accountability and/or graduation.

When will students take the GRAD tests?
The GRAD Test for Written Composition was first given to ninth-graders in April 2007. The Reading MCA-II/GRAD will be first given to tenth-graders in April starting in 2008 and the Mathematics MCA-II/GRAD will be given to eleventh-graders in April starting in 2009.

What does it take to pass the Reading and Mathematics MCA-II/GRAD?
There are a number of ways to pass:
• Have a proficient score on the MCA-II,
• Have a passing score on the GRAD portion of the MCA-II/GRAD or
• Receive a Pass Individual (student on an IEP or 504 Plan)

What happens if a student doesn’t pass?
Students who don’t pass the Reading or Mathematics MCA-II/GRAD will have multiple opportunities to take the GRAD component, most likely on a computer. Students who don’t pass the GRAD Test of Written Composition in grade 9 will be able to take the test during subsequent years, either during the statewide testing window or during retest windows. Please check with your student’s school for the options available in your district.
**What skills are included on the MCA-II/GRAD and what is the format?**

These tests will measure proficiency on the Minnesota Academic Standards and other essential skills. The reading test will require students to read a variety of passages and answer multiple-choice and constructed-response, or short-answer, questions. The mathematics test will require students to solve a variety of problems and answer multiple-choice, gridded-response, and constructed-response questions. Gridded-response items require students to fill in answers on a grid. The GRAD retests for reading and mathematics will contain only multiple-choice questions.

**How will the tests be scored?**

The multiple-choice and gridded-response items in the reading and mathematics tests will be scored by computer; the constructed-response items will be scored by trained scorers. The GRAD Test of Written Composition is evaluated by trained professionals using specified guidelines.

**How can I see the MCA-II/GRAD results for my child, school and district?**

All test results are sent to the school district. The district will deliver the results for your child to you. You can see the results for all schools and districts at the Minnesota Department of Education Website. Go to the “Report Card” section and click on the first letter of your school or district. [Minnesota Department of Education](http://education.state.mn.us) – under Academic Excellence: School Report Card)

**How can students prepare for the tests?**

Please see our handout, “Test Preparation Suggestions for Students, Teachers and Parents,” under the “Assessments” section of our Website for tips on content preparation, general test taking and calculator use. ([http://education.state.mn.us](http://education.state.mn.us) – under Accountability Programs: Assessment and Testing: Assessments)

**Where can I find more information about the MCA-IIIs?**

Go to the Minnesota Department of Education [Website](http://education.state.mn.us) and follow these links: Accountability Programs: Assessment and Testing: Assessments: GRAD Component of the MCA-II

For more information, contact: Minnesota Department of Education, Research and Assessment

[mde.testing@state.mn.us](mailto:mde.testing@state.mn.us)

1500 Highway 36 West
Roseville, MN 55113-4266
(651) 582-8200

BACK TO DOCUMENTATION PAGE
The purpose of the statewide assessments is to understand how well Minnesota students have met the Minnesota Academic Standards that educators have determined to be essential for all students. Most students can show what they know and can do under standard testing conditions, but for some students with disabilities or special language needs, it is both fair and appropriate to make adjustments, or accommodations, to the test. Accommodations for students with IEPs or 504 Plans reduce or even eliminate the effect of a disability on their test performance without lowering our expectations for their learning. Accommodations for English language learners attempt to reduce the English language demands of the test in cases where assessing English language acquisition is not the purpose of the test (for example, math and science MCA-IIs). It is critical that accommodations be selected and implemented in ways that “level the playing field” for students with special needs, yet maintain the integrity of the test so that valid judgments can be made about what students know and can do.

Making effective decisions about accommodations begins with making sound instructional decisions. These decisions are facilitated by gathering and reviewing information about the student’s specific needs and current levels of performance in relation to the Minnesota Academic Standards. Careful consideration should be given to each accommodation selected rather than assuming that “more is better” and selecting accommodations that may actually be counterproductive.

Listed below are accommodations that may be considered for students with an IEP or 504 Plan, or who are identified as LEP. Accommodations on each assessment should be based on individual need. MDE recognizes that school personnel may consider accommodations that are not specifically addressed in this chapter yet may be entirely appropriate for a particular student and assessment. If you have a special situation not covered by this chapter, you may send a question to mde.testing@state.mn.us or the contact person listed under Test Information in the front of this manual.

**General Information about Accommodations**

**What is an Accommodation?**
An accommodation is a change in the administration of an assessment, such as presentation format, response mode, setting, timing/scheduling, or any combination of these that does not change the construct intended to be measured by the assessment or the meaning of the resulting scores. Accommodations provided to a student during state assessments must also be provided during classroom instruction, classroom assessments, and district assessments; however, some instructional accommodations are not appropriate for use on statewide assessments, for example, calculators may not be used on all sections of an assessment even if they are used consistently in the classroom. It’s critical that educators become familiar with state policies regarding the appropriate use of accommodations during assessments.

**What is the Purpose of an Accommodation?**
Accommodations play a key role in promoting access to the general education curriculum. The purpose of accommodations is to reduce or eliminate the effects of a student’s disability, or in the case of a student who is identified as LEP, to eliminate barriers to the Minnesota Academic Standards caused by language differences. Accommodations allow students with special needs to show what they know and can do; they do not reduce learning expectations.

**Description of Accommodation Categories**
Three accommodation categories are used in Minnesota:
- **Presentation Accommodations** allow students to access information in ways that do not require them to visually read standard print. These alternate modes of access are auditory, multi-sensory, tactile and visual.

- **Response Accommodations** allow students to complete activities, assignments, and assessments in different ways or to solve or organize problems using some type of assistive device or organizer.

- **Timing and Scheduling Accommodations** increase the allowable length of time to complete an assessment or assignment and perhaps change the way the time is organized. While extended time or frequent breaks may be specified as accommodations in a student’s IEP or 504 Plan, they are considered an accommodation only for a student taking the TEAE which is a timed test. For all other Minnesota assessments extended time and frequent breaks are considered a general practice and are available to all students.

A setting accommodation allows students to complete tasks in different settings or under different conditions than are normally provided. While small group or individual administration may be specified as an accommodation in a student’s IEP or 504 Plan, there is no need to identify setting accommodations on Minnesota Assessments because they are general practices that are available to all students.

**Who May Receive an Accommodation?**
Accommodations to NCLB assessments may be considered for three groups of students: students with IEPs, students with 504 Plans and LEP students. When an eligible student demonstrates the need for an accommodation, it must be provided as long as it does not invalidate the assessment.

**Who is Responsible for Making Decisions Regarding Accommodations?**
For students with IEPs, the IEP Team is responsible for making annual assessment and accommodation decisions which must be based on individual need in accordance with state and federal guidelines. For students with the most significant cognitive disabilities, the IEP Team may determine that the Minnesota Test of Academic Skills (MTAS) is the most appropriate measure of academic skills in reading, mathematics and science. Only students with disabilities under IDEA may be considered for the MTAS.

Students with 504 Plans must be provided accommodations based on individual need as long as the accommodations do not invalidate the assessment. The 504 Team should determine the appropriateness of an accommodation for a particular student and document the decision in the 504 Plan. Students with 504 Plans are not eligible for the MTAS.

For students who are identified as LEP, the ESL teacher should determine and record which assessments and accommodations are most appropriate.

**Selecting Appropriate Accommodations**
To ensure that students with disabilities are engaged in standards-based instruction and assessment, members of the IEP Team must be knowledgeable about the Minnesota Assessments, the Minnesota Academic Standards and district academic content standards. Making appropriate instructional decisions is facilitated by gathering and reviewing information about the student’s disability and level of performance in relation to the Minnesota Academic Standards. In essence, the process of making decisions about accommodations is one in which the IEP Team attempts to “level the playing field” so that students with disabilities can participate in the general education curriculum.

The first question asked by those who make accommodation decisions should not be, “What accommodations are available? This practice does not promote sound decision-making or advance equal opportunities for students to participate in the general education curriculum. Research has demonstrated
that more is not necessarily better when it comes to accommodations and that providing students with accommodations that are not truly needed may have a negative impact on their performance.

The better approach when making accommodation decisions is to focus on a student’s identified needs within the general education curriculum. Some examples of questions that should be considered prior to the selection of an accommodation are:

- What specialized instruction (e.g., learning strategies, organizational skills, comprehension strategies) does the student need to achieve grade level content standards?
- What accommodations will increase the student’s access to the general education curriculum? What accommodations address the student’s learning needs while reducing the effects of the disability?
- What accommodations are routinely used by the student during instruction in the classroom and in classroom-, district-, and state-level testing?

The following pages describe accommodations that may be considered by IEP Teams, 504 Teams and ESL teachers. The accommodations at the end of this chapter are organized under the headings of presentation, timing/scheduling, and response format. Tables 7 and 8 are intended as a reference, and are not an exhaustive list of testing accommodations. If school personnel determine that a student needs a particular accommodation that is not included on these charts, please contact MDE to ensure that the accommodation will not invalidate a specific assessment.

**Documenting the Use of an Accommodation**

Many accommodations have a special code that should be entered on the student’s answer book/document or in the online system. Districts will be able to correct errors that were made when entering these codes. These accommodation codes are used by MDE to help analyze test results. Individual Student Reports and Summary Reports do not mention accommodations used.

It is the IEP Team’s responsibility to determine which testing accommodations are needed by a student who receives special education services. For a student who has a disability under IDEA, specific accommodations are annually documented in the IEP prior to testing. Likewise, a 504 Team should document in the 504 Plan its decision to use an accommodation. ESL teachers should record the use of accommodations for students identified as LEP.

**Assessment and Accommodation Information for Students taking the Minnesota Test of Academic Skills (MTAS) – Alternate Assessment**

Both NCLB and IDEA 2004 require that all students with disabilities be administered the assessments districts use to hold schools accountable for the academic performance of students. IEP Team members are required to engage in a planning process that addresses:

- Provision of accommodations that facilitate student access to grade level instruction and Minnesota Assessments.
- Use of alternate assessments to assess the academic achievement of students with the most significant cognitive disabilities.

All Minnesota students, including students with disabilities, must participate in statewide (e.g., Reading and Mathematics MCA-IIs in grades 3-8, 10 and 11) and district-wide assessments. There are some students with significant cognitive disabilities for whom the regular assessment, even with accommodations, is not an appropriate measure of their academic performance. If a student’s IEP Team determines that the regular assessment is inappropriate, the student must be administered an alternate assessment linked to grade level Minnesota Academic Standards in reading, mathematics and science. Alternate assessments based on alternate achievement standards such as the Minnesota Test of Academic Skills (MTAS) represent a reduction in the complexity of the standards. The MTAS in reading and mathematics was first
administered in the spring of 2006-07. Science will be administered for the first time in 2007-08. The following participation guidelines and the flow chart at the end of this chapter provide guidance for an IEP Team determining whether a student should participate in the MTAS.

Assessment Decisions for Students with the Most Significant Cognitive Disabilities

It is the IEP Team’s responsibility to determine how each student who receives special education services will participate in the Minnesota Assessments. In Minnesota, three assessment options for meeting the federal accountability requirements under the 2001 Elementary and Secondary Education Act – commonly referred to as NCLB – are available for students with IEPs.

- The Minnesota Comprehensive Assessments – Series II (MCA-II) in Mathematics, Reading and Science;
- The MCA-II in Mathematics, Reading and Science with accommodations; and
- The Minnesota Test of Academic Skills (MTAS) in Mathematics, Reading and Science (the alternate assessment based on alternate achievement standards).

IEP Teams must first consider whether the MCA-II, with or without accommodations, is an appropriate measure of a student’s academic progress. If the IEP Team determines that the MCA-II is not an appropriate measure of the student’s academic progress, and the student meets the requirements established in this document, then it is appropriate that the student be assessed with the MTAS. Care should be taken when making assessment decisions for students served by multiple programs. Additional assessment options are available for students with IEPs who are also identified as Limited English Proficient (LEP). The MTAS may only be administered to a student who meets eligibility requirements under the Individuals with Disabilities Education Act (IDEA).

Beginning in spring 2007, the MTAS became Minnesota’s alternate assessment based on alternate achievement standards. The MTAS, which is for students with the most significant cognitive disabilities, includes performance tasks in reading, mathematics and science that are linked to grade level Minnesota Academic Standards as required by NCLB. The grade level standards are reduced in complexity to reflect prerequisite skills. Alternate achievement standards describe performance on grade level Minnesota Academic Standards, but the performance and expected achievement levels are different for students with significant cognitive disabilities. Minnesota educators participated in the process for reducing the complexity of the Minnesota Academic Standards and the development of the performance tasks on the MTAS.

Importance of Providing Access to the General Education Curriculum

Students with significant cognitive disabilities should access the grade level Minnesota Academic Standards to the maximum extent appropriate, although the standards may be reduced in complexity or modified to reflect prerequisite skills. The MTAS will measure the extent to which students with significant cognitive disabilities are making progress in the general education curriculum, and students must be provided an opportunity to develop knowledge and skills that are aligned with the general education curriculum in order for the assessment to be a valid measure.

Both NCLB 2002 and the Individuals with Disabilities Education Improvement Act 2004 (IDEA) require the curriculum for students with disabilities to access grade level Minnesota Academic Standards established for all students as defined by states for purposes of federal accountability. However, this requirement does not eliminate the need to provide instruction in functional living skills for students with identified needs in this area.
Federal statute 34 CFR 300.39 (b)(3)(ii) gives further support to the importance of providing access to the general education curriculum by defining special education as “specially designed instruction to meet the unique needs of a child with a disability...to ensure access of the child to the general education curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.”

**Guidelines for Determining Student Participation in the MTAS**
IDEA gives the state responsibility for developing and implementing guidelines for the participation of children with disabilities in alternate assessments. State responsibilities for determining which students are appropriately assessed with an alternate assessment are further clarified in *Alternate Achievement Standards for Students with the Most Significant Cognitive Disabilities:* “It is the State’s responsibility to define which students have the most significant cognitive disabilities...[and] to establish clear and appropriate guidelines for IEP Teams to use when deciding if an alternate assessment based on alternate achievement standards is justified for an individual child.” The U.S. Department of Education has provided states with the following guidance in defining the term “significant cognitive disabilities:”

Only students with the most significant cognitive disabilities may be assessed based on alternate achievement standards. The regulation does not create a new category by disability. Rather, the Department intended the term ‘students with the most significant cognitive disabilities’ to include that small number of students who are (1) within one or more of the existing categories of disability under IDEA (e.g., autism, multiple disabilities, traumatic brain injury, etc.); and (2) whose cognitive impairments may prevent them from attaining grade level achievement standards, even with the very best instruction.

IEP Teams should use these guidelines and their knowledge of the student when making an annual determination about how the student will participate in the state assessment program. If the IEP Team determines that the MCA-II, even with accommodations, is not an appropriate measure of the student’s academic progress, and **ALL** of the following requirements are met, the student is appropriately assessed with the MTAS.

1. The student’s cognitive functioning and adaptive behaviors are significantly below age expectations; in addition, the student’s disability has a significant impact on the student’s ability to function in multiple environments including home, school, and community.

2. The student requires extensive and direct instruction and/or extensive supports in multiple settings to acquire, maintain, and generalize academic and life skills to actively participate in school, work, home, and community environments.

3. The student’s instructional program includes participation in the general education curriculum to the extent appropriate and may also include training in functional living skills.

4. None of the following factors is a basis for assessing the student with the MTAS:
   a) The student’s disability category (e.g., Developmental Cognitive Disability, Autism Spectrum Disorder, Traumatic Brain Injury)
   b) The student’s placement (e.g., resource room, separate classroom, public separate day school facility)
   c) The student’s participation in a separate, specialized curriculum
   d) The expectation that the student may not receive a passing score on the MCA-II
   e) Language, social, cultural, or economic differences
   f) Concern for Adequate Yearly Progress (AYP) calculation.
Students with disabilities but not the most significant cognitive disabilities

These students are assessed with the general education assessments with accommodations indicated in an IEP.

LEEP-identified students in this group may take MTELL in place of MCA-II mathematics.

The U.S. Department of Education has yet to provide final guidance on the 2% of proficient scores allowed by scoring proficient on alternate assessments based on modified achievement standards. In Minnesota, students who are ineligible for MTAS must take the regular State-level assessments, with or without accommodations, in order to be counted as participants for AYP calculations.

Students with the most significant cognitive disabilities

These students are unable to participate in the regular grade-level State assessment, even with appropriate accommodations.

Has the IEP team determined that an alternative assessment based on alternate achievement standards is appropriate in accordance with the participation guidelines outlined in the following pages?

Yes

No

The student is appropriately assessed with the Minnesota Test of Academic Skills (MTAS). Of all math or reading tests administered in a district, up to 1% of that number may be counted as proficient by scoring proficient on the MTAS. This calculation does not limit the number of students appropriately assessed with the MTAS.

The IEP team must reevaluate the student’s ability to participate in the regular State-level assessment, with or without accommodations.
IDEA 04 requires that for a student whose eligibility terminates through graduation with a diploma or aging out, the District must provide the student with a summary of the student’s academic achievement and functional performance that includes recommendations on how to assist the student in meeting postsecondary goals.

Federal law also requires that the District plan for a student’s graduation. Inform parents in the fall of the year the student is expected to graduate the District’s intent to graduate/exit the student. Graduation or aging-out is a change of placement. Therefore, it is necessary to also provide a Notice of Proposed Action indicating the student’s dismissal due to graduation, along with the Graduation Exit Summary of Performance Report.

Summary of Performance

For which students is the Summary of Performance required and when should a Summary of Performance be provided?
Students who are receiving special education services when leaving high school and who are leaving due to receiving a regular diploma or by reaching the maximum age of eligibility are required to have a Summary of Performance. The Summary of Performance should ideally be provided to the student just prior to leaving the high school setting. Completion of the Summary too far in advance of graduation or leaving high school may result in incomplete records, recommendations, and summarizations of both academic achievement and functional performance.

Do students who receive a GED require a Summary of Performance?
No, only those students who leave high school with a regular diploma or by reaching maximum age of eligibility require a Summary of Performance.

Do students who have been staffed out of special education during their senior year prior to graduation or who have dropped out require a Summary of Performance?
No, if special education services have ended prior to the student leaving the high school setting with a diploma or by reaching the maximum age of eligibility, no Summary of Performance is required. If the special education student drops out, no Summary of Performance is required.

Is the Summary of Performance part of the IEP?
No, the Summary of Performance is NOT a part of the IEP; it falls under the section of IDEIA 2004 that determines the need for reevaluation prior to exiting special education.

Can the student’s current IEP be the Summary of Performance?
No, as stated above, the Summary of Performance is not regarded as the IEP and is clearly identified as a separate process from the IEP. If the Summary were intended to be part of the IEP, it is likely the reauthorization would have included it in the section of IDEIA 2004 pertaining to IEP content. It is the current interpretation by our department that this must be a separate document from the IEP.

Who needs to be present when reviewing the Summary of Performance with a student and his/her family?
The primary service provider (case manager), the student and the parent are the only people required to review the Summary of Performance. This does not need to be a formal meeting, but documentation that the Summary has been provided should be obtained. This can be done by collecting signatures on the Summary of Performance.
Are new assessments required to complete the Summary of Performance?
No, IDEIA 2004 clearly indicates that schools have NO obligation to provide assessment solely for the identification or eligibility for other agencies or services not related to K-12 education.

If a student has not met all their IEP goals and objectives, does this influence the Summary of Performance?
No, the Summary of Performance is provided when the student approaches the termination of his/her Free and Appropriate Public Education and therefore is based on the attainment of the diploma or the reaching of maximum age of eligibility (the student’s progress on IEP goals and objectives is not a factor).

What is the process for students who receive a Certificate of Completion, a modified diploma, or leave high school without documentation and do so prior to reaching the maximum age of eligibility?
Students who leave high school under the circumstances above must have an eligibility review meeting to establish the change in placement. A student may continue to qualify for special education, but refuse to continue services and therefore leave the high school setting. It is important to note that for these students FAPE has not ended and they may return to continue special education or regular education services until age 21.

Is a Summary of Performance required for students who are expelled?
No, students who are expelled and have an IEP are still entitled to FAPE and therefore shall not receive a Summary of Performance until they have either received a diploma or reached the maximum age of eligibility.

BACK TO DOCUMENTATION PAGE
Referral Procedures for Special Education Evaluations for Public School Students

Since 1975, public schools have been responsible for providing special education services to children with disabilities. Part of that obligation is the identification of students with disabilities who are in need of special education and related services. An educational evaluation is conducted to determine if a child meets the state mandated eligibility criteria for disabilities and if the child is in need of special education and related services. The disability areas include:

- Autism Spectrum Disorders (ASD)
- Deaf-Blind (DB)
- Deaf and Hard of Hearing (DHH)
- Developmental Cognitive Disability: Mild to Moderate or Moderate-Severe (DCD-MM, DCD-MS)
- Early Childhood Special Education (ECSE)
- Emotional or Behavioral Disorders (EBD)
- Other Health Disabilities (OHD)
- Physically Impaired (PI)
- Severely Multiply Impaired (SMI)
- Specific Learning Disability (SLD)
- Speech or Language Impairments (S/LI)
- Traumatic Brain Injury (TBI)
- Visually Impaired (VI)

The purpose of this brochure is to outline the initial referral process used if a parent or teacher suspects that a student between the ages of 5 and 21 may have a disability and needs special education and related services.

**Child Find Process**

1. **Concern is identified**
2. **Parent shares concerns**
3. **Teacher gathers information and takes concerns to SAT/TAT**
4. **Teacher conducts and documents prereferral interventions**
5. **If concerns persist teacher submits prereferral intervention documents to building Student Support Team (SST)**
6. **SST reviews prereferral information**
7. **If referral is appropriate, an Evaluation Determination meeting is held**
8. **Evaluation plan written**
9. **Referral is not appropriate**
10. **Alternative options will be recommended**
Referral Process

- Parent or teacher identifies a concern with the student’s academic performance, communication, health/physical status, social/emotional or behavioral skills, motor skills, or functional skills.

- Parent and teacher discuss concern.

- Teacher gathers information on student performance and presents it to the building Student Assistance Team (SAT)/Teacher Assistance Team (TAT).

- Teacher conducts and documents prereferral interventions.

- If concerns persist and performance is discrepant from classmates/norms, teacher submits prereferral interventions and information to the special education Student Support Team (SST).

- The school Student Support Team (SST) reviews prereferral information and interventions and contact parent, teacher and/or principal for additional information or consultation.

- The SST determines whether prereferral information is adequate. If not, the information is returned to the referring party for completion. The SST then determines if an evaluation is needed.

- If evaluation is needed, an Evaluation Determination meeting is held and an evaluation plan is completed. The plan is shared with parents for their written consent.

- If the referral is inappropriate, alternative options for action will be recommended.

For additional information:
Northwest Regional Interdistrict Council
Special Education Cooperative
201 West Minnesota Ave. PO Box 9
Newfolden, MN 56738
Phone: 218-874-8215
Fax: 218-874-2131
tnielsen@nwric.com
# IEP Meeting Agenda (Sample)

## 1. Introductions:
- Parent
- Parent
- Student
- SPED
- Other

## Date of Meeting:
- General Ed.

## 2. Overview of Current Services Offered/Student Strengths

## 3. Parent/Guardian Comments, Questions, Educational Concerns

## 4. Progress on Goals and Objectives

## 5. Progress in Mainstream Curriculum (see attached)

## 6. Evaluation Information (if any)
- Intellectual Functioning
- Academic Performance
- Motor Skills
- Functional Skills
- Sensory Status
- Emotional, Social and Behavioral Development
7. **Student’s Educational Needs and New Goal Areas**

8. **Accommodations and Modifications**

9. **Behavior Plan/School Discipline Policy**

10. **Transition Planning**

11. **Graduation Planning/Graduation Standards**
12. ESY

13. **Basic Skills Tests/Mastery of Academic Progress Tests (NWEA)/Minnesota Comprehensive Assessments (MCA)/Alternate Assessments**

14. **Appropriate Placement and Services**

- Transportation (special)

- Interagency Services

15. **MA Billing**

16. **Transfer of Rights (age 17)**

17. **Altered School Day**

18. **Placement Services Determined**

19. **Summary:**

- Review decisions made

- Review responsibilities

- Set future meeting date (if needed)

- Thank parents for coming
### 20. The following information must accompany the Notice of Proposed Services:
A description of the action proposed or refused by the district:

- An explanation of why the district proposes or refuses to take the action:

- A description of any other options that the district considered and the reasons why those options were rejected:

- A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action:

- A description of any other factors that are relevant to the district’s proposal or refusal:

*Reminder: Give parents Notice of Procedural Safeguards*

**BACK TO DOCUMENTATION PAGE**
IEP Meeting Facilitator Checklist

Student’s Name _________________________________ Date_______________
District/School _______________________ Case Manager __________________

1. **Necessary Due Process Requirements:**
   - Send Notice of Team Meeting form
   - Inform parents of their right to invite guest
   - Make at least 3 attempts to contact parents regarding mutually agreeable time and location prior to holding the IEP meeting
   - If parents can’t attend determine if other methods are feasible (i.e., phone conference meeting)

2. **Pre-planning Items:**
   - Required personnel at the meeting
     - Parent/guardian
     - Regular education teacher(s)
     - School district representative
     - Other service provider
     - Special education teacher
     - Parent selected team member (optional)
     - Student (if appropriate)
     - *If some team members can’t attend, bring information from them to the team meeting

3. **Before the Meeting:**
   - A room free from outside distractions.
   - Ample room for all team members to sit and space to take notes.
   - Water or beverages if the meeting will run over an hour.
   - Alert office personnel to expect parents and make them feel welcome.
   - Hold phone calls.
   - Have pencils, paper, and copies of reports available for team members.
   - Position team members. The facilitator should sit next to the parent.
   - Have somebody take notes at team meeting (i.e., principal).

4. **Beginning the Meeting:**
   - Welcome parents and provide them a copy of their parental rights (discuss for initial IEP).
   - Have meeting members introduce themselves and their relationship to the student.
   - Provide members a copy of an agenda.
   - Inform parents notes will be taken.
   - Set time parameters.
   - IEP meeting agenda includes the following:
     - Introduction
     - Overview of current services provided
     - Parent/guardian comments/questions/concerns and objectives
     - Review of progress toward reaching goals
     - Review of progress in mainstream curriculum
     - Evaluation/reevaluation data if appropriate
     - Students educational needs discussed/identified
     - Identify new goal areas if appropriate
     - Accommodations and modifications discussed
     - Placement/services determined
     - ESY
     - Assistive technology
     - Profile of Learning/State Testing
     - Transfer of Rights
     - Use of school discipline policy with the student
     - Altered school day
     - Medical Assistance addressed
   - Students educational needs discussed/identified
   - Identify new goal areas if appropriate
   - Accommodations and modifications discussed
   - Placement/services determined

5. **Conducting the Meeting:**
   - Stay student focused
   - Use the term “appropriate” rather than “best” in relating to service to be provided to the student
   - Give consideration to all parent requests, however, make recommendations based on data and professional experience
   - Stick to the agenda
   - Steer away from past problems, focus on the student’s present and future needs
6. **Ending the Meeting:**
   
   ____ Inform parents that the minutes from the meeting will be incorporated into the IEP.
   ____ Recap the services being offered and check to see if the parents understand and agree to IEP team decision.
   ____ Encourage the parent to review the IEP upon receiving it and call if they have any questions.
   ____ Inform parents that Parental Consent/Objection and Prior Written Notice Forms will be sent home with the IEP and that it will need to be signed and returned ASAP.
   ____ Thank the parents and team members for coming in and taking the time to meet.

BACK TO DOCUMENTATION PAGE
PERMISSION TO EXCUSE IEP TEAM MEMBER

IDEA 2004, allows districts and parents to excuse team members from attendance at IEP meetings if both the district and the parent(s) agree in writing that the member(s) be excused because the curriculum area is either not being discussed or the member has submitted a written request to the team.

The district team believes

___________________________________________________________

attendance at _________________________________ IEP meeting is not necessary because:

Please check appropriate box:

_____ 1. the curriculum area will not be discussed.

_____ 2. the team member submitted written input.

Please circle indicating agreement or disagreement with the District’s request and sign below.

I agree/disagree with the District’s request to have ___________________________________ excused from my child’s IEP meeting.

___________________________________________________  __________________________
Parent Signature                                      Date
CONFIDENTIAL

Attached you will find a copy of ________________’s IEP. Please read through it and contact me if you have any questions. After you have read it, sign your name in the space provided beside your typed name on this sheet and date it. If there are other names on the routing list, please give it to the next person listed. After the last person has read the IEP and signed off, please return it to me by the date indicated. Thank you.

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Please return this form and the attached IEP to ________________________________ by ____________.

This form will be filed in the Special Ed. file under the Parent/School Communication Section (#1).
EXAMPLES OF PRIOR WRITTEN NOTICE FOR IEPs

EXAMPLE 1

For an annual IEP meeting:

1. **A description of the action proposed or refused by the district.**
   For initial IEP, IFSP or IIIP: The district is proposing to implement the IEP discussed at the IEP Team Meeting on May 23, 2010. Please see attached IEP. For continuing IEP, briefly describe the changes proposed.

2. **An explanation of why the district proposes or refuses to take action.**
   The district has proposed these services to address the severe reading difficulties of the student. Or, The district is proposing to dismiss all special education services for this student based on the evaluation dated May 23, 2010.

3. **A description of each evaluation procedure, test, record or report the district used as a basis for the proposed or refused action.**
   The district completed a comprehensive educational evaluation prior to the IEP meeting. The results of the evaluation were used to determine the student’s needs along with informal classroom data and parent information.
   OR
   Information from parents, teachers and other service providers was compiled along with informal classroom assessments and observations and regular classroom data collection on student progress to assist the team in determining the student’s needs in program planning. Based on IEP progress reports.

4. **A description of any other options the district considered and the reasons why those were rejected (Good PLEP statements would meet this requirement).**
   The team considered placing Sam in the resource setting for reading, but decided against this option because he is making sufficient progress with supports in the current setting. OR, The team considered Extended School Year (ESY) services for the student, but decided against this option because the student shows no regression in skills following an extended break in school services.

5. **A description of any other factors that are relevant to the district’s proposal or refusal.**
   If the student has any language and cultural issues, communication concerns, blind or visual impairments, assistive technology needs, health concerns or behavioral concerns it must be noted here along with how those concerns affect the proposed IEP. If there are no other concerns you may simply state, “None”.

BACK TO DOCUMENTATION PAGE
### Record of Inspection & Index of Due Process Forms (Sample)

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## SPECIAL EDUCATION DUE PROCESS LOG

**Student’s Name:** ___________________ **DOB:** __________  **Reevaluation Due Date:** __________

**Address:** ____________________________

**Parent(s):** __________________________

**Phone:** ____________________________

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### IEP Manager:

- **Notice of a Team Meeting (IEP)**
  - Call to set up meeting
  - Sent Notice of a Team Meeting
  - Reminder Call

- **Parental Consent/Object and Prior Written Notice Forms**
  - 1st Forms Notice
  - 2nd Forms Notice
  - Call/Write letter
  - Date signed or date of last documented attempt

### Progress Review

- 1st quarter after IEP
- 2nd quarter after IEP (optional PR meeting)
- 3rd quarter after IEP

*If significant change in program or placement is proposed, hold Review.*

### Notice of a Team Meeting (IEP)

- Call to set up meeting
- Sent Notice of a Team Meeting
- Reminder Call

### Parental Consent/Object and Prior Written Notice Forms

- 1st Forms Notice
- 2nd Forms Notice
- Call/Write letter
- Date signed or date of last documented attempt

### Suspension Dates (see Suspension Checklist)

- ISS or OSS
- ISS or OSS
- ISS or OSS
- ISS or OSS

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Northwest Regional Interdistrict Council Special Education Cooperative Total Special Education System Manual—Chapter 14: Governance Standards
GUIDELINES ON THE RETENTION AND DESTRUCTION OF
STUDENT RECORDS/DATA PRIVACY

RETENTION AND DESTRUCTION OF STUDENT RECORDS

According to Minnesota statute, school district records can only be destroyed pursuant to a records retention schedule that has been adopted by the school board and approved by the Records Disposition Panel of the State of Minnesota or by special permission.

At the federal level, the retention of special education student records is governed by several laws. The first, governing recipients of federal funds, 20 U.S.C. § 1232f, requires that records related to the expenditure of federal funds be maintained for five years after completion of the activity for which the funds were used. A district’s right to destroy special education records is further restricted by the Family Educational Rights and Privacy Act (FERPA). Under FERPA, educational records may not be destroyed if there is an outstanding request to inspect the records by the parent or eligible student, 34 C.F.R. § 99.10(e).

In addition, the Individuals with Disabilities Education Act’s (IDEA) regulations require school districts to “…inform parents when personally identifiable information collected, maintained, or used…” pursuant to the IDEA, “…is no longer needed to provide educational services to the child…” and therefore will be destroyed by the district. The notes that accompany this provision explain that “this notice would normally be given after a child graduates or otherwise leaves the agency.” An attempt must be made to individually contact the student before the file is destroyed. Districts are advised to provide “Notice” to the student of the district’s policy at the last IEP meeting prior to graduation. This should constitute sufficient notice.

The IDEA regulations also provide that “information must be destroyed at the request of the parents if they are no longer needed for education purposes.” However, a permanent record of a student’s name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitations.”

Based on the above information, it is the practice of the Northwest Regional Interdistrict Council and its participating districts that each has their own retention policy. In addition, special education records will not be destroyed if there is an outstanding request for the record by the parent or eligible student. Also, parents and eligible students will be notified about this practice at the time the student is (a) dismissed from special education services, (b) graduates from school, or (c) ages out of school. This will constitute notice and no further notice will be given at the end of the five years. Students will be asked to sign an acknowledgment (Notice of Special Education File Retention Policy) of the district’s policy to destroy the records after five years and that the “Notice” has been given. A copy of this notice will be retained by the school. Results of achievement and other standardized tests will be retained permanently. A record of all standardized tests results administered as an evaluation for eligibility while the student was in special education services will be permanently retained. Finally, when the student reaches the
age of at least 26, all special education records will be destroyed with exception for the final IEP/IIIP and all the Evaluation Reports and the Parental Consent/Objection Form indicating the student’s dismissal from services.

The school must provide a child's divorced, non-custodial parent(s) with the same procedural protections as the child's custodial parent, unless a state court has determined otherwise (see Divorced Parents). As a result, both divorced parents of a disabled child must be notified of IEP/IIIP issues and must be granted access to relevant records, regardless of who has custody. Further, while in some circumstances it may be possible for an educational institution to rely solely on the approval of an IEP/IIIP by a custodial parent, both divorced parents must be given the opportunity to participate in the development and approval of the child's educational placement. Doe v. Arnig, 651 F. Supp. 424, 37 Educ. L.R. (D. Mass. 1987).

The custodial parent should provide documentation to the principal establishing custodial rights and any other court orders. The noncustodial parent should receive a copy of any correspondence upon providing the principal with a mailing address.

Due Process and Procedures Related Links
Guidelines on Access and Storage of Test Protocols Process for Storage and Destruction of Student Records Divorced Parents

BACK TO DOCUMENTATION PAGE
NOTICE OF SPECIAL EDUCATION FILE RETENTION POLICY

In accordance with the policy adopted by the ________________ School District and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The record will be retained until five years after your 21st birthday in accordance with the District’s retention schedule. At that time, the contents will be destroyed with the exception of the last IEP/IIIP, all evaluation reports and the Notice of Proposed Action and the following which will be maintained without time limitation: standardized and achievement test results, student’s name, address, phone number, grades, attendance and grade level completed.

By signing this notice, you are acknowledging the retention policy. No further notice will be given.

_________________________       ___________________________
Student                                      Parent

_________________________       ___________________________
Date                                      Date

_________________________       ___________________________
Witness                                    Date

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Student Copy

In accordance with the policy adopted by the ________________ School District and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The record will be retained until five years after your 21st birthday in accordance with the District’s retention schedule. At that time, the contents will be destroyed with the exception of the last IEP/IIIP, all evaluation reports and the Notice of Proposed Action and the following which will be maintained without time limitation: standardized and achievement test results, student’s name, address, phone number, grades, attendance and grade level completed.

By signing this notice, you are acknowledging the retention policy. No further notice will be given.

_________________________       ___________________________
Student                                      Parent

_________________________       ___________________________
Date                                      Date

_________________________       ___________________________
Witness                                    Date
PROCEDURE FOR STORAGE AND DESTRUCTION OF STUDENT RECORDS

Procedures for Storage of Files:

1) At the conclusion of an educational evaluation, if student does not qualify:
   a) Complete a Special Education File Notice and place in the student’s cumulative file.
   b) Start new file on non-qualifying students and place the evaluation report (ER) in the file.
   c) All non-qualifying students are to be filed by grade, alphabetically and maintained in a locked cabinet.
   d) At the time of transition to the next building, all non-qualifying files for the grade level leaving are to be sent for filing in a locked cabinet to the principal's office of the receiving school.

2) For students who qualify for service:
   a) Complete a Special Education File Notice and place in the student's cumulative file.
   b) Special education records are to remain with the case manager in a locked file cabinet.

3) Students terminated from special education:
   a) After a one-year follow-up, file is to be placed in a central location in a locked file cabinet.
   b) At the end of transition to the next building up, all terminated files for the grade level leaving are to be sent to the principal’s office in the next building to be placed in a locked file at a central location.

BACK TO DOCUMENTATION PAGE
SPECIAL EDUCATION FILE NOTICE
Place in Student's Cumulative File

District ______________________________________

Student: ____________________________________________

DOB ______________________

Date Evaluation Completed: ___________________________ Grade (at time of evaluation) __________

Person(s) Completing Evaluation:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

Check Area(s) Evaluated:
_____ Intellectual/Cognitive
_____ Academic
_____ Communication
_____ Sensory
_____ Motor
_____ Health And Physical
_____ Social/Emotional/Behavioral
_____ Transition
_____ Functional
_____ Other

_____ Does qualify for ______________________________ services.
_____ Does not qualify for special education services.
_____ Student has been discontinued from special education services.

More information may be found in files located: ____________________________

BACK TO DOCUMENTATION PAGE
CONSENT TO RELEASE PRIVATE DATA

___________________________ISD # __________
Address
City, MN Zip
Telephone: ___-___-_____

Consent to Release Private Data
(Sample)
Use form on Student Plans

Section I
Student Name: Admin. Example ID: 3329347865975 Date: 1/11/2008
School: Badger School Grade: 01 DOB: 8/10/2001

Section II
Name: __________________________ authorizes District # __________________

☐ to release the specific information identified below to:

☐ to obtain the specific information identified below from:

Name of individual or entity, Title
Organization
Address

For the purpose of:

Section III
I understand this authorization: ☐ can be stopped any time by sending a written request to:
☐ takes effect the day I sign it,
☐ cannot exceed one year, and expires either:
  ☐ on __________, or
  ☐ one year from the date of my signature,

I further understand:
☐ I may refuse to sign this authorization and it will not affect my child’s ability to receive educational services,
☐ the laws that protect the information identified on this release, in some situations, may allow or require this entity to re-disclose this information, but only as permitted by law Health Insurance Portability and Accountability Act (HIPPA), Family Educational Rights and Privacy (FERPA), Minnesota Government Data Practices Pact (MGDPA or Chapter 13),

☐ a copy of this release form is as valid as an original, and

☐ I will receive a copy of this authorization.

Signature: __________________________ Date: __________________________

Parent, legal representative, or student

BACK TO DOCUMENTATION PAGE
Receiving Students with IEPs/IIIPs/IFSPs from Other Districts

Receiving Students from Minnesota Districts

When a student with a disability transfers into a district (i.e., the district of residence changes), the district must respond immediately to the fact that the student had previously been identified as disabled and has an IEP from another district. The building administrator (or designee) shall assign an IEP manager who will immediately schedule an IEP meeting to address the special education needs of the student. Additionally, the building administrator (or designee) shall immediately undertake efforts to obtain the complete educational record from the previous district.

For students with an active IEP transferring from one Minnesota district to another, the new district:

- may continue serving the student under the existing IEP. Prior Written Notice and a Parental Consent/Objection Form must be signed by the parent giving the present district permission to provide special education services. Because a district is required to provide the services identified in the IEP, an existing IEP can only be used if the district is able to provide the services identified, or
- may convene a new IEP team immediately to develop a new interim or permanent IEP. The team may use part or all of the evaluation data provided by the old district to develop the interim or permanent IEP; however, the team must collect any new evaluation data deemed necessary to identify the student’s needs. A Parental Consent/Objection Form must be signed by the parent giving the present district permission to provide special education services, or
- if it is clear that the previous district did not follow Minnesota eligibility criteria the district may convene a new team immediately which can decide to discontinue services, but may not ignore its procedural obligations. In order to address the student’s educational needs, the team may recommend regular education accommodations or a referral for 504 consideration.

Receiving Students from Another State

An out-of-state transfer student’s placement is considered an initial placement for the receiving district. Students transferring from an out-of-state placement, must be immediately evaluated to determine eligibility under Minnesota state criteria. Students not meeting Minnesota criteria must be dismissed from special education services. A signed parental permission must be obtained before exiting or beginning services via the use of the Parental Consent/Objection Form. For program planning, follow the procedures outlined in Receiving Students from Minnesota Districts. When developing an Annual IEP, all placement options must be considered in meeting the needs of the student.

What to Do When You Receive a Transfer Student

1. The IEP team shall review the IEP/IIIP/IFSP from the previous district. When the IEP team determines that the receiving district can provide a program which matches the program described in the IEP from the previous district, the student may be placed into that program using the existing IEP.
When the IEP from the previous district is unavailable, outdated or when the IEP team determines that the receiving district cannot provide a program which matches the program described in the IEP from the previous district, the district must convene an IEP team meeting immediately and write a new IEP.

(2) The Evaluation Determination Team shall meet to review the evaluation/eligibility data from the previous district as soon as possible.

When the evaluation/eligibility data is timely, complete and supports the student’s eligibility and need for special education, that information will be completed on an Evaluation Report. The date for the three-year reevaluation shall be on or before the three-year anniversary date of the evaluation completed at the previous district.

When the evaluation/eligibility data are unavailable, outdated, incomplete or the student is from out-of-state, a new evaluation shall immediately be conducted. Within 30 school days of the district’s receipt of the signed parental permission, evaluation(s) must be completed and a staffing held to determine the student’s continued eligibility and need for special education.
Accepting Students on Informal Agreements Between School Districts and Parents

Districts should be cautious in accepting non-resident students based on an informal agreement with a parent(s)/guardian(s). When an informal arrangement is made between a non-resident district and the parent(s), outside the statutes which provide for attendance in a non-resident district, **it is understood the serving district bears all educational costs and/or the parents have agreed to pay the tuition costs.** Therefore a student enrolled in a non-resident district, based on an informal agreement which is not covered under one of the provisions defined in the statutes or under one of the special education statutes, **is not eligible for general education revenue nor can the serving district bill special education costs to the resident school district.**

Before accepting students in school who are not living with their parents, the district must insure that students:
1. have been placed in accordance with Minnesota statues regarding handicapped children (group home, foster home, facility); or
2. have been accepted under a school district’s enrollment options program and other parent choice programs (open-enrollment, Agreements Between School Boards, High School Graduation Incentives Programs, etc.).

If a student is living with a relative, other than a parent, the district is responsible to determine the parent(s)’ place of residence and have a signed Inter-District School Board Agreement with the resident district before accepting the student.
Northwest Regional Interdistrict Council
Special Education Cooperative
201 West Minnesota Street New Folden, MN (218) 874-8215
Serving Badger, Goodridge, Greenbush-Middle River, Gygla,
Kittson Central, Lancaster, Marshall County Central, Tri-County

LEARNER PERFORMANCE REVIEW FORM

Part A- Learner Information
Learner’s Legal Name:___________________________School: _______________________
Teacher: ______________________________________ Grade: ______________
Learner’s Home Language:_______________________Birth Date: ______________ Gender: __
(if home language is other than English, attach a copy of the ‘Home Language Questionnaire’ from the cumulative folder.)

Parent or Guardian: _______________________________Home Phone: ______________________
Address: ________________________________ Work Phone: ______________________
Street ______________ Zip ______________

Part B- Referral Initiation Information
Date of Referral: ___________________________ Referral Initiated By: ______________________
Position: __________________________________ School: ____________________________ Phone: _____________
Date Parent Notified of Referral: ______________________ Letter ______ Conference ______ Phone Call

Part C- Current Information
Cumulative Folder Review
Is There a History of:
_____ Special Education Name_______ Date:_______
_____ Attendance Concerns Reading ____% ___SS
_____ Title One Math ____% ___SS
_____ ELL/Bilingual Services Language ____% ___SS
_____ Retention Social Studies ____% ___SS
_____ Assurance of Mastery Science ____% ___SS
_____ Behavior Concerns Composite Score ____% ___SS

Number of Schools Attended To Date: ________ Reading ____% ____ date
Math ____% ____ date
Writing ____% ____ date

Health Folder Review
Is There a History of:
_____ Visual Concerns If So, What:
_____ Hearing Concerns If So, What:
_____ Medications If So, What:
_____ Other Health Concerns If So, What:
_____ Possible Chemical Health Concern

Part D- Background Information
Presenting Concerns (Please list in order of severity.) Parental Concerns

Northwest Regional Interdistrict Council Special Education Cooperative Total Special Education System Manual--Chapter 14: Governance Standards
14-70
Part E- Interventions Attempted

(This section not needed for a referral for articulation, stuttering, voice, or in the case of a hearing impairment, visual impairment, or physical impairment.) State Board of Education Standards and Procedures require that, before pursuing evaluation for special education placement, a minimum of two interventions related to the primary concern be completed. Interventions should be individualized for the learner, last a minimum of two weeks, and cannot run simultaneously.

<table>
<thead>
<tr>
<th>1st Intervention Related to Primary Concern</th>
<th>2nd Intervention Related to Primary Concern</th>
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<tr>
<td>Date Begun _________ Date Ended___________</td>
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<td>Results</td>
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Part F-Student Assistance Team’s Review

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<tr>
<th>Action Taken</th>
<th>Person Responsible</th>
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<tr>
<td>☐ Additional Information Needed</td>
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<td>☐ Additional Intervention Needed</td>
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<td>☐ Referred to Student Support Team</td>
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| Referred to:                                    |                    |
| ☐ Chemical Health Coordinator                   |                    |
| ☐ School Counselor/Social Worker/Dean           |                    |
| ☐ Outside Agency                                 |                    |
| ☐ ___________________________________________  |                    |
| ☐ ___________________________________________  |                    |

Action Taken
- ☐ Additional Information Needed
- ☐ Additional Intervention Needed
- ☐ Referred to Student Support Team

Referred to:
- ☐ Chemical Health Coordinator
- ☐ School Counselor/Social Worker/Dean
- ☐ Outside Agency
- ☐ __________________________________________
- ☐ __________________________________________

Additional Information Needed
- ☐ Additional Information Needed
- ☐ Additional Intervention Needed

Additional Intervention Needed
- ☐ Additional Information Needed
- ☐ Additional Intervention Needed

Referred to Student Support Team
- ☐ Additional Information Needed
- ☐ Additional Intervention Needed

Referred to:
- ☐ Chemical Health Coordinator
- ☐ School Counselor/Social Worker/Dean
- ☐ Outside Agency
- ☐ __________________________________________
- ☐ __________________________________________

Back to Documentation Page
OVERVIEW OF THE LEAST RESTRICTIVE ENVIRONMENT

Since the Education for All Handicapped Children Act--now known as the Individuals with Disabilities Education Act (IDEA)--was passed in 1975, states have been required to provide a free appropriate public education (FAPE) in the least restrictive environment (LRE) to students with disabilities. Before the passage of the 1997 amendments to IDEA, the law required each state to establish

"... procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability is such that education and regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

The emphasis of LRE has not diminished with each new reauthorization. In fact, in 1997 many familiar components of the IEP were modified to increase the involvement of students with disabilities in the general curriculum. IEP goals, including benchmarks or short-term objectives, are to be written with this participation in mind.

Prior to 1997, it was necessary for an IEP to provide justification for a more restrictive setting. IDEA' 97 reverses this justification to require the IEP to include an explanation of the extent to which the student will not be participating with nondisabled children in the general education classroom and in non-academic and extracurricular activities. Thus the onus is on the IEP team to consider all placement options and provide an explanation if the student’s FAPE is not provided in the general curriculum.

The text from IDEA' 97 states:

"... an explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class."

Although not specifically referring to LRE, IDEA 04 suggests that nonacademic and extra curricular activities and services (meals, recess, sports) are additional areas for which teams must consider accommodations and adaptations needed for students to participate to the maximum extent appropriate to the needs of the child.

DETERMINING A STUDENT’S LRE

LRE differs for each child receiving special education and related services. Basically, a child's LRE is the environment where the child can receive an appropriate education designed to meet his or her special education needs, while still being educated with nondisabled peers to the maximum extent appropriate. Depending on the child's individual needs, the LRE could be the regular classroom (with or without supplementary aids and services); a pull-out program for part of the day with the remainder of the day being spent in the regular classroom or in activities with students who do not have disabilities; a special education class within the child's neighborhood school; or even a separate school specializing in a certain type of disability. Thus, one child’s least restrictive environment—where that child can get the education he or she needs while still interacting with nondisabled peers—may be very different from another child’s. The determining factor is the child’s needs.
However, the IEP team may determine the student cannot be educated satisfactorily in the general education classroom, even when supplementary aids and services are provided. An alternative placement must then be considered. Accordingly, schools have been, and still are, required to ensure that "a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services". This continuum includes a range of alternative placement such as "instruction and regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions".

As such, the requirement for a continuum of alternative placements supports the fact that determining LRE must be done on an individual basis, considering the student in question and his or her special needs.

**A DESCRIPTION OF THE PROCESS TO DEVELOP AN IEP**

The Child Study Team must document the rationale used to remove special education students from the general education environment. The LRE statement in the IEP should provide an explanation of the extent to which the student is unable to, or should not participate in, the mainstream classroom (or a less restrictive setting). This document focuses on the process used in developing an individualized education program (IEP), as well as particular focus questions used to guide teams in the development of LRE statements.

At the IEP meeting, the evaluation information is reviewed and summarized into current levels of performance and a listing of the special education needs of the student. Annual goals are then written to address each of the special education needs of the student and measurable objectives are written to meet each of the annual goals.

The next step is to determine the type of service and the amount of time (per week) that is needed to accomplish each objective.

The last step in this process is to determine where the service will be provided. IDEA maintains the presumption that children with disabilities are most appropriately educated with their nondisabled peers, and that special classes, separate schools, or other means of removal from regular education environments occurs “...only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved.”

If the IEP team decides to remove the student from the regular education environment, a rationale must be written in the LRE statement explaining why the mainstream setting is not appropriate for the student.

It needs to be clarified that the student’s educational placement should be based on the student’s needs and **NOT** on any of the following, used alone or in combination:

- Category of educational disability;
- Configuration of the service delivery system;
- Availability of educational or related services;
- Availability of space;
- Curriculum content or methods of curriculum delivery.

**GUIDELINES FOR LRE DISCUSSION**

These guidelines are provided to assist IEP Teams in writing acceptable LRE statements:
1. Discuss how the service could be provided in the regular education environment.
2. Discuss what special education interventions have been tried in the regular education environment (previous placements) and the progress the student has or has not made with these interventions.
3. Discuss all the placements that were considered in current or previous IEP Team meetings, but were not chosen, and describe why these placements were not chosen.
4. Discuss what special education interventions have been tried in the regular education environment (previous placements) and the progress the student has or has not made with these interventions. What efforts are planned to prepare the learner to return to a less restrictive environment?

Discuss the following learning characteristics as they relate to an educational environment:
- rate of skill acquisition and overall functioning level;
- need for social interaction;
- need for age appropriate non-educationally disabled peer models;
- need for support to facilitate inclusion;
- need for limited environmental distractions;
- need for restricted space within a building;
- behavioral characteristics (effect of student's behaviors on learning of other learners within his/her classroom, neighboring classrooms, and/or school building); and
- special health or safety needs.

Questions the IEP Team should ask:
- Can the student's education be achieved in the regular classroom with the use of supplementary aids and services?
- What is the nature and severity of the child's handicapping condition, including the needs of the child, that make removal from the regular education environment necessary to achieve the objectives of the IEP?
- What are the characteristics of the regular education environment that would make it necessary to remove the student in order to meet the objectives on the IEP?
- What potential harmful effects to the student or to the quality of the program could occur?
- What potential harmful effects to other students could occur?

PLEASE NOTE:
- Students with educational disabilities must have access to the variety of educational programs and services available to students/peers without educational disabilities.
- The IEP Team must justify any reason for the removal of the student from the school or the classroom she/he would ordinarily attend and clearly identify why the goals and objectives in the IEP cannot be achieved in the regular classroom with supplementary aids and services.
- The student should not be placed in a classroom where other students are older or younger.
- The student must be afforded a Free Appropriate Public Education (FAPE). In this situation, emphasis is on "appropriate".
- A student with a disability cannot be removed from education in an age-appropriate regular classroom solely because of needed modifications in the general curriculum/educational setting.
**Parent Contact Documentation**

**Student’s Name:**

Parent/Guardian #1: __________________________ Phone: (W)__________ (H)_________

Parent/Guardian #2: __________________________ Phone: (W)__________ (H)_________

Type:  **T** = Telephone    **L** = Letter    **C** = Conference

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**BACK TO DOCUMENTATION PAGE**
GUIDELINES FOR INDEPENDENT EDUCATIONAL EVALUATIONS

Parent(s) of a student with a disability have the right to obtain an independent educational evaluation (IEE) at public expense if the parent(s) disagree with an evaluation completed by the school district or a State hearing officer orders an independent assessment. The district is entitled to first evaluate the student in the particular area(s) of concern before the district will be required to pay for an independent educational evaluation of the same issue(s). The parent may request from the district information about where an independent educational assessment can be obtained. The district may refuse the parent’s request for independent assessment at public expense and then must initiate conciliation and/or due process hearing if necessary.

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the district.

Public expense means the school district either pays for the full cost of the evaluation or evaluation components or ensures that the evaluation or evaluation components are otherwise provided at no cost to the parent.

If the parent requests an independent educational evaluation, the district may ask the parent why they object to the district’s evaluation. However, the explanation by the parent may not be required and the district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the district’s evaluation.

Pursuant to Minnesota Rule (Minn. R. 3525.3300D.(3)), when an independent evaluation is at public expense, the criterion under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria the district uses when it initiates an evaluation.

It is helpful if evaluators are experienced in providing educational recommendations and understand criteria for disability services in schools. Independent evaluators may not have financial or business or personal interest in the outcome, results, or recommendations of the evaluation. Also, the evaluator must be independent of the parent and student. The evaluator must not have a treating relationship with any member of the student’s family. If a parent(s) uses an evaluator of their choice, he/she must submit proof the evaluator complies with district standards, including documentation of a license to perform the type of evaluation being considered. Evaluators not sanctioned as complying with these standards will not be paid for the costs of the independent evaluation.

If the district agrees to pay for an independent evaluation, an evaluation plan will be developed specifying the areas to be evaluated and who will complete each assessment. The district will request to meet with the parent and the independent evaluator(s) to help plan the scope of the independent evaluation and a Notice of Educational Evaluation will be completed for that purpose. This is to help ensure that information obtained is helpful, that the purposes for the evaluation are clear, and that there is a framework for the ultimate report and recommendations.
In any circumstance where an independent educational evaluation at public expense is undertaken, the district requires that the evaluator have full access to school records and that the parent authorize in writing that the evaluator may have conversations with any school employee who has provided service or evaluated the student. The parent must provide authorization for the independent evaluator to have access to all school records. Just as a school evaluator would, the independent evaluator must seek and utilize school and parental input or any other input or data provided by the school or the parent. The parent will provide the district with written authorization to exchange information with the evaluator. The district will be entitled to a copy of the evaluator’s report at the same time it is provided to the parent and will be given written permission to have discussions with the evaluator. Both school district employees and parents or parent representatives may provide information to the independent evaluator. However, any information shared must be provided to the other side by the independent evaluator. The evaluator must be available to discuss and interpret the results of the evaluation with district staff by participating in the evaluation meeting with the parents and the IEP Team.

Evaluation procedures will include the use of norm-referenced instruments that possess the technical adequacy for their intended purpose. Instruments, which involve surveys and/or questionnaires, must include teacher or school staff input. Evaluations may be required, when appropriate, to be completed in the current educational setting as opposed to a clinical setting. Evaluation is to be completed in a timely manner and within 30 school days.

Evaluation results are to be included in a written report that addresses the disability eligibility criteria established by the State of Minnesota.

Transportation costs for evaluation are not reimbursed.

Evaluation costs must not exceed prevailing and established rates in the community. As part of the contracted evaluation, independent evaluators must agree to release their evaluation information and results directly to the school district prior to the receipt of payment for services.

The district will consider the results of the independent evaluation in making decisions in the team setting regarding the student’s program. This does not, however, mean that outside recommendations will be adopted or followed.

If privately obtained evaluations do not satisfy federal and state law provisions; parents are not entitled to reimbursement for the evaluations. Also, parents are not entitled to reimbursement for evaluations completed by unqualified individuals.
Graduation Exit Report – Summary of Performance (sample)

Student Name: ______________________  ID: __________________  Date: ________________

School: ______________________________  Grade: __________  DOB: ________________

1. Description of the action proposed by the district:

2. Explanation of why the district proposed to take the action:

3. Description of any other options considered and why those options were rejected:

4. Description of evaluation procedures, tests, records, or reports the district used as a basis for the proposed action:

5. Description of any other factors that are relevant to the district’s proposal:

Summary of Performance: This section includes information on academic achievement and functional levels of performance and the accommodations/adaptations, assistive technology and supports that were effective in high school to assist the student in achieving progress.

Academic Achievement and Functional Performance

<table>
<thead>
<tr>
<th>Reading (basic reading/decoding, comprehension, vocabulary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present Level of Performance (grade level, strengths, preferences, interests)</td>
</tr>
</tbody>
</table>

Northwest Regional Interdistrict Council Special Education Cooperative Total Special Education System Manual—Chapter 14: Governance Standards
**Math** (calculation, algebraic problem solving, quantitative reasoning)

<table>
<thead>
<tr>
<th>Post High School Goal Area</th>
<th>NA</th>
<th>Recommendations to Assist the Student in Meeting Post High School Goals</th>
<th>Contact Information – name and/or title, phone number, address, email of person or agency (include both agencies currently contacted and those that may need to be contacted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Training</td>
<td>□</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>□</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment</td>
<td>□</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent Living</td>
<td>□</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Written Language** (written expression, spelling)

**Functional Performance*** (e.g., general ability and problem solving, attention and organization, communication, social skills, behavior, independent living, self-advocacy, learning style, vocational, employment)

*Present Level of Functional Performance is information that is considered in making decisions about disability determination and needed accommodations.

**Recommendations to assist the student in meeting post high school goals:** This section presents recommendations for accommodations/adaptations, adaptive devices, assistive services, compensatory strategies, and/or support services, to enhance access and participation in post high school goal(s). **These recommendations do not obligate any post high school agency to such recommendations.**
Example: Graduation Exit Report – Summary of Performance

MARSHALL COUNTY CENTRAL #441
310 WEST MINNESOTA AVENUE
NEWFOLDEN, MN 56738
Telephone: 218-874-8581

Student Name: [Student Name] ID: 0125489963489 Date: 4/8/08
School: Isle Elementary Grade: 4 DOB: 5/15/98

1. Description of the action proposed by the district:
   The district is proposing a change of placement and discontinuation of special education services due to graduation from high school with a diploma; or
   The district is proposing a change in placement and discontinuation of special education services because the student is 21 years old.

2. Explanation of why the district proposed to take the action:
   The student has met the requirements of the graduation plan, including meeting the required credits for graduation and the goals of the IEP; or
   The student has met all of the credit requirements for graduation; or
   The student has turned 21 years old and has aged-out of high school; or
   The student has met all of the goals of the IEP including transition.

3. Description of any other options considered and why those options were rejected:
   The student feels strongly that he/she has met the requirements established and is eager to enter adult life as a student at the local community college; or
   The team considered continuing the student in-service for an additional year to insure his performance over a longer period of time. However, both the student and the parent felt he was ready to exit school to begin working on the farm with his father.

4. Description of evaluation procedures, tests, records, or reports the district used as a basis for the proposed action:
   The district’s team reviewed the student’s course work completion, the data collection from the IEP goals and the transition activities listed on the IEP. The student met all of the requirements set forth on the graduation planning grid.

5. Description of any other factors that are relevant to the district’s proposal:
   The student has chosen not to access the academic opportunities offered by the district; or
   The student is pursuing job opportunities; or
   The student is prepared to graduate with his/her peers and is planning to attend technical school; or
   The student has met the requirements of the IEP team and is prepared to graduate with his/her peers; or
   None noted.

Summary of Performance: This section includes information on academic achievement and functional levels of performance and the accommodations/adaptations, assistive technology and supports that were effective in high school to assist the student in achieving progress.

Academic Achievement and Functional Performance

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<td><strong>Present Level of Performance</strong> (grade level, strengths, preferences, interests)</td>
</tr>
<tr>
<td>Student’s oral reading fluency and comprehension are at the 9th grade level. He is able to read novels and historical information. He has difficulty with technical terms for which he is not familiar.</td>
</tr>
</tbody>
</table>
**Math (calculation, algebraic problem solving, quantitative reasoning)**

Student is able to use simple math facts (addition, subtraction, multiplication, and division). He has difficulty with complex math problems. Student understands functional math including how to determine dimensions, estimates and cost analyses.

Student requires use of calculator for complex math solutions.

**Written Language (written expression, spelling)**

Student is able to write simple and compound sentences and is able to write paragraphs with a topic sentence and proper sequencing. He struggles with spelling and has numerous spelling error.

Student requires spell checker/word processor to check spelling on his formal written documents.

**Functional Performance* (e.g., general ability and problem solving, attention and organization, communication, social skills, behavior, independent living, self-advocacy, learning style, vocational, employment)**

Student generally gets along well with both peers and adults. He has difficulty following directions for less preferred activities. He has difficulty with organizational skills. He functions well independently when not distracted and maintains a job working with his father as a carpenter’s helper.

Student needs reminders/directions before beginning a task. He needs to use a planner to organize his time and make his appointments.

*Present Level of Functional Performance is information that is considered in making decisions about disability determination and needed accommodations.

**Recommendations to assist the student in meeting post high school goals:** This section presents recommendations for accommodations/adaptations, adaptive devices, assistive services, compensatory strategies, and/or support services, to enhance access and participation in post high school goal(s). **These recommendations do not obligate any post high school agency to such recommendations.**

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<th>Contact Information – name and/or title, phone number, address, email of person or agency (include both agencies currently contacted and those that may need to be contacted)</th>
</tr>
</thead>
</table>
| **Training and Education** | ☐  | Student should continue working for father as a carpenter’s helper.   | Pine Technical College Counselor – Schools Disability Center to obtain support for his learning disability.  
Pine Technical College  
900 4th St. SE, Pine City, MN  55063  
320-629-6764 |
| **Employment**            | ☐  | Stay employed in father’s company.                                     |                                                                                                                                                                                                  |
| **Independent Living**    | ☐  | Consider living in an apartment on his own.                           |                                                                                                                                                                                                  |
Chapter 14: Governance Standards

Extended School Year (ESY) Services Guidelines and Procedures

Rationale and Law

The reauthorization of IDEA provides that all students with disabilities are entitled to a “free appropriate public education.” Each student has unique learning characteristics and needs. With these factors in mind, a free appropriate public education may necessitate a program of special education and related services in excess of the normal school year.

It should not be assumed that extended school year (ESY) services are only for students with severe or profound disabilities. Extended school year does not mean traditional summer school programs made available to all students. It means special education and related services for students who demonstrate a need for continued service beyond the instructional year as a necessary component of FAPE.

While ESY services would undoubtedly benefit most children with or without disabilities, the criteria for eligibility is not met simply because it would derive benefit. ESY is not mandated for all children with disabilities; it is not child care; nor is it intended to maximize educational benefits.

As a result of Minnesota Rule 3525.0200, Northwest Regional Interdistrict Council Special Education Cooperative sets forth the following guidelines and procedures.

Development and Content of the Individual Education Program Plan

Consider an extended school year program when it is determined:
1) the student will experience regression in the absence of an educational program;
2) the time required to relearn skills lost is excessive; and
3) the effects of the breaks in educational programming are such to prevent the student from attaining the state of self-sufficiency that the student would otherwise reasonably be expected to reach.
4) ESY service is a necessary component to insure FAPE.

The amount of service, including a reduction of services or type of service for summer, must be appropriate to maintain performance on IEP goals.

The following terms have been identified for definition to gain full understanding of the guidelines and procedures related to ESY services.

Extended School Year

Special education services that are continued beyond the traditional school year.

Regression

A significant decline in the performance of a skill or acquired knowledge specified in the annual goals as stated in the IEP that occurs because of an extended break in educational programming.

Recoupment

The ability of a student to regain skills or acquired knowledge to approximately the same level of performance just prior to a break in instruction.

Self-Sufficiency

Students attain self-sufficiency through the maintenance of functional skills addressed on IEP.

Critical Goals

The goal(s) selected by the IEP team that represent areas of learning critical to the child in attaining an appropriate education.

General Outcome Measurement

Measurement of the student’s performance on long-term goals.

FAPE

Free Appropriate Public Education – as measured by “Rowley Standard.” Was benefit conferred?

BACK TO DOCUMENTATION PAGE
Key Concepts:
The eligibility and need for ESY services must be considered for every child with a disability at his/her annual IEP meeting. While ESY services remain the exception rather than the rule, a number of factors in addition to regression must be considered to determine the need for extended school year services.

The need for ESY services must be determined on an individual basis and the number of students who qualify should be relatively small. Eligibility determinations must be made by a multidisciplinary team and must be based on evaluation data.

DETERMINING THE NEED FOR ESY SERVICES

Extended school year services are determined by the child’s IEP planning team. The team must consider the following criteria when determining ESY eligibility for every child receiving special education services:

- Significant regression in the performance of a skill or acquired knowledge specified in the annual goals due to a break in instruction.
- Ability of the student to recoup/recover skills or acquired knowledge on critical IEP goals lost when school resumes after an extended break.
- The effects of the break in programming on attainment of self-sufficiency for students in a functional curriculum.
- The determination that services are necessary to ensure the student receives a free appropriate public education (FAPE). When considering FAPE, use the “Rowley Standard” which suggests the student was conferred benefit. In other words, did the student make reasonable progress on their IEP goals?

MAKING DECISIONS BASED ON DATA

It is the IEP team’s responsibility to identify the areas in which a student regresses. The team determines if the regression is unusual in relation to the experiences of other students, and judges if lost skills are recouped in a reasonable amount of time.

When determining the need for ESY services, the IEP team must also review and consider related services. If related services are necessary for the student to benefit from ESY special education services, they must be provided.

The decision should be based upon review of the student's IEP progress and should include the following data:

- Review of the achieved IEP goals and objectives;
- Observations and data from teachers, therapists, parents, and others having direct contact with the student before and after breaks in educational programming;
- Data and observations regarding the student’s performance after long weekend, vacations, and past summer breaks;
- Assessment of information maintained on the student, including pretest and post-test data;
- Performance-based testing including pretest and post-test data;
- Other relevant factors
When preparing to address ESY decisions at IEP meetings, it is important for case managers and service providers to **prepare in advance the data needed to make such a decision.** When documenting the need to provide or not provide ESY services, consider the following actions:

1) Document the child’s mastery of IEP goals and objectives many times during the school year. Record objectives mastered and the level of achievement for each goal on the IEP.

2) Depending on the student's areas of service, it is helpful to collect additional data to provide the IEP team with enough information to make a decision. Ideally, these skills could be written as instructional objectives in the child's IEP. In each of the critical goal areas, consider data collection in the following areas:
   a) **Academics of reading, writing, and math:** Document performance on reading and writing fluency & accuracy, and math facts accuracy; etc.
   b) **Behavior:** Document performance in the following areas: time on-task, physical contact, out of place, noise; etc.
   c) **Communication: speech and socialization skills:** Document performance on speech sounds, fluency, and articulation; etc.
   d) **Self-sufficiency:** Identify self-sufficiency concerns in areas of:
      - (1) basic self-help, including toileting, eating, feeding, and dressing;
      - (2) muscular control;
      - (3) physical mobility;
      - (4) impulse control;
      - (5) personal hygiene;
      - (6) development of stable relationships with peers and adults;
      - (7) basic communication; and
      - (8) functional academic competence, including basic reading and writing skills, concepts of time and money, or numerical and temporal relationships.
   e) Document performance areas which are significant for the child and also consider the reasonableness of that goal area for that student. For instance, if the student has had the same goal for over a year, is it a reasonable goal for that student?

3) Document the length of time required by the child to regain previously mastered skills following any significant periods of absence from school, such as: after a long illness, winter vacation, summer vacation, or other school holidays. It is highly recommended to follow the timelines below when collecting data measuring the student’s performance on goals and objectives for ESY decisions. The most valid ESY decisions are made when data is compiled from each of the following time periods:
   a) Data taken late in May before summer vacation. This information is very helpful in making ESY decisions for the following school year.
   b) Data taken during the first two weeks after school resumes in September.
   c) Data taken six-eight weeks after school resumes, usually in mid October or early November.
   d) Data taken pre and post school breaks.

4) Compare the level of achievement the child had reached when the school ended the previous school year to the level of achievement the child had reached within six to eight weeks after the new school year has begun.
5) If, in the 6-8 weeks after school resumes, the child has not regained the level of performance that he/she had attained at the end of the previous school year, the child should be considered as a candidate for extended school year services.

6) Compare the pre and post school year break data to determine if the child regressed and if he/she was able to recoup the loss of skills within a time that was commensurate with the length of the break.

While extended school year services would undoubtedly benefit most children with or without disabilities, the criteria for eligibility is not met simply because the child would derive benefit. ESY is not mandated for all children with disabilities; it is not child care; nor is it intended to maximize educational benefits.

**HOW DOES THE IEP/IFSP TEAM DETERMINE ELIGIBILITY FOR STUDENTS**

1. **IEP/IFSP team must review the goals and objectives and discuss the performance levels from the following times within the school year:**
   - Data collected several weeks before the summer vacation in May.
   - Data collected during the first two weeks after school resumes in the fall.
   - Data collected six to eight weeks after school resumes, usually in October.
   - Data collected pre and post breaks (MEA, Winter Break, Spring Break).

2. **Compare the levels from data taken in May to the data taken in October and/or compare data taken pre and post breaks that occur during the school year.**

3. **Document the data using the ESY Data Collection Tool and ESY Decision-Making Form.**
   - If a student qualifies for services, attach these forms to the student’s IEP/IFSP/IIIP.
   - If a student doesn’t qualify, document the team’s decision.

**REMEMBER:**

<table>
<thead>
<tr>
<th>The Rule</th>
<th>Courts &amp; ESY</th>
<th>Elements to Consider for Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant Regression and</td>
<td>ESY not to maximize potential</td>
<td>Regression - recoupment of skills</td>
</tr>
<tr>
<td>Excessive Time to Relearn or</td>
<td>ESY only to counter non-recoupable regression</td>
<td>Degree of child’s impairment</td>
</tr>
<tr>
<td>Prevents reasonable state of self-sufficiency</td>
<td>ESY only if significant jeopardy to regular school year</td>
<td>Degree of regression demonstrated</td>
</tr>
<tr>
<td>Necessary components of FAPE</td>
<td>ESY is exception NOT rule</td>
<td>Child’s rate of progress and maintenance of skills during regular school year</td>
</tr>
<tr>
<td></td>
<td>ESY not to “benefit”</td>
<td>Behavioral and physical problems</td>
</tr>
<tr>
<td></td>
<td>ESY to maintain skills only</td>
<td>Need for integration with nondisabled peers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Whether ESY services are integral part of child’s educational program</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Prior observation of pupil’s regression and recoupment over the summer.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Observation of pupil’s tendency to regress over extended breaks in instruction during the school year.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Experience with other pupils with similar instructional needs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Areas of pupil’s curriculum which need continuous attention.</td>
</tr>
</tbody>
</table>

**BACK TO DOCUMENTATION PAGE**
Northwest Regional Interdistrict Council Special Education Cooperative will use one or more of the following models in providing ESY services in the following critical goal areas:

<table>
<thead>
<tr>
<th>Models of Services</th>
<th>Critical Goal Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation</td>
<td>Academics (reading, written expression, math)</td>
</tr>
<tr>
<td>Summer Work Packets</td>
<td>Behavior</td>
</tr>
<tr>
<td>Tutoring</td>
<td>Communication (voice, fluency, articulation, language)</td>
</tr>
<tr>
<td>School-Based Services</td>
<td>Self-care/self-help</td>
</tr>
<tr>
<td>Community-Based Services</td>
<td>Behavior/social skills</td>
</tr>
</tbody>
</table>

Extended school year decisions should be made at the IEP team meeting using the data collected throughout the school year. Complete the **Extended School Year Decision-making Form** at the child study team meeting.
Critical goal areas need to be identified. Goal areas identified should be those skill areas determined to be "life skills" the student will need to become independent or self-sufficient.

Review the student’s data taken in spring, again in fall, and throughout the school year (for regression and recoupment).

Use program data to discuss whether student has maintained, or increased skills during ESY programming.

Team must use data to determine amount of time needed to maintain (e.g., how often, how much, how long), critical skills, not increase skills (e.g., if student presently receives a social skills program 5 days a week for 30 minutes, how much time would be required for maintenance only?).

**If student data supports need for ESY Program:**

Discuss all possible program options for program (e.g., center-based, home-based, work packets with consultation from teacher, direct teacher instruction, Community Education classes, etc.).

Use [Extended School Year (ESY) Decision-Making Form](#) to document the Team’s decision.

Complete the [ESY Time Allotment Sheet](#) to determine the time required per goal, as well as to assist the district in planning for ESY services.

*Decisions regarding the amount of service will be made by the team. When, how and who provides services is a district decision and will be provided through coordination efforts.*

**For Students Who Are Not Residents Of The District**

MN Statute 120.17, Subd.5 requires districts providing services to nonresident students to notify the district of residence of its intent to provide extended school year services. A [Notification of Intent to Offer Extended School Year Services](#) must be sent by March 31 of the year in which the services are to be provided. If the nonresident student begins receiving services after March 31, the [Notification of Intent to Offer Extended School Year Services](#) must be sent within 30 school days.
**Extended School Year (ESY) Data Collection Tool**

Student Name: ____________________________________ Grade: _____ School: ____________________
Disability: ______________________________________ Previously received ESY services: Yes  No

Levels of Functioning based on critical IEP goals (e.g., range of motion, completes two-step directions, reads with accuracy, etc.).

<table>
<thead>
<tr>
<th>Pre Break Assessment Date</th>
<th>Post Break Assessment Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre Break Functioning Level</td>
<td>Post Break Functioning Level</td>
</tr>
<tr>
<td>Critical Goal #1</td>
<td>Critical Goal #1</td>
</tr>
<tr>
<td>Critical Goal #2</td>
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</tr>
<tr>
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BACK TO DOCUMENTATION PAGE
EXTENDED SCHOOL YEAR DECISION-MAKING FORM

Student Name: ________________________  Grade:______
School:______________________________  Disability: _______________________________________
Previously received ESY services: Yes  No

1. **Regression/Recoupment**
   
   **Regression:**
   a. Was there a significant reduction in the performance of a skill or acquired knowledge specified in the annual goals due to the break in instruction?  _____Yes  _____No
   
   b. Summarize Pre/Post Data Comparison. Attach ESY Data Collection Tool.
   
   c. Did regression occur?  _____Yes  _____No

   **Recoupment:**
   d. Did this student experience a significant reduction of a skill or acquired knowledge on critical IEP goals that required more than the length of the break to recoup?  _____Yes  _____No
   
   e. Indicate length of break and length of time required for recoupment. _____________________
   
   f. Did the student meet recoupment criteria to qualify for ESY services?  _____Yes  _____No

   **If the answer is "yes" to question f, the student qualifies for ESY services under Regression/Recoupment.**

2. **Self-sufficiency**
   
   a. A student is eligible for ESY services under self-sufficiency when a break in special educational programming prevents the student from achieving/maintaining a reasonable degree of personal independence in the following functional skills identified as goals on the IEP. Check all functional skill goal areas that apply:
      _____physical mobility  _____personal hygiene  _____muscular control
      _____impulse control  _____basic communication
      _____functional academics includes basic reading and writing, concepts of time and money
      _____development of stable relationships with peers and adults
      _____basic self help, including toileting, eating, feeding and dressing
   
   b. Which goal areas checked are considered critical goal areas?  _____________________
      __________________________________________
      __________________________________________
   
   c. Does longitudinal data suggest the student is making reasonable progress toward self-sufficiency?  Reasonable progress should take into consideration the degree of impairment (e.g., For students with DCD, is their adaptive skill level commensurate with their cognitive ability?) Use norm referenced evaluations as well as progress on IEP goals.  _____Yes  _____No
   
   d. Does the student have a sufficient number of years left in school to learn the above skill(s)?  _____Yes  _____No

   **If the answer is "no" to question c or d, the student qualifies under self-sufficiency.**

3. **FAPE:**
   
   The team should consider the following questions in making a FAPE determination regarding eligibility for ESY services.
   
   a. Was the student appropriately classified?  _____Yes  _____No
   b. Was the student appropriately placed?  _____Yes  _____No
   c. Was the student afforded suitable mainstreaming opportunities?  _____Yes  _____No
   d. Were parents afforded opportunities to participate in the IEP process?  _____Yes  _____No
   e. Has the District’s program conferred benefit to the student?  _____Yes  _____No
   f. Has the student made progress on annual IEP goals?  _____Yes  _____No

   **If the answer to any of the above questions is "no" the student qualifies under FAPE.**
4. **Additional Sources** of information to be considered when determining whether or not the student qualifies for ESY services.
   a. prior observation of the pupil’s regression and recoupment over the summer;
   b. observation of the pupil’s tendency to regress over extended breaks in instruction during the school year; and
   c. experience with other pupils with similar instructional needs.

5. **Other Factors to Consider for ESY Determination:**
   a. pupil’s progress and maintenance of skills during the regular school year
   b. pupil’s degree of impairment
   c. pupil’s rate of progress
   d. pupil’s behavior or physical problems
   e. the availability of alternative resources
   f. pupil’s ability and need to interact with nondisabled peers
   g. the areas of the pupil’s curriculum which need continuous attention
   h. the pupil’s vocational needs

6. List the IEP/IFSP Goal(s) where significant skill regression and excessive recoupment time and/or self-sufficiency concerns were documented because of extended breaks in programming. Predict the amount and kind of program required during the period of break needed for the student to “maintain” skills.

   **(ESY programs are provided to maintain skills, NOT INCREASE skill level.)**

<table>
<thead>
<tr>
<th>GOAL:</th>
<th>PREDICTED PROGRAM NEED:</th>
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7. Signatures of Team Decision-Makers: (Name & Position)

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<th>Name &amp; Position</th>
<th>Name &amp; Position</th>
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**Send a copy of this form to the ESY Coordinator in your District.**
### ESY Time Allotment

<table>
<thead>
<tr>
<th>Critical Goal Area(s)</th>
<th>Activities to Meet Goals</th>
<th>Regular School Year Time Allotted</th>
<th>Estimated Amount of Time Required for Maintenance</th>
<th>How Will Data Be Collected</th>
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**Student:** __________________________________________  **Building:** ________________________________

**Case Manager:** ______________________________________  **Grade:** ________________________________

[BACK TO DOCUMENTATION PAGE]
The ESY services delivered are to be designed to meet the individual student’s needs in achieving critical goals. As such individual students may require ESY services delivered using different methods. The IEP team will choose the appropriate delivery model. Examples of ESY delivery models are described below.

**School Based Services**
The IEP team can determine that ESY services need to be delivered directly to students in designated schools. The ESY student is transported to the designated school by the school district. The student will attend the school for a specified number of hours each week and be instructed in those goal areas designated by the IEP team. School-based services could be required when consultation, work packets, and tutoring will not be sufficient to allow students to receive an appropriate education. Because least restrictive environment (LRE) conditions may change during the summer it may not be necessary that services be provided in what would normally constitute the LRE for a student during the regular school year.

**Skill Maintenance Activities**
These are written descriptions of activities for parents or other caregivers to provide for the student on a regular basis over the summer break. The activities will be written by the student’s school year service providers. (Examples might include – parent directed activities to involve the student in when grocery shopping, guidelines for parents to follow when reading to the student, suggestions of community activities and other guidelines for parents to assure necessary skill practice.)

**Skill Maintenance Packets/Kits**
These are school materials prepared and organized for the parent or caregiver to use on a regular basis over the summer break. The materials will be prepared and directions written by the student’s school year providers. (Examples might include – worksheets, flashcards, books, computer software, writing assignments, reading assignments, fine motor activities, social skills activities.)

**Licensed Staff Telephone Consultation**
This service would typically be in addition to use of skill maintenance activities and/or packets. Licensed special education teachers would be available for phone consult regarding use of the activities or packets at specifically scheduled intervals throughout the summer break. Licensed staff telephone consultation could be available to the parent, caregiver, or to some community agency or facility working with that student. (Examples might include – arrangements made between a parent and a teacher for a regular bi-weekly phone call to review activities, arrangements between the parent and the Park and Rec program to have a phone consult with a DAPE teacher on a regular basis, arrangements between the parent, daycare provider, and teacher for regular consults regarding social skills and behavior management strategies.)

**Licensed Staff In-Person Consultation**
This service would involve planned and prescheduled consultation sessions provided to parents, caregivers, or a community facility or agency. Licensed special education teachers would schedule consultation sessions throughout the summer to assist parents and caregivers in providing skill practice opportunities to the student. (Examples might include – arrangements for the Park and Rec staff to schedule consultation with a DAPE teacher when new activities are planned, arrangements between the parent and daycare provider to meet with a licensed teacher on a regular basis and review skill maintenance activities.)

**Community Based Services**
If necessary an IEP team may determine that the most appropriate ESY services might be provided in the community. If this is the case, representatives of the appropriate community agency should be involved in planning the ESY services.
NOTIFICATION OF INTENT TO OFFER EXTENDED SCHOOL YEAR SERVICES

TO: Superintendent
    ISD#____

FROM: Tammy Nielsen, Director of Special Education

DATE: March ,

RE: Notification of Intent to Offer Extended School Year Services

In accordance with Minnesota Statues, the Northwest Regional Interdistrict Council Special Education Cooperative and its member districts: #676 Badger, #561 Goodridge, #2683 Greenbush Middle River, #447 Grygla, #2171 Kittson Central, #356 Lancaster, #441 Marshall County Central, #2358 Tri-County are hereby notifying your district of its resident students for whom the Cooperative and/or its member district (specified below) intends to provide extended school year (ESY) services or summer school (if part of the placement).

The Cooperative or its member districts anticipate providing ESY services to the specified student(s) and will bill ISD #____ for the appropriate share of the costs for services.

Should you have questions, please contact the following person(s).

<table>
<thead>
<tr>
<th>Student Name</th>
<th>Last</th>
<th>First</th>
<th>Middle Initial</th>
<th>MARSS #</th>
<th>Primary Disability</th>
<th>Age</th>
<th>DOB</th>
<th>District #</th>
<th>Serving District</th>
<th>Program Name</th>
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BACK TO DOCUMENTATION PAGE
The Child Study Team, in preparing a student's IEP may alter a student's day, if needed. The student's day should not be shortened because of administrative convenience (e.g., buses are needed to transport another building's students, the teacher has a shortened contract). An alteration in a student's school day should be based on the student's needs (e.g., student's health does not allow the student to be alert for full school day, the student is only able to tolerate a certain number of hours per day, parents have requested a shortened day).
SAMPLE LETTER REGARDING WITHDRAWAL FROM PUBLIC SCHOOL

Dear,

Since you have chosen to withdraw your child with a disability from public school, I am writing to inform you of your rights under Minnesota Statute 123.932.

If you have chosen a private school option (includes home school) in lieu of public school, Minnesota school districts are required to provide direct and/or indirect special education services to students with disabilities whose parents have chosen a private school option. It is the practice of the Northwest Regional Interdistrict Council Special Education School Districts (Badger, Goodridge, Greenbush-Middle River, Grygla, Kittson Central, Lancaster, Marshall County Central) to provide direct services in the public school building only. Consultative services can be provided in person or over the telephone.

If you would like to access these services, please contact me at _________________. If you do not want to access special education services at this time, please be aware that the district stands ready to serve your child’s special education needs if and when you choose to access these services at any time in the future. I have enclosed a copy of the Parent Rights and Procedural Safeguards brochure. Please read the brochure to be apprised of your rights. Please feel free to contact me if you have any questions or concerns.

Sincerely,

Case Manager

Enclosure: Parent Rights and Procedural Safeguards

BACK TO DOCUMENTATION PAGE
Memo

To: Parents of children who attend private schools or are educated at home

From: Tammy Nielsen, Director of Special Education for Northwest Regional Interdistrict Council Special Education Cooperative

Re: Identification of Students with Disabilities

I am writing to explain your rights under the Individuals With Disabilities Education Improvement Act (IDEA 2004) which requires public school districts to identify children in non-public schools who have disabilities within its school district’s boundaries.

Should you perceive that your child has a disability and is not making satisfactory academic, social behavioral and/or communicative progress and has a substantial limitation in the areas of learning and communicating, you may seek a screening and evaluation through the public school whose boundaries contain the private school your child attends. The evaluation will be designed to determine whether or not your child has a disability as defined by special education eligibility criteria in Minnesota Rules (MR) 3525. For children with disabilities who are found eligible to receive special education services, parents will be invited to participate on a planning team that will review the information and propose services. The process is as follows:

1. You will be invited to attend the planning team meeting at the public school. Representatives from the non-public school will be invited to attend also. The team will review the information presented by your child’s teacher, evaluator, and/or other staff. You will also have an opportunity to share information as you deem appropriate.
2. You will receive a written notice of the proposed evaluation for your approval. This notice requires written permission by the parent prior to the public school conducting the evaluation.
3. Once written parental permission is received, then the public school special education staff will conduct your child’s evaluation. You will have an opportunity to provide further information about your child’s needs as a part of the evaluation.
4. The planning team will complete an Evaluation Summary Report and they will make a decision regarding your child’s eligibility for special education.

Children eligible for special education services under (MR) 3525 will have an Individual Services Plan developed by a planning team of public school special education staff, non-public school staff and you.

Please see attached brochure for further information and the name and contact information for the Special Education Coordinator serving the public school district in which your private school is located. Please direct your questions and communications between the private school and the public school to the person named in the brochure.

BACK TO DOCUMENTATION PAGE
Memo

To: Administrators of nonpublic schools in Marshall, Roseau, Pennington, and Kittson Counties

From: Tammy Nielsen, Director of Special Education

Re: Identification of Students with Disabilities

The newly reauthorized Individuals with Disabilities Education Improvement Act (IDEA) requires that public school districts consult with and provide certain information to the representatives of private schools and to the representatives of parents of parentally-placed private school students. Toward that end, the Northwest Regional Interdistrict Council Special Education Cooperative (#676 Badger, #561 Goodridge, #2683 Greenbush Middle River, #447 Grygla, #2171 Kittson Central, #356 Lancaster, #441 Marshall County Central, #2358 Tri-County) is providing you with this memorandum. Please post this memorandum in a prominent location in your schools so that parents may have access to this information as well. I have also enclosed a letter to parents of privately placed students. Please make copies and give these to the parents of your students along with a copy of the enclosed brochure. The brochure provides our child find process at a glance. It is also meant to be shared with parents.

If you would like to schedule a meeting with me and, if you choose, parent representatives to discuss the topics contained in this memorandum, please contact me at 218-874-8215. If you are a private school representative and you do not desire to meet to engage in further consultation regarding the topics in this memorandum, please sign the attached form and return it to me at Northwest Regional Interdistrict Council Special Education Cooperative, 201 West Minnesota Avenue, Newfolden, MN 56738, at your earliest convenience.

1. What is the child find process?

The school district is required to conduct activities to locate, identify, and evaluate all children with disabilities who are located within the geographic boundaries of the district. These activities are referred to as the "child find" process. The child find requirement applies to all children with disabilities who are attending private elementary and secondary schools, including religious schools. The child find process for private school children with disabilities must be comparable to the process used for children with disabilities in public schools.

IDEA requires that all children with disabilities be reevaluated at least once every three years. Therefore, the school district must initiate a reevaluation of a private school child with a disability at
least once every three years. If the district cannot complete the reevaluation because the child’s parents refuse to cooperate, the district is not required to take further action.
The requirement to reevaluate also includes private school children with disabilities who are not receiving special education and related services from the district. Such children need to be reevaluated to determine whether they continue to have a disability for the private school child count and funding purposes.

2. How can parentally-placed private school children suspected of having a disability participate equitably in the child find process?
The parent, guardian, or teacher of a child who is attending a private school located within the school district may ask the district to evaluate the child to determine whether he or she has a disability and is in need of special education services under IDEA. Any child suspected of having a disability may be referred to the school district for an evaluation. If the school district evaluates a child and determines that the child is eligible for special education services, the district will provide the child with a free appropriate public education if the parents choose to enroll the child in the district’s public schools. If parents choose to continue enrollment in the private school, the child may not receive direct special education services or the services may be limited.

3. How does the Northwest Regional Interdistrict Council Special Education Cooperative (Braham, Cambridge-Isanti, Isle, Milaca, Mora, Ogilvie and Princeton School Districts) inform parents, teachers, and private school officials of the child find process?
In addition to disseminating this memorandum, once a year the district’s Director of Special Education and/or a representative of the Director will meet with private school representatives to discuss the child find process. The district will provide a brochure that explains the child find process. Copies of the brochures will be provided to private school officials and will be available to parents, teachers, and private school officials.

4. What process will the school district use to consult with private school officials and parents of parentally placed children with disabilities and how will the process operate throughout the school year to ensure that parentally-placed private school children with disabilities who are identified through the child find process can meaningfully participate in special education?
The district will consult with private school officials and parents of parentally-placed children with disabilities on an annual basis by disseminating this memorandum and by asking the private school representative if he/she would like to meet with a public school representative. If a child is evaluated and found to be a child with a disability who is in need of special education services, the district will consider the child’s individual needs and develop an Individual Services Plan (ISP). Additionally, throughout the school year, private school officials and parents of parentally-placed children with disabilities are invited to contact a district representative by telephone or email if they have any related questions.

Tammy Nielsen, Director of Special Education, Northwest Regional Interdistrict Council Special Education Cooperative
218.874-8215
nwric@wiktel.com
5. Where, how, and by whom will special education and related services be provided to parentally-placed private school children with disabilities?

School districts are required to offer a free appropriate public education to children with disabilities who are enrolled in its public schools. Parents have the right to choose to send their child to a private school. However, no parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Consequently, if parents choose to send their child to a private school, the child may receive no direct special education services from the school district or the services may be limited.

In consultation with representatives of private schools and parents of children with disabilities, decisions about how and where special education services will be provided are made on a case-by-case basis with consideration being given to the individual needs and circumstances of the child with a disability. The school district may choose to provide the services at a private school site, including a religious school, but the district is not required to do so. One of the many factors that the district may consider is whether providing services at the private school site will minimize the need for transportation and the disruption to the educational program of all children receiving services.

When special education and related services are provided to parentally placed private school children with disabilities, they will be provided by qualified personnel. Such personnel will typically be employed and assigned by the school district. In some circumstances, however, the district may contract with qualified personnel who are not employees of the district.

6. How will the proportionate share of federal funds to be used for parentally placed private school children with disabilities be determined and calculated?

School districts receive federal Part B funds to enhance programs for students with disabilities. Districts are required to spend a proportionate share of these funds on parentally placed private school students with disabilities. The proportionate share will be determined by multiplying the number of parentally placed private school students with disabilities by the average amount of federal funds allocated by the federal government for all the district’s students with disabilities.

Example

<table>
<thead>
<tr>
<th>Number of private school Students with Disabilities</th>
<th>District’s Part B allocation ÷ Child Count</th>
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</thead>
<tbody>
<tr>
<td>3</td>
<td>10,000 ÷ 25 = $400</td>
</tr>
<tr>
<td>X</td>
<td>$400 ÷ $1200</td>
</tr>
</tbody>
</table>

The private school’s proportionate share would be $1200. Therefore the public school would have $1200 to spend on special education services to the three enrolled students with disabilities.

7. What types of services may be provided?

The special education services that the district provides to private school children with disabilities may include all types of direct and indirect services, including transportation services. Indirect services may include, but are not limited to, assisting with the professional development of private school teachers who work with children with disabilities and providing consultation to assist private school personnel in meeting the needs of children with disabilities.
Special education services, including student specific materials and equipment, must be secular, neutral, and non-ideological. The school district must control the funds used to provide special education services and have title to all materials, equipment, and property purchased with the funds. The district must administer the funds and property and ensure they are used for the purpose of providing services to parentally placed private school children with disabilities.

8. **If the school district disagrees with the views of a private school official on the provision of services or the types of services that will be provided, what information will be provided to the private school official?**

   In the event of a disagreement between a private school official and the district, the district will provide a written explanation of the reasons why it chose not to provide services directly or through a contract.

PB/mlp

Enclosures:  
- Parent Letter
- Brochure Prereferral Procedures for Special Education Evaluations
- Affirmation of Timely and Meaningful Consultation

[BACK TO DOCUMENTATION PAGE]
AFFIRMATION OF TIMELY AND MEANINGFUL CONSULTATION

I am a representative of a private school that is located within the geographic boundaries of the __________ School District. By signing below, I affirm that I have had timely and meaningful consultation with the __________ School District regarding the following topics:

- the child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

- the determination of the proportionate amount of federal funds available to serve parentally place private school children with disabilities, including the determination of how the amount was calculated.

- the consultation process among the school district, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure parentally-placed private school children with disabilities identified through child find can meaningfully participate in special education and related services;

- how, where, and by whom special education services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms; and

- how, if the school district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through contract, the school district will provide private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

____________________________  ______________________________
Name of Private School  Representative’s Name (please print)

____________________________  ______________________________
Date  Representative’s Signature

BACK TO DOCUMENTATION PAGE
In response to the Individuals with Disabilities Education Improvement Act (IDEIA 2004) Minnesota School Districts must demonstrate that "all children with disabilities, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located and evaluated." This responsibility extends to children with disabilities who are educated at home or in nonpublic schools.

Upon request, your local public school will provide information to concerned parents on specific disabilities including information about the educational or behavioral characteristics of each disability. Parents who believe their child may indeed have a disability may request information on how to arrange for an evaluation through the district's special education staff.

Parents of students who are evaluated and are found to be eligible for special education services will become part of a team which will develop, implement, and monitor the effectiveness of a Service Plan to meet the identified needs of their children.

If you have questions or would like to receive information about specific disabilities or evaluation, please contact the principal of the school building your child would be attending if he/she was enrolled in public school. Your school district is committed to success for all learners.
This form must be completed and signed by the student’s parents.

Child's Name:_________________________________________________ D.O.B____________________
Grade ____________ School:______________________________________________________________
Parent Name(s): _____________________________________ Phone Number:_____________________
Address: _________________________________________________________

Please indicate why you are referring your child for special education services. List specific concerns.

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Parent's Signature: _________________________________ Date:_______________________
PARENTAL RIGHTS FOR PRIVATE SCHOOL SPECIAL EDUCATION STUDENTS

Introduction
This notice provides an overview of the parental special education rights, sometimes called procedural safeguards that are provided to the parents of students who have been voluntarily enrolled in private schools. These same procedural safeguards are applicable for students with disabilities who have reached the age of 18.

Child Find
IDEA requires that all children with disabilities, including those students voluntarily enrolled in and attending private schools are identified, located and evaluated for special education and related services. 34 CFR §300.131

Individual Service Plan
When a private school student is identified as a child with a disability eligible to receive IDEA services, the district must develop and implement an Independent Services Plan ("ISP") 34 CFR § 300.132. The ISP generally services the same functions as a public school student’s IEP, but is subject to less procedural safeguards than an IEP.

On a form that is very similar to the school district’s form for IEPs, a services plan describes the special education and/or related services that a parentally placed child with a disability will receive from the school district. The services must be provided by personnel meeting the same standards as personnel providing services in the public school. The services plan describes the specific special education and/or related services to be provided to the child in light of the services the school district has determined will be available to private school children with disabilities. To the extent appropriate, the services plan includes IEP elements at section 34 CFR §§ 300.137-300.139; 321-300.324. The elements in each child’s services plan may vary depending on the services to be provided. Most services plans will include the following:

- the child’s present level of educational performance;
- annual goals, including benchmarks or short-term objectives;
- a statement of the special education, related services, or supplementary aids and services;
- a statement of the program modifications or supports;
- an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular education environment;
- the projected date for beginning the services and modifications, and the amount, anticipated frequency, location and duration of the services and modifications; and
- a statement of how the child’s progress toward the annual goals will be measured and how the parents will be regularly informed of their child’s progress and the extent to which the progress is sufficient to enable the child to achieve the goals by the end of the year.

Other IEP elements at 34 CFR § 300.324 may be included, depending on the services the school district will provide to the child (e.g., transition services).
**Parental Consent**

1. The district must obtain your consent before conducting an initial evaluation of the student. Your consent for an initial evaluation does not authorize the district to begin providing the student with special education and related services.

2. Giving your informed consent means that you have been fully informed of the information relevant to the activity for which your written consent is sought. Your consent is voluntary and may be revoked at anytime. However, the revocation of your consent does not negate any action that has occurred after your consent was given but before your consent was revoked.

3. Your consent is required before the district begins to provide special education and related services to the student. If you refuse to consent to the initial provision of services to the student, the district may not override your refusal, and the district will not be considered in violation of the law for a failure to provide the student with special education and related services for which the district requested your consent.

4. Your consent is required before a district conducts a reevaluation of the student. The reevaluation may occur without your consent if the district has taken reasonable steps to get your consent and you have failed to respond.

5. You have a right to object in writing to any action the district purposes. However, the manner in which a private school parent challenges a district’s decision or proposal varies according to the nature of the decision or proposal.

6. Generally, your consent is required before a district may disclose personally identifiable information regarding the student or the student’s educational records, but this information may be disclosed to individuals within the district who have a legitimate educational interest in the information or are providing services to the student under the IDEA. This information may also be disclosed in accordance with the Family Educational Rights and Privacy Act ("FERPA"), the Minnesota Government Data Practices Act, the Individuals with Disabilities Education Act ("IDEA"), or other law.

**Access to Student’s Education Records**

If you want to review the student’s education records, the district must give you access to the records. The district must allow you to review the records without unnecessary delay, and before any meeting regarding an IEP or any due process hearing about the student.

Your right to inspect and review education records includes the right to:

1. An explanation or interpretation of the student’s record from the district upon reasonable request;
2. Have your representative inspect and review the records on your behalf; and
3. Request the district provide copies of the student’s education records to you.

The district may not charge a fee to search or retrieve the student’s education records. However, if you request copies, the district may charge a reasonable fee for the copies, unless charging that fee would prevent you from exercising your right to inspect and review the education records. If you request 100 or fewer copies of black and white, letter or legal size paper copies, the district may not charge more than $.25 per copy.

The district must keep a record of persons accessing the student’s special education records. This record must include the persons, except the parents and district employees, who are given access to the student’s education records. This record of access must include the name of the person who accessed the records, the date of access, and the purpose of the person’s access to the student’s education records.

BACK TO DOCUMENTATION PAGE
You may specifically request a copy of all records concerning IEP health-related services disclosed by the district to a third party.

**Independent Educational Evaluations**

An independent educational evaluation "(IEE") is an evaluation by a qualified person who is not an employee or your district. You may ask for an IEE at school district expense each time the district evaluates the student and you disagree with the district’s evaluation. A hearing officer may also order an independent evaluation of the student at school district expense during the pendency of a due process hearing.

Upon your request for an IEE, the district must provide you with information about where an IEE may be obtained and the applicable district criteria for an IEE. When you request an IEE, the district must, without delay, ensure that either the IEE is provided at public expense or request a hearing to determine the appropriateness of the district’s evaluation. If the district requests a hearing and the hearing officer determines the district’s evaluation is appropriate, you still have the right to an independent evaluation, but not at public expense. If you obtain an IEE at your own expense, the results of the evaluation must be considered by the district and may be presented as evidence at a due process hearing regarding the student.

**Written Complaints**

The parent of a voluntarily placed private school student may file a complaint with the Minnesota Department of Education ("MDE") to challenge any aspect of a district’s provision of special education and related services to the private school student as well as the district’s provision of a free appropriate education to the student. A complaint sent to MDE must:

1. Be in writing and be signed by the individual or organization filing the complaint;
2. Propose a resolution for the complaint;
3. Allege violations of special education law or rules that have occurred not more than one year prior to the date the complaint is received by the state;
4. State the facts upon which the allegation is based;
5. Include the signature and contact information of the complainant;
6. If alleging a complaint relevant to a particular student, provide the name and residence of the student and the name of the school he or she is attending; and
7. Provide a copy of the complaint to the school district at the same time the complaint is filed with the state.

The complaint must be sent to:

Minnesota Department of Education
Division of Compliance and Assistance
Due Process Supervisor
1500 West Highway 36
Roseville, MN  55113-4266
(T) 651-582-8689 (F) 651-582-8725

MDE will issue a written decision within 60 days. The final complaint decision may be appealed to the Minnesota Court of Appeals within 60 days of the date the decision is issued.
Mediation and Impartial Due Process Hearing

The parents of voluntarily placed private school students have very limited rights in regards to due process hearings and other dispute resolution proceedings. A due process hearing may only be requested about matters relating to child find and their child’s evaluation and eligibility determination.

Parent may not request mediation or a due process hearing about other matters relating to parentally-placed private school children, including the provision of services in the child’s services plan. Due process does not apply because there is no individual right to special education services for a child attending a private school identification and/or evaluation of a disabled student under IDEA.

Impartial due process hearings must be requested in writing within two years of the date you or the district knew or should have known about the alleged action that forms the basis of the complaint. A request for a hearing must be sent to MDE and to the involved school district.

The MDE will appoint an impartial hearing officer to conduct the due process hearing. If the MDE is the provider of services to the student, the MDE will request the Office of Administrative Hearings to appoint a qualified hearing officer.

Request for Due Process Hearing

The request for a due process hearing must include:

1. The name of the student;
2. The address of the student;
3. The name of the school the student is attending;
4. A description of the nature of the problem(s) of the student causing you to request the hearing, including facts relating to such problems(s); and
5. A proposed resolution of the problem to the extent known to you.

The requesting party may not have a due process hearing until the requesting party submits a request that complies with these requirements.

Resolution Session

When you request a hearing, the district must arrange for a resolution session to occur within 15 days after receiving the hearing request. The resolution session is an opportunity for you to discuss your complaint with the district and gives the district an opportunity to resolve the complaint. The resolution session must include you and relevant members of the IEP team. If an agreement is reached during the resolution session, you and the district must execute a legally binding agreement stating the resolution. Either party may void the agreement within three business days of signing the agreement.

The requirement for this resolution session may only be waived if (1) both you and the district agree to mediation; or (2) both you and the district agree to waive the resolution session requirement in writing. If you do not attend a resolution meeting or mediation, you are not entitled to a hearing.

Disclosure of Additional Evidence

At least five business days before a hearing, you and the district must disclose to each other any evidence that you intend to use at the hearing, including, but not limited to, all evaluations of the student completed by that
date as well as any recommendations based on those evaluations. A hearing officer may refuse to allow you to introduce any undisclosed evidence at the hearing unless the other party consents. All evidence must be limited to the specific issues described in the request for a due process hearing.

Your Rights During Hearing
Both you and the district have the right to:

1. Be accompanied and advised by an attorney and by individuals with special knowledge or training with respect to the problems of students with disabilities;
2. Present evidence;
3. Confront, cross-examine, and compel the attendance of witnesses;
4. Prohibit the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including, but not limited to, evaluation data and recommendations based on that data;
5. Receive a written copy of the hearing transcript, or at your discretion, an electronic, verbatim record of the hearing; and
6. Receive a written copy of the hearing officer’s findings of fact and decision, or at your discretion, an electronic version of the findings of fact and decision.

As a parent, you have the right to:

1. Have the student who is the subject of the hearing present;
2. Open the hearing to the public; and
3. Notice of the time, date, and place of the hearing from the hearing officer at least ten calendar days in advance of the hearing.

Hearing Process
The hearing must be held at a location within the district responsible for ensuring a free appropriate public education is provided to the student.

The burden of proof at the hearing is on the district to demonstrate, by a preponderance of the evidence, that it has complied with its child find responsibility under IDEA and/or has appropriately evaluated the student.

The hearing officer will make a written decision based only on evidence received and introduced in the record at the hearing not more than 45 calendar days from the expiration of the resolution period. Extensions may be available under some circumstances if the requesting party can show good cause. The proposed action or refusal will be upheld only upon a showing by the district by a preponderance of the evidence.

You have the burden of proving, by a preponderance of the evidence, that services for which you are paying or have paid, and for which you are seeking public funds, are appropriate for the student.

Attorneys’ Fees for Hearings
You may be able to recover your attorneys’ fees if you prevail in a due process hearing or further civil action. A petition for fees must be filed in a court of competent jurisdiction. A judge may make an award of attorney’s fees based on prevailing rates in your community. The court may reduce an award of attorney’s fees if it finds that you unreasonably delayed the settlement or decision in the case.
If the district prevails and a court agrees that your request for a hearing was for any improper purpose, such as to harass the district, you may be required to pay the district’s attorneys’ fees.

**Civil Action**

The independent hearing officer’s decision is final unless you or the district files a civil action. If you or the district disagrees with the findings or decisions made by a hearing officer, either party may file a court action. The action may be brought in a federal district court or the Minnesota Court of Appeals. Different standards of review apply in each court. An appeal to the state Court of Appeals must be made within 60 days of the date of the decision. An appeal to a federal district court must be made within 90 days of the date of the decision.

**For More Information**

If you need help in understanding this notice or anything about the student’s education, please contact the administration at the student’s school, the district’s special education director, or the person or the agencies listed below. As indicated above, this notice is a general overview of private school parental special education rights as of November 2005, and is not intended to address a parent’s specific rights in a particular situation.

If you have any questions or would like further information, please contact:
Name ________________________________
Phone ________________________________

For additional assistance, you may contact any of the groups listed below:

ARC Minnesota
[www.ARCminnesota.com](http://www.ARCminnesota.com)
(651) 523-0823
(800) 585-5256

Minnesota Disabilities Law Center
[http://www.mndlc.org](http://www.mndlc.org)
(612) 332-1441
(800) 292-4150
(612) 332-4668 (TTY)

PACER
[http://www.pacer.org](http://www.pacer.org)
(952) 838-9000
(800) 537-2237
(952) 838-0190 (TTY)

Minnesota Department of Education
[http://www.education.state.mn.us](http://www.education.state.mn.us)
(651) 582-8689
(651) 582-8201 (TTY)
GUIDELINES: RATIONALE FOR RELATED SERVICES

While the IEP team ultimately determines a student's need for any special education service, these decisions must be based on objective evaluation data and guided judgment. In order to require a district to provide a related service, it is not sufficient for the team to conclude that the student will benefit. There are many cases in which a student might benefit from a related service, such as occupational therapy, social work, or audio taped texts, without those services being necessary for the student to profit from the primary instructional services identified in the IEP. The IEP team must be able to differentiate those cases where a related service is not just beneficial, but necessary, for the student to attain the instructional goals and measurable objectives.

To provide a related service, the team must document that, without that related service, the student will not profit/is not profiting from the primary special education service. That is, the primary special education service(s) is/will be insufficient for the student to meet his/her IEP goals and objectives. If the IEP team determines that a related or support service is necessary, the basis for this conclusion must be documented in the student's IEP, and the related service must be directly linked to the student's IEP goals and objectives.

The criteria used to determine that a student has an educational disability, such as a learning disability or mental impairment, includes cutoff scores from standardized tests. In the past, related services staff have used such cutoff scores to determine eligibility for related services such as OT or PT services. Such practices are not appropriate. Low test scores often reflect the disabling condition, not the need for a particular related service. Students are eligible for related services because of need, not because of low test scores.

"Benefit" or "may benefit" from special education service does not constitute identification of a special education need. If the IEP goals and objectives can be attained without related services, related services cannot be provided; if related services are necessary to accomplish IEP goals and objectives, justification for each related service is required. Frequent past practice has been for OT and/or speech/language clinician services to supplement instructional services of the special education teacher when student standardized test scores in language and/or motor, perceptual/motor domains have been low. Such practices have the appearance of assuming that special education teachers are unable to provide instruction in these domains. On the contrary, staff with special education teaching licenses have competencies which take into consideration language, motor needs, and other special education needs of students.

Related services are to be provided when the team documents, through objective evaluation data that, in order to attain the goals prescribed for by the primary educational disability, a student needs those additional services. A typical determination of a need for related services might involve the following steps:

1. Based upon initial evaluation data or information revealed in a periodic or annual review, the team raises the question as to whether or not meeting the goals agreed to, under the
student's primary educational disability, require additional specialized help beyond the capabilities or resources of the student's special and regular education teachers.

2. A determination as to whether or not additional evaluation information is needed to make a determination of need. If additional information is determined to be necessary, specific details of what information is needed, who will collect the data or administer the tests, and when this will occur, should be specified.

3. Upon concluding the additional evaluation or if none was needed, the team determines if related services are needed in order to accomplish the specific goals previously established on the IEP relative to the educational disability. The team must document in the student's IEP the rationale or the "flow" between the evaluation information, present level of performance, the statement of the child's needs, and the goals and objectives and the need for the related services.

4. Should the team not be in agreement as to whether or not there is a need for the related service, the team should reconsider (a) does the evaluation information adequately describe the student's strengths and weaknesses; and (b) do the goals and objectives relative to the educational disability, represent the complete nature of the student's educational disability. (2/23/90, Dr. James E. Sauter, Asst. Commissioner, MN Dept. of Ed., letter to Dr. David A. Bennett, Supt., St. Paul Public Schools.)

Speech/language is unique in that it is the only service that can be a primary, secondary or related service. When a student meets eligibility criteria, service will be provided as appropriate to the identified special education need. If speech is not the primary educational disability but the student meets eligibility criteria for speech, documentation is recorded in the Communications section of the Present Level of Educational Performance and in the Special Education Needs section of the IEP. The IEP team assigns resources to meet the identified special education need as appropriate.

A speech clinician is assigned by the IEP team as a related service, even though eligibility criteria has not been met, when such special education service is necessary to assist a student who is not meeting the goals and objectives written on the IEP that relate directly to the primary educational disability. The IEP team must document--through objective evaluation data--that, in order to attain the goals derived from the present level of performance, a student needs those additional special education services. The Related Services Guidelines assist the IEP team in making this decision.

**Justification for Related Services**

*For each related service, an explanation must be included why that service is necessary for the student to benefit from the educational program. M.R. 3525.2900.*

To provide a related service, the team must document that without that related service the student will not profit/is not profiting from the primary special education service. That is, the primary special education service(s) will be insufficient for the student to meet his/her IEP goals and objectives. If the IEP team determines that a related or support service is
necessary, the basis for this conclusion must be documented in the student's IEP and the related service must be directly linked to the student's IEP goals and objectives.

**The justification statement is written on the IEP under Adaptation of General and Special Education.**

### WHAT ARE RELATED SERVICES?

Under IDEA, the term "related services" is defined as transportation, and such developmental, corrective, and other supportive services as are required to assist the child with a disability to benefit from special education. IDEA lists the following examples of related services:

1. the early identification and evaluation of disabling conditions in children;
2. speech-language pathology and audiology services;
3. psychological services;
4. physical and occupational therapy;
5. recreation, including therapeutic recreation;
6. social work services;
7. counseling services, including rehabilitation counseling; and
8. medical services that are for diagnostic and evaluation purposes.

The new federal regulations expressly state that related services also may include the following:

1. Occupational Therapy means services provided by a qualified occupational therapist or certified occupational therapy assistant (COTA).
2. orientation and mobility services includes travel training for other disability areas (this does not require the services of an orientation and mobility specialist).
3. school health services;
4. social work services include working in partnership with parents and others and/or assisting on development of positive behavioral intervention strategies.
5. parent counseling and training means helping parents acquire skills to allow them to support IEP.

Although IDEA and the federal regulations list specific types of related services, those lists are illustrative, not exhaustive. With the exception of purely medical services, any service that assists a child in benefiting from a program of special education, including "developmental, corrective, and other supportive services" may be considered a related service.

### PUPIL SUPPORT ASSISTANT VS. PROGRAM SUPPORT ASSISTANT

When a learner's assessed needs require the direct interaction of a Pupil Support Assistant, it is mandatory that documentation be included in the Adaptation of General and Special Education section and the Special Education and Related Services section of the IEP (see Paraprofessional Assistant Work Plan Request in chapter 6).

### REPORTING RELATED SERVICES TIME ON THE IEP/IFSP

In order to clearly communicate the level of commitment of resources to parents and other members of the IEP team, the amount and frequency of service to be provided by a given

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Northwest Regional Interdistrict Council Special Education Cooperative Total Special Education System Manual--Chapter 14: Governance Standards
agency is stated on the IEP. The amount of time and frequency to be committed for each service should be appropriate to the student's needs.

- Each of the related services must be listed separately, including the amount and frequency of each service to be provided. Words such as "ongoing" or "regular" are not sufficiently specific.

- If OT, PT, or orientation and mobility is determined to be a need for a student, the amount of time and type of service must be included on the IEP. Do not average monthly consultation time into minutes per week (e.g., two 30 minute consults per month does not equal 15 minutes/week). Put the actual time provided by listing 60 minutes/month.
A related service is provided for students after a team documents that without this service the student will not profit/is not profiting from the primary special education service. The primary special education service(s) will be insufficient for the students to meet his/her IEP goals and objectives. If the IEP team determines that a related or support services are necessary, the basis for this conclusion must be documented in the student’s IEP and the related service must be directly linked to the student’s IEP goals and objectives.

**Registered Occupational Therapist (OTR)**
Occupational therapists act as team members in the evaluation, plan development and program implementation process. Occupational therapists provide consultative services and program recommendations to parents, teachers and administrator regarding appropriate IEP/IFSP goals in the areas of fine and gross motor, perceptual motor, self-help skills and the use of adaptive equipment. Technical assistance is also provided on building accessibility for handicapped students. Occupational therapists also provide inservice training in the following areas:

1. Range of motion
2. Positioning
3. Motor development
4. Self-care (e.g., feeding, dressing, grooming, mobility, and sensory processing/stimulation/development)

**Certified Occupational Therapy Assistant (COTA)**
Under the direction and supervision of a registered occupational therapist, the COTA participates in team evaluations and program planning. Direct service is provided in the following goal areas:

1. Range of motion
2. Positioning
3. Motor development (e.g., perceptual motor/eye hand coordination)
4. Self-care (e.g., feeding, dressing, grooming, mobility)
5. Sensory processing/stimulation/awareness/development

COTAs also provide technical assistance and demonstration teaching to parents and teachers and assist teachers in adapting equipment and materials to meet student needs.

**Registered Physical Therapist (PTR)**
Physical therapists perform standardized or observational assessments related to gross motor skills and assist teams in developing appropriate educational plans for students. The physical therapist also assists teams in monitoring student progress of goals and annual goal development. Most services provided by physical therapists are consultative to special education teachers, paraprofessionals, DAPE teachers, and parents and include the areas of: range of motion, strengthening, facilitation of developmental motor skills, gait training, transfer training, sensory motor processing, positioning and wheelchair mobility skills. The physical therapist also monitors student equipment for fit and safety. The physical therapist also provides information to school staff regarding transportation safety and emergency evacuation.

**Developmental Adaptive Physical Education**
Developmental Adaptive Physical Education (D/APE) teachers provide direct and indirect services to students who require adaptations to the regular physical education curriculum. These services are
often provided through consultation with physical education teachers, which include ideas for adaptations and goals for students. Students must meet eligibility criteria in a disability area to qualify for D/APE services. D/APE teachers provide students with lifetime skills, fundamental motor skills, sport skills and fitness. Services from D/APE teachers are often in conjunction with other related services partners, such as physical therapists (PT), occupational therapists (OT), physical and other health impaired (POHI) teachers, special education case managers and school nurses.

**Educational Audiologist**
The educational audiologist provides services to students who are deaf and/or hard of hearing (D/HH). Priority services include assisting school personnel to insure that students who are D/HH have optimal amplification and a good acoustic environment in the classroom. The audiologist evaluates hearing status to determine eligibility for services, consults with school personnel regarding the effects of the hearing loss, recommends remediation strategies for students with fluctuating hearing loss, consults with medical personnel, inservices staff, completes classroom acoustic analysis and monitors students hearing aids and auditory trainers. Audiologist also provides services to the “at risk” student population (e.g., early childhood special education, speech and language and Down Syndrome).

**Speech and Language Pathologists**
Speech and language pathologists act both as direct, stand alone service providers as well as related service providers. Speech and language services include evaluation, program development and planning for students with speech and language disabilities. Related services in the area of speech and language usually include consultative and direct services in speech and language development, as well as services in specific speech, language and hearing problems.

**School Social Workers**
School social workers help students resolve problems that interfere with adjustment to school and ability to have a successful educational experience. As a team member, social workers provide the following kinds of services: investigate neglect and abuse of children and provide advocacy services for abuse victims; consult and collaborate with school personnel in gathering and providing information on a case; and assist in the establishment and planning of respective roles in the modification of a student’s behavior. School social workers often provide parents with the knowledge regarding access to appropriate resources and understanding children’s needs. Social skill training, group and individual counseling may also be part of the services available to students.

**School Psychologists**
The school psychologist’s role is to assist staff in establishing and conducting mainstream intervention activities. Activities may include the following: review of student records, consultation with students, teachers and parents, assisting in the development and implementation of positive behavioral intervention strategies including functional behavioral assessments. For students birth-21, the school psychologist participates in evaluation and reevaluation activities to determine a student’s special education needs. Another function of the school psychologist is the availability to assist education staff in systems change, program development and the coordination/communication of Northwest Regional Interdistrict Council activities. The school psychologist is also available to provide technical assistance to specialized teams (TAT, SAT and SST). This support may include developing individual student plans, goals and evaluation reports.
Assistive technology provides persons with disabilities devices and services to increase their independence. The Individuals with Disabilities Education Act (IDEA) as re-authorized in 1997 requires consideration of assistive technology for all students as part of the IEP process.

Assistive technology as defined in IDEA 97 is both services and products. Specific language from the law can be found in sections 300.5 and 300.6, which state:

Assistive Technology Device—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

Assistive Technology Service—The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. This term includes:

A. The evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
B. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;
C. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
D. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
E. Training or technical assistance for such child, or, where appropriate, the family of such child; and
F. Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

There is a wide range of assistive technology devices, from very simple products such as pencil grips or templates through very sophisticated computer systems. The law makes it clear that the IEP team is responsible for insuring that students have access to appropriate devices and support services to insure access to a free, appropriate public education.

The Assistive Technology Companion Manual includes additional information and worksheets that will help IEP teams make decisions related to assistive technology.
## Assistive Technology Consideration Process

**Student Name: ____________________________ Grade: _______ Date: ____________**

### Writing

**Mechanics of Writing**
- ___ Pencil/pen with adapted grip
- ___ Adapted paper (e.g. raised lines, highlighted lines)
- ___ Slantboard
- ___ Typewriter
- ___ Portable word processor
- ___ Computer
- ___ Other: ..............................................

**Alternate Computer Access**
- ___ Keyboard with easy access or accessibility options
- ___ Word prediction, word completion, macros, abbreviation expansion to reduce keystrokes
- ___ Keyguard
- ___ Alternate mouse (e.g. TouchWindow, trackball, trackpad, mouse pen)
- ___ Mouse alternative with on screen keyboard
- ___ Alternate keyboard (e.g. Intellikeys, Discover Board, Tash)
- ___ Mouth stick, head pointer with keyboard
- ___ Switch with Morse code
- ___ Switch with scanning
- ___ Voice recognition
- ___ Other: ..............................................

### Composing Written Material

- ___ Word cards, word book, word wall
- ___ Pocket dictionary, thesaurus
- ___ Electronic dictionary/spell check (e.g. Franklin Bookman)
- ___ Word processor with word prediction (e.g. Co:Writer or TextHelp) to facilitate spelling and sentence construction
- ___ Multimedia software for production of ideas (e.g. PowerPoint, Overlay Maker with talking word processor)
- ___ Voice recognition software
- ___ Other: ..............................................

### Communication

- ___ Communication book/board
- ___ Eye gaze board
- ___ Simple voice output product (e.g. Big Mack, CheapTalk, talking picture frame, etc.)
Voice output device with levels (e.g. Macaw, CheapTalk with Levels, Digivox)

Voice output with icon sequencing (e.g. AlphaTalker, Vanguard, Liberator)

Voice output with dynamic display (e.g. Dynavox, laptop with Speaking Dynamically)

Device with speech output for typing (e.g. Link, Write:Out Loud with laptop)

Other: ...........................................

Reading/Studying/Math

Reading

Changes in text size/space/color/background color

Book adapted for page turning (e.g. with page fluffers, 3 ring binder and folders)

Use of pictures with text (e.g. Picture It, PixWriter)

Talking electronic devices for single words (e.g. Reading pen, Franklin Bookman)

Scanner with OCR and talking word processor

Electronic Books (e.g. Start to Finish)

Other: ...........................................

Learning/Studying

Print or picture schedule

Low tech aids to find materials (e.g. color tabs, colored paper or folders)

Highlight text (e.g. markers, highlight tape, ruler)

Voice output reminders for tasks, assignments, steps to tasks

Software for manipulation of objects/concept development (e.g. Blocks in Motion, Thinking Things) – may use alternate input device such as Touch Window

Software for organization of ideas and studying (e.g. PowerPoint, Inspiration, ClarisWorks Outline)

Recorded materials (e.g. books on tape, recorded lectures with number coded index)

Other: ...........................................

Math

Abacus, Math Line

Calculator/calculator with print out

Talking calculator

Calculator with large keys, large display

On screen calculator

Software with cueing for math computations

Tactile/voice output measuring devices (e.g. clock, ruler)

Other: ...........................................
Aids for Daily Living

**Eating**
- Adapted utensil/plates
- Arm support
- Automated feeding
- Other: ............................................

**Dressing**
- Velcro fasteners
- Button hook
- Dressing aids
- Other: ............................................

**Recreation & Leisure**
- Adapted toys and games (e.g. puzzles with handles)
- Battery interrupters and switches
- Adapted sporting equipment (e.g. Velcro mitt, lighted or beeper ball)
- Universal cuff to hold crayons, markers, paint brush
- Modified utensils (e.g. rollers, stampers, scissors)
- Articulated forearm support (e.g. ErgoRest)
- Drawing/graphics computer programs
- Music or games on the computer
- Other: ............................................

**Home Living**
- Switch
- Battery interrupter
- Control unit
- Infrared sender/receiver
- X-10 unit and peripheral


**Transition**

**Work/School to Work**
- Adaptations as identified to meet individual needs
- Scheduling aids (calendars, reminders, task analysis)
- Switch/device
- Adapted keyboard
- Communication aid
- Keyboard emulator
- Other: ............................................
**Transportation**

- Get in and out of car as a passenger
- Transfer into vehicle and load mobility device
- Get into vehicle with ramp or lift
- Independently arrange transportation
- Independently utilize public transportation
- Independently drive self with adaptations
- Independently drive self

**Tolerance**

- Physically tolerate school/work day
- Emotionally tolerate full school/work day
- Medically tolerate full work/school day
- Environmentally tolerate full work/school day
- Tolerate with distance adaptations (internet, ITV)

**Adaptations**

- Adaptive seating/positioning
- Electronic communication
- Electronic organizers
- Adapted computer input
- Environmental control
SAMPLE ASSISTIVE TECHNOLOGY PARENT CONTRACT

Independent School District #____
______________, MN

Assistive Technology Contract

STUDENT NAME: _____________________________ PHONE NUMBER: _____________
DEVICE: __________________________________ SERIAL NUMBER: _____________
MAKE: ___________________________________ MODEL: _____________________
OWNER: ___________________________________

Statement of Responsibility for School Owned Devices:
1. I, the undersigned, agree to return it in the same condition at the end of the school year.
2. It is understood that if this device is lost or stolen, I will pay the assessed value of the device to Independent School District #____, and in case of damages, I will pay for the necessary repairs that are over and above the normal maintenance charges.
3. I agree that I will not permit anyone else to use this device other than to the student to whom it is assigned, unless peer use has been identified as part of the implementation plan.
4. I understand that this device is supplied as part of an individual education plan. I further understand that any violation of this accepted responsibility will result in a team meeting to discuss the appropriate use of this device.
5. Device repairs should receive immediate attention whenever they arise. Students should first discuss the needed repairs with their case manager as small repairs can often be attended to at no cost to the student. Vendors will be contacted if district staff are unable to repair the device.

Statement of Responsibility for Parent Owned Devices:
1. Independent School District #____ agrees to return the device in the same condition as it was provided.
2. It is understood that if this device is stolen while on school property, Independent School District #477 will pay the replacement value identified above, and in the case of damages caused by others, will pay for necessary repairs that are over and above normal maintenance charges.
3. Independent School District #____ agrees that no other student will be allowed to use the device unless peer use has been identified as part of the implementation plan.
4. Independent School District #____ understands that this device is supplied as part of an individualized education plan. Independent School District #____ further understands that any violation of this accepted responsibility will result in a team meeting to discuss the appropriate use of this device.

We have read the information above and agree with its provisions.

This contract must be signed by the student, parent, case manager and the building administrator.
Student signature: _____________________________ Date: __________________
Parent signature: _____________________________ Date: __________________
Case Manager signature: ________________________ Date: __________________
Building Administrator signature: __________________ Date: __________________
Congress recognized the importance of active parents’ involvement in planning their children’s educational programs, monitoring progress, and challenging inappropriate decisions. This child advocate role is usually filled by parents. However, the laws give an alternative if the parents of a child with a disability are unknown or completely unavailable or if the child is a ward of the state. Surrogate parents fill the parental role in these situations. Most often a surrogate is either a foster parent or a volunteer from the local community. A surrogate parent is appointed by the School Board to exercise due process rights on behalf of a child when parents are unknown or unavailable.

**Surrogate Parent Laws and Guidelines**

Children who need surrogate parents:

Students who either already receive special education services or who are thought to need such services are entitled to a free, appropriate public education (FAPE) and may be served by surrogate parents. In Minnesota, this includes students from birth to age 18 (or 21 if the student is a ward of the state and it is appropriate).

Surrogate parents are appointed under three conditions:

- The parent is unknown or unavailable
- The pupil is a ward of the state
- The parent requests a surrogate parent in writing*

*Parents are not usually aware of their right to request a surrogate parent. When a potential situation arises, the parents should be notified of their right to request a surrogate parent.

**Effort to Locate Parent:** Reasonable efforts must be made to locate the parent(s). These must be made through documented calls, letters, certified letters and return receipts and visits to know address.

**What is a surrogate parent?**

Surrogate parent means a person appointed by a school district to represent a child with a disability who has or may need special education services. This person may not be receiving public funds to educate or care for the child.

However a foster parent may be a surrogate parent if no conflict of interest exists.

A foster parent may be considered to be the parent if:

- The natural parents’ rights are extinguished;
- The foster parent has a long-term relationship with the child;
- The foster parent is willing to take the parent role in special education; and
- The foster parent has no conflict of interest. [BACK TO DOCUMENTATION PAGE]
If a foster parent meets the qualifications above, he or she would be considered to be the parent. No surrogate would need to be appointed.

Other foster parents who do not meet these qualifications would still need to be considered for surrogate appointment by the school district, but the district may appoint someone else.

Also note, in some cases a grandmother, uncle, or other relative of a student is “acting as parent” or serving in the parental role. Surrogate rules do not apply in these cases since the child is not in need of a surrogate parent.

**Responsibilities of surrogate parents**

A surrogate parent is only responsible for representing the child when decisions about his/her special education program are made concerning:

- Identification of the need for the child to receive special education services;
- Evaluation to determine his/her individual needs;
- Design of his/her individualized education program, including placement;
- Ongoing reviews of educational progress;
- Disagreement with the school’s educational proposals.

In order to fulfill these responsibilities, the surrogate parent should learn about state and federal requirements for special education and about school district structure and procedures. The surrogate parent should also have an understanding of the pupil’s disability and needs and have an ability to effectively advocate for the child.

**Criteria for Selecting Surrogate Parents**

1. The person assigned as a surrogate parent may not be an employee of the school.
2. The person assigned as a surrogate parent may not be paid with public funds to serve as a surrogate or care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists.
3. The school may select a surrogate parent in any way permitted under state law.
4. Schools should ensure that persons selected as surrogates:
   - have no interest or conflicts with the child he/she represents,
   - have the knowledge and skills that ensure adequate representation of the child,
   - have knowledge of state and federal requirements,
   - know district structure and procedures,
   - know the nature of the pupil’s disability and needs,
   - have an ability to effectively advocate for an appropriate educational program.

The district shall make the above information and training available to the surrogate parent.

**Responsibilities of the Surrogate Parent**

A surrogate parent may represent the child in all matters related to:

1. Identification, evaluation, and educational placement of the child.
2. The provision of a free and appropriate education of the child.
**Procedure for Appointment of a Surrogate Parent**
1. Contact district office for list of surrogate parents.
2. Contact nominated surrogate parent for approval.
3. Write letter to school board requesting specific surrogate be named for the special education student (do not name student in the letter; see sample letter).
4. The superintendent sends letter to surrogate(s) informing them of the appointment (see Sample Letter Superintendent).
5. District provides training or accepts training certificate from PACER.
6. Case managers invite surrogate parent to participate in all due process meetings regarding student.

Note: Districts should consult with county social services before appointing a surrogate for a student who is a ward of the state.

**Removal of Surrogate Parent**
1. By majority vote of School Board only.
2. Surrogate parent must be notified of time and place of meeting at which time vote will be taken and of reasons for removal.
3. Surrogate parent must be given opportunity to be heard.

**Reasons for Removal of Surrogate Parent**
1. Failure to perform duties required in team meeting and IEP process.
2. Conflict of interest.
3. Actions that threaten well-being of assigned student.
4. Failure to appear to represent student.
5. Student no longer needs special education services.

**Training**
Once a district has determined a need for appointment of a surrogate parent(s) for a student with disabilities (see previous page for instructions related to need, determination, and appointment of surrogate parents) the following training procedure should be followed:

1. If the potential surrogate has a certificate demonstrating previous training from PACER, the Northwest Regional Interdistrict Council Special Education Cooperative, or another Minnesota school district, the individual(s) can be appointed without further training.
2. If the potential surrogate has never been trained to serve as a surrogate parent for a student with disabilities, follow the steps listed below.
3. Request a Surrogate Parent Training Manual and the PACER surrogate parent video tape from the Cooperative office or have proposed surrogate use on-line surrogate training available at PACER website http://www.pacer.org/parent
4. If possible, meet with the potential surrogate to provide an overview of the training manual and conduct training in areas of most importance. Allow the individual(s) to take the materials home, but set time parameters for return. If you provide direct training, it is not necessary for the potential surrogate to complete the Surrogate Training Test. You may issue a certificate of Surrogate Parent Training Completion.
5. If the potential surrogate(s) is unable to meet with you to receive direct training, mail the training materials along with the Letter to Prospective Surrogate Parent. In order to document that the potential surrogate did review the training manuals, the Surrogate
Training Test must be given either in written or oral form. A 70% passing score must be obtained for the individual to be issued a Certificate of Surrogate Parent Training Completion Certificate.

6. Appoint the surrogate parent who has completed the requirements listed above by following the procedures listed on the previous page.
Dear Prospective Surrogate Parent,

We are pleased you have agreed to serve as a surrogate parent for [name the student]. Your appointment by [name of school district] depends upon your qualifications. Therefore, by law, the District must provide training for you. Enclosed, you will find A Training Manual for Surrogate Parents, developed by the Minnesota Department of Children, Families and Learning and a videotape entitled Surrogate Parents: Their Role in Special Education produced by the PACER Center. The special education staff at our school has identified passages in the manual that will be helpful to you. Of course, you are encouraged to read as much of the manual as you wish. However, The Surrogate Training Test you will be required to take will only cover the material found on the following pages:

Section One, Page 1, Introduction - An Overview
Section One, Page 7, What Does A Surrogate Parent Do
Section One, Page 7-8, Surrogate Parent Rights
Section One, Page 9, Surrogate Parent Responsibilities
Section Four, Page 14, Summary

We hope you find the reading suggestions interesting and informative. Twenty-one (21) calendar days after you receive these materials, we request you return them to the school. The training manual is on loan from the Northwest Regional Interdistrict Council Special Education Cooperative. As soon as the training manual is received, you will be sent The Surrogate Training Test. Both parents may complete the test together. Please feel free to call me to answer the questions orally over the phone, if you prefer. Please return the test to me at the Special Education Department at school as soon as possible.

Consider this training the beginning for you as surrogate parents. At any time, you can check out the training manual again by contacting the Northwest Regional Interdistrict Council Special Education Cooperative (612) 689-3600. Our special education department is always ready to answer your questions. In addition, a concise and condensed document, Parent Rights and Procedural Safeguards, is given to you at every point in the special education process. This document is also enclosed.

Thank you for helping this child and the school.

Sincerely,

_________  
(Case Manager)

Enclosure:  A Training Manual for Surrogate Parents  
Parent Rights and Procedural Safeguards  
Videotape - Surrogate Parents: Their Role in Special Education
Please read each statement and check the box next to the answer of your choice. Please check only the single, best answer. Thank you.

5. To guarantee educational rights to students with disabilities, Congress and the state legislatures...
   □ a. Made all students Wards of the State.
   □ b. Passed laws in the 1970’s.
   □ c. Put all students with disabilities in foster homes.

6. In summary, Congress viewed parents as...
   □ a. Important partners with their children’s schools.
   □ b. Having authority in medical matters only.
   □ c. Having rights only in private schools.

7. Since the parents of many handicapped children may be unknown or unavailable, the law recognizes that students with disabilities have a right to...
   □ a. A foster parent.
   □ b. A surrogate parent.
   □ c. A guardian.

8. Unless a surrogate parent is also a foster parent, the surrogate only has a responsibility for representing the child when his/her...
   □ a. Clothing is in poor shape.
   □ b. Medical condition presents a crisis.
   □ c. Educational program decisions are being made.

9. Surrogate parents represent a student with a disability in all aspects of the educational decision-making process except which of the following...
   □ a. Identification, assessment, and individual educational program.
   □ b. School prayer and the fluoride program.
   □ c. Educational reviews and “due process” procedures.

10. Surrogate parents rights in the educational process are the same as those established by law for...
    □ a. Natural parents.
    □ b. Foster parents.
    □ c. Wards of the State.

11. Surrogate parents have 17 rights listed in the manual. These rights are referred to as...
    □ a. Civil rights.
    □ b. Due process rights.
    □ c. Human rights.

12. In your packet of materials, there was a document called, Parent Rights and Procedural Safeguards. It is a very important document to you because...
    □ a. It is continuously updated as rules and laws change.
b. It is given to you at every point in the special education process.

- c. Both a and b above.

13. “Due process” proceedings are official steps that may be taken when the school and the parent (or surrogate parent)...

- a. Disagree about a child’s program.
- b. Are in different states.
- c. Do not meet on Christmas day.

14. Federal regulations and the State Board of Education rules require that a surrogate parent must be one who...

- a. Is a relative of the student.
- b. Financially supports the student.
- c. Adequately represents, and effectively advocates for, the student with a disability.

15. In the manual, there were responsibility guidelines suggested in how many areas?

- a. 4
- b. 8
- c. 6

16. One very important thing to remember when communicating with the school about the special education program for a student with a disability is to...

- a. Be demanding and forceful.
- b. Utilize and maintain positive and assertive techniques.
- c. Not communicate at all, let the school do all the talking.
Dear Dr. Smith and School Board Members,

A student at Marshall County Central High School is in need of surrogate parents to ensure the student's educational due process rights.

Mr. and Mrs. Thomas Cannon, 321 Anderson Street, Armarillo, MN, have been trained and have volunteered to serve as surrogate parents for this student.

Appointment of surrogate parents requires School Board action.

Thank you for your consideration.

Sincerely,

Betty James
Case Manager
A Sample Letter Superintendent Could Use to Notify Surrogate Parents of Their Appointment To Represent A Specific Child:

February 13, 1999

Thomas and Esther Cannon,
321 Anderson Street
Armarillo, MN  56789

Dear Mr. and Mrs. Cannon:

The District #85 Board of Education at its regular board meeting on Feb. 10, 1999, appointed you to serve as surrogate parents for Jane Doe, a student at Marshall County Central High School. Accordingly, as a surrogate parent, you will have all the rights and responsibilities of parents in matters relating to the special education due process concerns for Jane Doe.

If you have any questions about your appointment or your rights and responsibilities as a surrogate parent, please contact Betty James, Jane’s special education case manager at Armarillo High School at 345-6789.

Sincerely,

Dr. John Smith
Superintendent of Schools
NOTICE OF PROCEDURAL SAFEGUARDS BROCHURE

A copy of the procedural safeguards notice is on the NWRIC website: www.NWRIC.com

Or directly at:

www.nwric.com/Forms/OtherDocuments/PartBParentRights.pdf for Procedural Safeguards in regard to Part B students (ages 3-21)
www.nwric.com/Forms/OtherDocuments/PartCParentRights.pdf for Procedural Safeguards in regard to Part C students (ages birth - 3)