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## Barnesville School District: Total Special Education System Manual

### CHAPTER 14: GOVERNANCE STANDARDS

New 9/23/2013

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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.
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 parent 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 translate 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).

DATA PRIVACY AND CONFIDENTIALITY

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.
Due Process Considerations: Identification

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 Brochure; 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.
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)/guardian(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 timeframe 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.
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. The special education case managers should notify the Child Study Team (i.e., SST) in a timely manner to ensure eligibility determination and evaluations are completed on or before the three-year anniversary of the previous eligibility determination. When possible, try to space reevaluations over the course of the year so the Child Study Team members who will be contributing to the evaluations will not be 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 or age 14, 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/IIIP.
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 New 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;
• beginning at age 14, 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.
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.
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 New 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.

*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.
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.

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).
Due Process Considerations: Other IEP Team Considerations

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 9 or age 14, 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 or age 14, whichever comes first, and annually thereafter, 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.

2. 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).
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.
Due Process Considerations: Surrogate Parents

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.
- 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 LASEC Office)
- PAC Meeting Agendas and Minutes of Meetings (stored at LASEC 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
- Guidelines on Least Restrictive Environment
- Parent Contact Documentation
- Guidelines for Independent Educational Evaluations
- Extended School Year (ESY) Services Guidelines and Procedures
- Notification of Intent to Offer ESY Services
- Guidelines for Alteration of Student’s School Day
- Sample Letter Regarding Withdrawal from Public School
- Sample Assistive Technology Parent Contract
- Guidelines Regarding Appointment and Training of Surrogate Parents
- 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
- By-Laws
- 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 Lake Agassiz 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 10 members and shall include representatives from parents and district staff. The following are suggested areas of representation:

1. **Seven 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. Director of Special Education, Lake Agassiz Special Education Cooperative

**Meetings:**

The Special Education Advisory Council shall meet at least one time per year, with special meetings called at the discretion of the Director of Special Education. One-third of the council membership shall constitute a quorum. Upon consultation with the superintendents, principals, teachers, staff and parents, the director will set the agenda.

**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-IIs 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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</thead>
<tbody>
<tr>
<td>MCA-II</td>
<td>Reading</td>
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<td></td>
<td>Mathematics</td>
<td>3-8, 11</td>
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<td></td>
<td>Science</td>
<td>5, 8, 9-12³</td>
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<td>Mathematics</td>
<td>3-8, 11</td>
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<tr>
<td></td>
<td>Reading</td>
<td>3-8, 10</td>
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<tr>
<td>MTAS</td>
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</tr>
<tr>
<td></td>
<td>Science</td>
<td>5, 8, 9-12</td>
</tr>
</tbody>
</table>

¹ The testing window for the MTAS is five weeks.
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.

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>Test</th>
<th>Subject</th>
<th>Initial Grade</th>
<th>Retest Grade(s)</th>
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<tbody>
<tr>
<td>BST</td>
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<tr>
<td>BST</td>
<td>Written Composition</td>
<td></td>
<td>11-12</td>
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<tr>
<td>GRAD</td>
<td>Written Composition</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>MCA-II/GRAD</td>
<td>Reading</td>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>
**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 – 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 – under Accountability Programs: Assessment and Testing: Assessments)

Where can I find more information about the MCA-IIs?
Go to the Minnesota Department of Education Website 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 1500 Highway 36 West Roseville, MN 55113-4266 (651) 582-8200
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
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) calculations
**Assessment Decisions Process for Students with an Individualized Education Plan (IEP)**

**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.

LEP-identified students in this group may take MTELl in place of MCA-II mathematics.

**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?

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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.

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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.
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.
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.

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

- 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:
Lake Agassiz Special Education Cooperative
601 4th St. Suite 202
Audubon, MN 56511
218-439-6876

- 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).

- The school Child Study Team reviews pre-referral information and interventions and contact parent, teacher and/or principal for additional information or consultation.

- The SST determines whether pre-referral information is adequate. If not, the information is returned to the referring party for completion. The SST then determines if an evaluation is needed.
1. **Introductions:**

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<th>Date of Meeting</th>
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<td>Parent</td>
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<td>Other</td>
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<td>Other</td>
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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
- Communication Skills

- Transition

- Health/Physical Status

### 7. **Student’s Educational Needs and New Goal Areas**

### 8. **Accommodations and Modifications**

- Assistive Technology

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

### 10. **Transition Planning**

- Daily Living Skills

- Community Participation

- Recreation and Leisure

- Post Secondary Training

- Employment

### 11. **Graduation Planning/Graduation Standards**
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<td><strong>16. Transfer of Rights (age 17)</strong></td>
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<td><strong>18. Placement Services Determined</strong></td>
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<td><strong>19. Summary:</strong></td>
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<td>• Review decisions made</td>
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<td>• Review responsibilities</td>
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<td>• Set future meeting date (if needed)</td>
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<td>• Thank parents for coming</td>
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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
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
   - ____ School district representative
   - ____ Special education teacher
   - ____ Other service provider
   - ____ Regular education teacher(s)
   - ____ 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: Other Items to Address:
     - ____ Introduction
     - ____ Overview of current services provided
     - ____ Parent/guardian comments/questions/concerns
     - ____ 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

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.
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.**
   The IEP, IFSP or IIIP is a description of the proposed action.

2. **An explanation of why the district proposes or refuses to take action.**
   Districts are required to review and revise a student's IEP on an annual basis.

3. **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 discussed the student’s present level of performance, the student’s needs and program goals that would meet the needs and determined the enclosed IEP would meet the student’s needs. The team discussed options for goals and objectives, many adaptation and accommodation options, the need for and options related to assistive technology, as well as the amount of service time needed to reach the educational goals. It was determined by the team that the options, selected in the attached IEP are reasonably calculated to confer educational benefit.

4. **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.

5. **A description of any other factors that are relevant to the district’s proposal or refusal.**
   None noted.

EXAMPLE 2

For a denial of a parent request:

1. **A description of the action proposed or refused by the district.**
   The parent requested the student have a 1:1 full time paraprofessional to provide support to the student during every aspect of the student’s school day. The district refused this and instead proposed paraprofessional support only at times of the student day when support was required.
2. **An explanation of why the district proposes or refuses to take action.**
The district team considered the parent request. However, the team members expressed concern the student would become dependent upon the adult paraprofessional and would actually regress in skills and independence.

3. **A description of any other options the district considered and the reasons why those options were rejected.**
The district team discussed using a high school student assistant to provide additional time for this student’s support, but agreed the student’s needs were at a level in which high school student support would be inadequate. The team also discussed decreasing the student’s need for movement in the classroom, but determined reducing the student’s mobility was not programmatically sound.

4. **A description of each evaluation procedure, test, record or report the district used as a basis for the proposed or refused action.**
The case manager and program paraprofessionals conducted time samplings of the student’s independent behavior throughout the student’s day and activities. These samplings were used to determine the time and activities which required student support.

5. **A description of any other factors that are relevant to the district’s proposal or refusal.**
The student is 19 years old and will be transitioning to an adult facility over the next few years. Adult programs have much higher staff to student ratios than do school programs. Reducing adult support, rather than increasing it as students age is appropriate to meet the student’s transition needs.

### EXAMPLE 3

1. **A description of the action proposed or refused by the district.**
   At the parents’ request, child will not be accessing special education services at this time. He will attend at the ALC without special education support.

2. **An explanation of why the district proposes or refuses to take action.**
   Although the District has reservations regarding eliminating special education services to child, the District team will agree to work with the family and give child an opportunity to demonstrate appropriate social skills without special education services. Because child will be attending the ALC, his classes will have fewer students than at the high school, and he will have less seat time than required in a high school setting. Therefore, the District team is respecting the parent’s request that special education services be discontinued as these services could be counterproductive for the student in his chosen educational environment. If the student is not successful in the ALC environment without special education services, child’s IEP team will reconvene and make a determination to initiate special education services again.

3. **A description of any other options the district considered and the reasons why they were rejected.**
The team discussed child attending the high school with and without special education support. The team also discussed the child attending the ALC with and without special education support. The
child felt strongly that he had reached a point in his education where he did not benefit and, in fact, felt hindered by direct special education services. His father agreed. The high school placement was of concern to the family and to the District team because child is behind on credits and may not be able to realistically “catch up” in a time frame that would be acceptable to him. Therefore, the District supported the child’s decision to attend the ALC. The team acknowledged the child is not willing to make special education services work for him at this time, therefore, especially given the smaller class sizes and less seat time in ALC, the team agreed to give child the opportunity to succeed without special education services.

4. **A description of each evaluation procedure, test, record or report the district used as a basis for the proposed or refused action.**
Because child is new to the District, the decision was primarily based on the input of the family and child’s insights about his needs. Child missed a great deal of school during the spring semester when he began attending Premier High School. School records indicated that child was not successfully attending and passing classes in a traditional high school environment.

5. **A description of any other factors that are relevant to the district’s proposal or refusal.**
If child is not successful under this current plan, the parent understands that the District has an obligation to reconvene the IEP team and determine appropriate special education services.
## Record of Inspection & Index of Due Process Forms

### Public Schools

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<th>Person Reviewing File</th>
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### Section

1. Record of Inspection & Index of Due Process Forms
   1. Regular Education Routing Slip
   1. Transfer of Due Process File Between Case Managers’ Checklist
2. Parental Consent/Objection and Prior Written Notice Forms
   2. Pre-referral Documentation (2 required)
   2. Referral Review & Evaluation Determination Plan
   2. Notice of an Educational Evaluation/Reevaluation Plan
   2. Notice of a Team Meeting
   2. Parents Rights and Procedures Relative to a Hearing
   2. Team Override
   2. Consent to Seek Reimbursement for Health Related IEP/IFSP/IIIP Services (or signed release of information)
3. IEP/IFSP/IIIP (including progress reports)
   3. Periodic Review (ECSE only)
   3. ESY Decision Form
   3. Manifestation Determination Meeting Form
   3. Emergency Use of a Conditional Procedure Form
   3. Assessment Report For Use With Conditional Procedure
   3. Follow-up Review
4. Evaluation Reports
   4. Psychological, Speech, and other Related Services Reports (OT, PT, DAPE)
   4. Observations and other Checklists
   4. Computerized Scored Reports: Cognitive & Achievement Tests
   4. Exit Summary Report
   4. Benchmarks (if your district uses them)
   4. ECSE Outcomes Summary Forms
   4. Family Outcomes Surveys
5. Pertinent Special Education Communications
   5. Communications To and From Parents
   5. Record Destruction Letter
   5. Home School Letter
   5. Notification of ESY Services To Resident Districts
   5. Prospective Surrogate Parent
   5. Notice of Transfer of Parent Rights
6. Outside Agency Evaluations and Reports From Hospitals - Mental Health Services - County Agencies
   6. Consent to Release Private Data
## SPECIAL EDUCATION DUE PROCESS LOG

<table>
<thead>
<tr>
<th>Student's Name __________________</th>
<th>DOB _______</th>
<th>Reevaluation Due Date ______</th>
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<tbody>
<tr>
<td>Address _________________________</td>
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<tr>
<td>Parent(s) ________________________</td>
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**School Year________ Grade_______  School Year________ Grade_______  School Year________ Grade_______**

**IEP Manager:__________________  IEP Manager:__________________  IEP Manager:__________________**

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<tr>
<th>NOTICE OF A TEAM MEETING - EVAL DETERM.</th>
<th>NOTICE OF A TEAM MEETING (IEP)</th>
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<tr>
<td>Call to set up meeting</td>
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<td>Call to set up meeting</td>
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<tr>
<td>Sent Notice of a Team Meeting</td>
<td>Sent Notice of a Team Meeting</td>
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<td>Reminder Call</td>
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<table>
<thead>
<tr>
<th>NOTICE OF EDUCATIONAL EVALUATION/REVAL PLAN</th>
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<td>1st Notice</td>
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<td>2nd Notice</td>
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<td>Calls/Writes letter</td>
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<tr>
<td>Date signed or date of last documented attempt (initial evaluations require signature)</td>
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<tr>
<td>Date completed within 30 school days</td>
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<td>IEP Staffing</td>
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<tr>
<th>NOTICE OF A TEAM MEETING (EVALUATION REVIEW)</th>
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<td>(could also include IEP meeting)</td>
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<td>Call to set up meeting</td>
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<tr>
<td>Sent Notice of a Team Meeting</td>
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<td>Reminder Call</td>
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<td>2nd Forms Notice</td>
<td>2nd Forms Notice</td>
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<tr>
<td>Call/Write letter</td>
<td>Call/Write letter</td>
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<tr>
<td>Date signed or date of last documented attempt (initial IEP requires signature)</td>
<td>Date signed or date of last documented attempt (initial IEP requires signature)</td>
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<tr>
<th>Progress Review</th>
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<td>1st quarter after IEP</td>
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<td>2nd quarter after IEP (optional PR meeting)</td>
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<td>3rd quarter after IEP</td>
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<td>If significant change in program or placement is proposed, hold Review.</td>
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<table>
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<th>Notice of a Team Meeting (IEP)</th>
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<td>Sent Notice of a Team Meeting</td>
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<th>Suspension Dates (see Suspension Checklist)</th>
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Barnesville School District Total Special Education System Manual -- Chapter 14: Governance Standards 14 - 61
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 Lake Agassiz Special Education Cooperative and its participating districts that schools will retain educational records for students with disabilities a period of five years beyond the student’s 21st birthday. 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
NOTICE OF SPECIAL EDUCATION FILE RETENTION POLICY

In accordance with the policy adopted by the Barnesville 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 three years after your 21st birthday in accordance with the District’s retention schedule. At that time, the contents will be destroyed 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 Barnesville 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 three years after your 21st birthday in accordance with the District’s retention schedule. At that time, the contents will be destroyed 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.
**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: _________________________________
CONSENT TO RELEASE PRIVATE DATA

________________ISD # ______
Address
City,   MN    Zip
Telephone:  ___ - ___ - ____

Consent to Release Private Data

Section I
Student Name:  Admin. Example  ID:  3329347865975  Date:  1/11/2008
School:  Barnesville Primary  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  (mm/dd/yyyy)
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 for an interim period of time. This is considered an interim IEP. The interim IEP must be upgraded to permanent IEP status within 60 school days. 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 Interim or 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 temporarily placed into that program using the existing IEP. A new Annual IEP must be developed within 60 school days.
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, an Interim IEP must be developed immediately for a period not to exceed 60 school days. If you have the IEP from the previous district, you may wish to attach a copy to the Interim IEP. A new Annual IEP must be developed on or before the expiration date of the Interim IEP.

**NOTE:** A transfer student’s placement is considered an initial placement for the receiving district. Therefore, signed parental permission must be obtained before services begin via use of the Parental Consent/Objection and Prior Written Notice Forms. When developing an Interim or Annual IEP/IFSP, all placement options must be considered in meeting the needs of the student.

(2) **The Child Study Team (CST) 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.
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.
GUIDELINES--LEAST RESTRICTIVE ENVIRONMENT

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 aides 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 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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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.
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, Lake Agassiz 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.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Extended School Year</td>
<td>Special education services that are continued beyond the traditional school year.</td>
</tr>
<tr>
<td>Regression</td>
<td>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.</td>
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<tr>
<td>Recoupment</td>
<td>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.</td>
</tr>
<tr>
<td>Self-Sufficiency</td>
<td>Students attain self-sufficiency through the maintenance of functional skills addressed on IEP.</td>
</tr>
<tr>
<td>Critical Goals</td>
<td>The goal(s) selected by the IEP team that represent areas of learning critical to the child in attaining an appropriate education.</td>
</tr>
<tr>
<td>General Outcome Measurement</td>
<td>Measurement of the student’s performance on long-term goals.</td>
</tr>
<tr>
<td>FAPE</td>
<td>Free Appropriate Public Education – as measured by” Rowley Standard.” Was benefit conferred?</td>
</tr>
</tbody>
</table>
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>
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<tbody>
<tr>
<td>Significant Regression and Excessive Time to Relearn or Prevents reasonable state of self-sufficiency</td>
<td>ESY not to maximize potential, ESY only to counter non-recoupable regression, ESY only if significant jeopardy to regular school year</td>
<td>Regression - recoupment of skills, Degree of child's impairment, Degree of regression demonstrated, Child's rate of progress and maintenance of skills during regular school year, Behavioral and physical problems</td>
</tr>
<tr>
<td>Necessary components of FAPE</td>
<td>ESY is exception NOT rule, ESY not to &quot;benefit&quot;, ESY to maintain skills only</td>
<td>Availability of alternative resources, Vocational needs, Need for integration with nondisabled peers</td>
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<td>Whether ESY services are integral part of child's educational program, Prior observation of pupil's regression and recoupment over the summer, Observation of pupil's tendency to regress over extended breaks in instruction during the school year, Experience with other pupils with similar instructional needs, Areas of pupil's curriculum which need continuous attention</td>
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Lake Agassiz 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>
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<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>
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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.
**NOTIFICATION OF INTENT TO OFFER EXTENDED SCHOOL YEAR SERVICES**

**TO:** Superintendent  
ISD#____

**FROM:** Norma Altman-Bergseth, Director of Special Education

**DATE:**

**RE:** Notification of Intent to Offer Extended School Year Services

In accordance with Minnesota Statutes, the Lake Agassiz Special Education Cooperative and its member districts: #0146 Barnesville, #0150 Hawley, #2889 Lake Park Audubon, and #0914 Ulen-Hitterdal, 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>
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<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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GUIDELINES ON ALTERATION OF STUDENT'S SCHOOL DAY

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).
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 Lake Agassiz Special Education School Districts (Barnesville, Lake Park-Audubon, Ulen-Hitterdal and Hawley) 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
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 known 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.
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:
   a. have no interest or conflicts with the child he/she represents,
   b. have the knowledge and skills that ensure adequate representation of the child,
   c. have knowledge of state and federal requirements,
   d. know district structure and procedures,
   e. know the nature of the pupil’s disability and needs,
   f. 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 Lake Agassiz 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 or have proposed surrogate use on-line surrogate training available at PACER website [http://www.pacer.org/parent](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. You may issue a certificate of Surrogate Parent Training Completion.
5. Appoint the surrogate parent who has completed the requirements listed above by following the procedures listed on the previous page.
**The Surrogate Training Test**

Please read each statement and check the box next to the answer of your choice. Please check only the **single, best** answer.

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 Armarillo 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
February 13, 1999

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

Dear Mr. and Mrs. Cannon:

The District #  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 Armarillo 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
- AGREEMENT -

AN AGREEMENT TO UTILIZE MSA 471.59
FOR THE PURPOSE OF ENRICHING AND ENLARGING
THE LEARNING OPPORTUNITIES IN THE AREA OF
SPECIAL EDUCATION

I - PURPOSE

The following Independent School Districts of Becker and Clay counties (hereafter called
member or signatories) that is:

Independent School District No. 146 of Barnesville
Independent School District No. 150 of Hawley
Independent School District No. 914 of Ulen-Hitterdal
Independent School District No. 2889 of Lake Park/Audubon

recognizing the need to enlarge and enrich the learning opportunities in special education for the
eligible residents of the above named school districts agree that this purpose can best be accomplished
through a Special Education Cooperative to be known as Lake Agassiz established and operated by the
signatories through as board of representatives of said signatories. Acting within and under the
authority of MSA 471.59, and such other statues as shall apply, such a Special Education Cooperative is
hereby established; and this Cooperative and the Lake Agassiz Special Education Cooperative Board
(hereinafter Cooperative Board) are created by this agreement.

The effective date of the revision of this Agreement shall be July 1, 1999.

II - THE BOARD

1. The Cooperative Board shall have four members, one for each signatory, to which one
representative, hereafter called the delegate, shall be appointed by the signatory’s governing body
from its governing board for a one-year term, beginning on January 1 or as soon as possible thereafter.
A vacancy is filled for the unexpired term by appointment of the governing body of the member whose seat is vacant. The superintendents of school of the member schools shall be named as ex officio members to the Cooperative Board and shall serve without vote.

The number of seats on the Cooperative Board shall be enlarged by amendment when members not originally signatories to this agreement may be accepted as members of the Cooperative.

2. A board member’s seat is vacated by resignation or by a majority vote of the authority who made the appointment. Vacancy also occurs when an incumbent’s office in the member governing board ends for any reason.

3. Each member school has one vote on the Cooperative Board.

4. The elected officers of the Cooperative Board shall be a chairperson, a vice-chairperson, a clerk, and a treasurer. The chief administrator of the Cooperative shall be called the Executive Director and shall be an ex officio member of the governing board.

The election of Cooperative Board officers is by a majority vote of the Cooperative Board at its reorganizational meeting each year. The term of an officer is for one year and such term shall expire at the meeting at which the new officers are elected; but an officer shall hold office until a successor has qualified.

5. Board officers shall have the parliamentary duties usually ascribed to such offices as well as those specifically assigned:

(a) The chairperson conducts the meetings, executes undertakings ordered and directed by the Board, and is the official representative of the Board in all matters relating to the Cooperative;

(b) the vice-chairperson acts in the absence of the chairperson and has all the powers of the chairperson during the latter’s absence;

(c) the clerk and treasurer shall be responsible for ordering the signing of all disbursements and receipts;

(d) in addition to the duties usually ascribed to the office of the director, the Executive Director shall have the responsibility for the general administration and supervision of the affairs of the Cooperative under the direction of the Board. The Executive Director, working together with the chairperson, shall prepare the agenda for the meetings of the Cooperative Board. Such agenda shall be mailed to the board member representing the district and the superintendent of schools of each of the member districts at least one week prior to the regular meeting. Within five days
following a meeting of the Cooperative Board, the director shall prepare and mail to the board member representing the district and the superintendent of schools and to the clerk of each of the member districts a copy of the minutes of the meetings of the Cooperative Board.

6. The Lake Agassiz Special Education Cooperative Board shall have at least seven meetings per year. The chairperson, or one or two of the representatives of two member districts acting together, may call a special meeting. In such event the Executive Director must give at least one week’s notice by mail of the special meeting, which notice shall state the purpose of the call, the time, and the place of the meeting.

   No change of by-laws, or hearing on charges for removal of a board officer, or a proposal for filling a vacancy in the board’s office shall be in order at any meeting, regular or special, unless notice that such matter is to be considered is placed on the agenda for a specified meeting and is mailed to each member at least one week prior to such meeting. No action may be taken on any item not appearing on the agenda of any meeting, regular or special, unless a quorum of all members agree to act.

7. For the conduct of their business, the Cooperative Board shall have the power to propose changes to alter by-laws which are consistent with the terms of the Agreement and which are not contrary to law or regulation.

   The adoption of such By-Laws shall be one of the first orders of business to be considered at the initial meeting of the Board following the adoption of this Agreement by the original signatories.

8. A quorum of the Cooperative Board shall be any number representing more than half of the members qualified at that time. A quorum present at a meeting may conduct business except as otherwise prescribed by the Agreement.

III - POWERS OF THE COOPERATIVE

1. The Cooperative Board, in addition to the authority found elsewhere in this Agreement, is empowered generally to:
   (a) act in the interest of the members;
(b) take and hold by purchase, lease, grant, or assignments, property real and personal for its use within the scope of this Agreement, and to dispose of same when the need for it is ended;
(c) make all contracts as necessary for the exercise of the powers delegated to it hereby and all approved contracts shall be signed by the Board Chairperson and Clerk;
(d) provide by law, regulation, or order, for the manner of use and for the supervision and disposition of property assigned to, held by, and managed by it;
(e) employ professional and other skilled or unskilled personnel as and when the need arises either on the basis of permanent employment through contractual agreements, or in a temporary or consultative capacity of less than one year’s duration, but only to the extent that funds have been made available to it for that purpose;
(f) organize and establish such educational programs for the residents of the member schools as shall be approved by the members;
(g) do what is reasonably necessary to achieve the purpose of this Agreement to the extent that such action is within the expressed purpose of this Agreement, existing law, and regulations;
(h) be responsible for the management of the fiscal affairs relating to the operation of the Cooperative, and in such capacity shall approve all bills, issue all payroll checks, and receive all monies for the Cooperative; the Board Chairperson, Clerk, and Treasurer shall sign all checks for approved payroll and bills;
(i) appoint a supervising superintendent from the member districts;
(j) the Cooperative has the power to receive state aids, federal funds, and grants applicable under the subject to state and federal laws.

IV - ADMINISTRATION

1. The Cooperative Board shall establish and adopt policies and guidelines for the operation of each of the educational enterprises in which it engages. Among other things, such policies and guidelines shall contain:
   (a) the eligibility requirements of its enrollees;
   (b) the method by which such enterprise is to be funded;
(c) the method by which the members’ pro-rata cost is to be determined;
(d) the method by which a non-member is to be assessed for any of its enrollees participating in one or more of the programs of the Cooperative;
(e) the names of the persons assigned to be direct supervision of the enterprise.

2. The Cooperative Board shall designate the Executive Director of the Lake Agassiz Special Education Cooperative and shall assign the following authority and responsibilities:

   (a) the Executive Director shall be responsible for and have all of the functions essential and necessary to the administration of the Cooperative, including the recruitment, supervision, assignment and the recommendation for employment of essential personnel, all of which shall be carried out under the policies adopted by the Cooperative Board of the Lake Agassiz Special Education Cooperative;
   (b) the Executive Director shall make all reports necessary to the state and other agencies and shall file all claims for reimbursement and, also, for such state and federal aids as the Cooperative shall be entitled;
   (c) the Executive Director shall arrange for a complete audit and financial report to each of the members following the close of the fiscal year.

3. The Executive Director shall bill each of the signatory members monthly for its pro-rata share of the operating costs of the Cooperative. Billings shall be rendered in ten (10) approximately equal billings, starting in August; such billings are to be rendered by the 15th of the month. The final billing for the previous school year shall be made in July or as soon thereafter as the share of the signatory members shall be determined.

4. The Executive Director shall prepare a tentative operating budget for the Cooperative Board by the May meeting. Such budget shall be finalized and presented to the Cooperative Board for its adoption at the June meeting. Copies of the budget shall be transmitted to the signatory members at least one week prior to the time action shall be taken on the proposed budget.

5. The costs of the operation of the Lake Agassiz Special Education Cooperative shall be determined as follows:

   (a) administration costs, and the costs of all programs used by all member districts in common, shall be assessed in the following manner:
      (1) 30% of the net cost, after aids, shall be divided equally among member districts
(2) 70% of the net cost, after aids, shall be divided among member schools on a formula based on participant’s school enrollment (grades K through 12) in ratio to the total enrollment of all member districts

(b) in-house programs, or programs within a member district used by that district only, shall be at the expense of the member district;

(c) programs located within a member school, but shared by one or more other member schools, shall be at the expense of the sharing schools according to a formula agreed to by the sharing schools;

(d) special education personnel employed by one member school for service in that school only shall be at the expense of that member school;

(e) special education personnel employed by two or more member schools for service in those schools only shall be at the expense of those schools according to a formula agreed to by those member schools.

6. All employees of the Cooperative shall be subject to the following:

(a) all employees shall be employed under the terms and conditions of employment, including salary and fringe benefits. A copy of such policy shall be filed with each member school;

(b) all certificated personnel shall be employed by action of the Cooperative Board and under the terms of the continuing contract form used by and adapted to the needs of the Cooperative; such employees shall be employees of the Lake Agassiz Special Education Cooperative and as such shall have their contracts issued by said Cooperative over the signature of the delegate of the member elected as chairperson and the clerk and treasurer of the Cooperative Board;

(c) all non-certificated personnel shall be employed by action of the Cooperative Board and shall be issued “work agreements” by the Cooperative Board.

7. The assistance of the supervisors and directors employed by the Cooperative shall be available to all members of the Cooperative in the matter of the administration and supervision, including the preparation and filing of reports, in such areas as such supervisors and directors may qualify and the Cooperative Board shall direct.
V - MEMBERSHIP, WITHDRAWAL, TERMINATION, AND AMENDMENT

1. Any school district (whether or not invited to be an original member) may become a member with unanimous consent of the current members, upon application to the Cooperative Board and subscription to this Agreement. Such applicants shall also agree to pay the Cooperative a pro-rata cost for the real and personal property owned by the Cooperative, the cost of which (or any portion thereof) has been assessed against each of the members of the Cooperative. This amount shall be calculated by the Executive Director from the records which he has maintained; the Cooperative Board may then determine the just and proportionate share to be assessed.

2. Any participating district may withdraw from the center and from the agreement in effect by a majority vote of the full board membership of the participating school district desiring withdrawal and upon compliance with provisions in the agreement establishing the center. Upon receipt of the withdrawal resolution reciting the necessary facts, the center board shall file a certified copy with the county auditors of the counties affected. The withdrawal shall become effective at the end of the next following school year but the withdrawal shall not affect the continued liability of the withdrawing district for bonded indebtedness it incurred, or for other liabilities it incurred, prior to the effective withdrawal date.

3. This agreement may be amended or terminated at any time by a two-thirds vote of the entire Cooperative Board membership.

4. Upon termination of the Cooperative, all funds remaining after payments of all outstanding debts and obligations and liquidation of all property owned by it, shall be distributed to members in the same proportion as those members contributed to the purchase of such items, unless the majority of the members find this to be impractical and agree before termination to a different method of distribution of property and funds.

5. Upon termination of membership in this Agreement, the terminating member district shall forfeit all rights to all property, both real and personal, and all other assets owned by the Cooperative. It shall, however, be responsible for any obligation incurred by it or by the Cooperative Board in behalf of it.
VI - DEFINITIONS

1. BOARD

The term “Board” when used in the context of this agreement means the Cooperative Board.

2. COOPERATIVE BOARD

The Cooperative Board shall mean the policy making board of the Lake Agassiz Special Education Cooperative and shall be composed of (a) the appointed members of the signatories governing boards, (b) the superintendents of schools of such members (or designated representatives), (c) the Executive Director, (d) clerk-treasurer and, (e) the designated administrators, directors, and/or supervisors of the Cooperative programs.

3. DELEGATE

Delegate shall mean the person appointed by the signatory from the signatory’s governing board, excluding the superintendent of schools, to serve on the Cooperative Board.

4. MEMBER

Member shall mean the school district or governmental unit which is a participant in the Cooperative.

5. ORIGINAL SIGNATORY

The Original Signatory shall mean a school district or governmental unit which signed the agreement at the time of initiation of the agreement.

6. SIGNATORY

Signatory shall mean a school district or governmental unit which has signed the agreement.
LAKE AGASSIZ SPECIAL EDUCATION COOPERATIVE
BARNESVILLE, HAWLEY, ULEN-HITTERDAL, LAKE PARK/AUDU BON, MINNESOTA

- BY-LAWS-

ARTICLE 1 - NAME

The name of this organization shall be the Lake Agassiz Special Education Cooperative.

ARTICLE II - AUTHORIZATION

The establishment of this organization is provided for under the provision of the Joint Powers Act. The powers and duties which are delegated to the Cooperative Board are those embodies in the Agreement.

ARTICLE III - MEMBERSHIP OF THE GOVERNING BOARD

The membership of the Cooperative Board shall consist of one delegate from each member school district.

ARTICLE IV - OFFICERS

The officers and their duties shall be those provided for in the Agreement.

ARTICLE V - ELECTION OF OFFICERS

Section 1. An annual meeting shall be held in January. The Cooperative Board shall elect its officers for the next year as one of the items of business and said officers shall assume their duties immediately.
Section 2. Nominations for officers shall be made from the floor at the annual meeting at which officers are to be elected and the election of the officers shall follow immediately.

Section 3. A candidate receiving a majority vote of those present at the annual meeting shall be declared elected and shall serve for one year or until his successor is qualified.

Section 4. Vacancies shall be filled in the manner prescribed in the Agreement.

ARTICLE VI - MEETINGS

Section 1. Regular meetings of the Cooperative Board shall be held at least seven times per year on the second Tuesday of the month. In the event of a conflict with holidays or other events, a majority at any meeting may change the date and/or place of such meeting.

Section 2. A quorum of the Board is any number more than half of the delegates qualified at the time. A majority of delegates present at the meeting may conduct Board business.

Section 3. Special meetings of the Board may be called in the manner prescribed by the Agreement.

Section 4. All meetings of the Board at which official action is taken shall be open to the general public.

Section 5. Unless otherwise specified, Robert’s Rules of Order shall govern the proceedings at meetings of the Board.

ARTICLE VII - ORDER OF BUSINESS

Section 1. The order of business at regular meetings shall be:
   a. Roll call
   b. Reading of minutes of previous meeting
   c. Guests
   d. Communications and bills
   e. Reports of Program Directors
   f. Old Business
   g. New Business
   h. Adjournment

Section 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda.
ARTICLE VIII - FISCAL AFFAIRS

Section 1. The Executive Director will handle all fiscal affairs of the Cooperative Board and reports shall be made by them at the discretion of the Cooperative Board.

ARTICLE IX - HIRING

Section 1. Hiring of staff will follow this procedure:

1) A staff opening will be cleared by the Lake Agassiz Special Education Cooperative Board.
2) The Director will recruit and interview prospective candidates.
3) Interviews with Superintendents and/or other interested personnel will be arranged.
4) Contracts will be issued from Director’s office.
5) Approval and signatures will be obtained from the Lake Agassiz Special Education Cooperative.

ARTICLE X - NON-PROFIT STATUS

Section 1. No part of the net earnings of the Cooperative shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Cooperative shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 3, of Internal Revenue Service Publication 557 listing of sample articles of organization. Article 3 states the following terminology: Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions that qualify as exempt organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United State Internal Revenue Law).
Section 2. No substantial part of the activities of the Cooperative shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Cooperative shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidates for public office.

Section 3. Notwithstanding any other provision of these by-laws, the Cooperative shall not carry-on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501 (c) (3) of the Internal Revenue of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation contributions to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

Section 4. Upon the dissolution of the Cooperative, the Board of Trustees shall, after paying or making provision for the payment of all of the liabilities of the Cooperative dispose of all of the assets of the Cooperative exclusively for the purpose of the Cooperative in such manner, or to such organization or organizations organized and operated exclusively or charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Trustees shall determine. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the County in which the principal office of the Cooperative is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE XI - AMENDMENTS

These By-Laws may be amended by a majority vote of the entire Cooperative Board.
NOTICE OF PROCEDURAL SAFEGUARDS BROCHURE

NOTICE OF PROCEDURAL SAFEGUARDS
PARENTAL RIGHTS FOR PUBLIC SCHOOL SPECIAL EDUCATION STUDENTS

October 2006

INTRODUCTION

This brochure provides an overview of parental special education rights, sometimes called procedural safeguards. These same procedural safeguards are also available for students with disabilities who have reached the age of 18. This Notice of Procedural Safeguards must be given to you at least once a year, except it must also be given to you:

1. The first time your child is referred for a special education evaluation;
2. The first time you file a complaint with the Minnesota Department of Education;
3. If you or the district requests a due process hearing;
4. On the date the district decides to change the placement of your student by removing the student from school for a violation of the district discipline policy; or
5. Upon your request.

PRIOR WRITTEN NOTICE

The district must provide you with prior written notice each time it proposes to initiate or change, or refuses to initiate or change the identification, evaluation or educational placement of your child. This written notice must include:

1. A description of the action proposed or refused;
2. An explanation of why the district proposes or refuses to take the action;
3. A description of any other options the district considered and the reasons why those options were rejected;
4. A description of each evaluation procedure, test, record or report the district used as a basis for its proposal or refusal;
5. A description of any other factors relevant to the district’s proposal or refusal;
6. A statement that your child has protection under these procedural safeguards and information about how you can get a copy of the brochure; and
7. Sources for you to contact to obtain assistance in understanding these procedural safeguards.

FOR MORE INFORMATION

If you need help in understanding any of your procedural rights or anything about your child’s education, please contact the principal, the special education director or the person listed below. This notice must be provided in your native language or other mode of communication you may be using.

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

Name ____________________________
Phone ____________________________

For further information, you may contact one of the following organizations:

ARC Minnesota (advocacy for persons with developmental disabilities):
651-523-0823, 1-800-582-5256

Children Home Society (CHS) and Family Service Inc:
651-255-2448, 1-800-982-2303

MN Association for Children’s Mental Health:
651-644-7333, 1-800-528-4511

MN Brain Injury Association:
612-378-2742, 1-800-444-6443

MN Disability Law Center:
612-332-1441, 1-800-292-4150,
612-332-4668 (TTY)
PACER (Parent Advocacy Coalition for Educational Rights):
952-838-9000, 1-800-53-PACER, 952-838-0190 (TTY)
You may also contact the Minnesota Department of Education:
651-582-8689, 651-582-8201 (TTY)

PARENTAL CONSENT

1. Consent means that you have been fully informed of the information relevant to the activity for which your written permission is sought. Consent is voluntary and may be revoked at any time. However, revocation of consent does not negate an action that has occurred after the consent was given and before the consent was revoked. An exception to this is the revocation of consent for a behavior intervention plan which requires the district to immediately stop using the plan.

2. The district must obtain your consent before conducting its initial evaluation of your child and before the first time it provides special education and related services to your child. Consent for an initial evaluation is not consent for the initial provision of special education and related services.

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

4. Your consent is not required for the district to review existing data on your child or to administer a test or other evaluation that is given to all children, unless consent is required from parents of all children.

5. Your consent is required before the initial provision of special education and related services and placement. If you refuse consent to the initial provision of services to your child, the district may not override your refusal. In that case, the district will not be considered in violation for a failure to provide your child with special education and related services for which the district requested consent.

6. You have a right to object in writing to any action the district proposes. Upon receipt of your written objection, the district will ask you to attend a conciliation conference. You and the district may also agree to use mediation, or a facilitated IEP team meeting to resolve your disagreement. If you object to a proposed service or evaluation, the district may not deny your child any other service or activity. The district must continue to provide an appropriate education to your child.

7. Your consent is required before a district may disclose personally identifiable information about you or share such data with anyone other than officials of participating agencies collecting or using the information under the Individuals with Disabilities Education Act (IDEA) or for any purpose other than meeting a requirement of that law. Please refer to 34 C.F.R. Part 99 for additional information on consent requirements concerning data privacy under federal law.

8. Your consent is required before the district may access your private insurance to pay for services to ensure FAPE. Your refusal to provide this consent does not release the district from ensuring all required services are provided at no cost to you.

WRITTEN ANNUAL NOTICE RELATING TO IEP HEALTH RELATED SERVICES REIMBURSEMENT

The district must inform you with annual written notice of:
1. Its intent to seek reimbursement from medical assistance or MinnesotaCare for IEP health-related services provided by the district;
2. Your right to request a copy of all records concerning IEP health-related services disclosed by the district to any third party; and
3. Your right to withdraw consent for disclosure of a child’s records at any time without consequence.

INDEPENDENT EDUCATIONAL EVALUATIONS

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

Upon request for an IEE, the district must give you information regarding its criteria for selection of an independent examiner and information about where an independent education evaluation may be obtained.

If you request an IEE, the district must, without delay, ensure that it is provided at public expense or request a hearing to determine the appropriateness of its evaluation. If the district goes to 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, the results of the evaluation must be considered by the IEP/IIIP/IFSP team and may be presented as evidence at a due process hearing regarding your child.

EDUCATION RECORDS

YOUR ACCESS TO RECORDS

If you want to look at your child’s education records, the district must give you access to those records for your review. Education records include most of the information about your child that is held by the school. However, information held solely by your child’s teacher for his or her own instructional use may not be included in the education records.

The district must allow you to review the records without unnecessary delay, and before any meeting regarding an IEP, or any hearing or resolution session about your child. In addition, the district must comply with your request to review your child’s education records within 10 business days.

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

1. An explanation or interpretation of your child’s records upon request;
2. Have your representative inspect and review the records on your behalf;
3. Review your child’s records as often as you wish; and
4. Request that the district provide copies of your child’s educational records to you.

RECORD OF ACCESS BY OTHERS

The district must keep a record of each request for access to, and each disclosure of, personally identifiable information in your child’s education records. This record of access must include the name of the individual who made the request or received personally identifiable information from your child’s education records, the date access was given and the purpose of the disclosure or the individual’s legitimate interest in the information.

Consent to Release Records

Parent consent is required before personally identifiable information is released to unauthorized individuals or agencies. The consent must be in writing and must specify the
individuals or agencies authorized to receive the information; the nature of the information to be disclosed; the purpose for which the information may be used; and a reasonable expiration date for the authorization to release information. Upon request, the district must provide you with a copy of records it discloses after you have given this consent.

The district may not disclose information contained in your child’s IEP/IIIP/IFSP, including diagnosis and treatment information, to a health plan company without your signed consent.

**Fees for Searching, Retrieving and Copying Records**

The district may not charge a fee to search or retrieve records. However, if you request copies, it 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 because you cannot afford to pay it.

**AMENDMENT OF RECORDS AT PARENT’S REQUEST**

If you believe that information in your child’s records is inaccurate, misleading, incomplete or in violation of your child’s privacy or other rights, you may request in writing that the district amend or remove the information.

The district must decide within a reasonable time whether it will amend the records. If the district decides not to amend the records, it must inform you that you have the right to a hearing to challenge the district’s decision. If, as a result of that hearing, the district decides that the information is not inaccurate, misleading, incomplete or in violation of your child’s privacy right, it must inform you that you have the right to include a statement of your comments and disagreements alongside the challenged information in your child’s education records.

**Destruction of Records**

The district must inform you when personally identifiable information is no longer needed in order to provide education services to your child. That information must be destroyed at your request. However, the school may retain a permanent record of your child’s name, address, phone number, grades, attendance records, classes attended, grade level completed and year completed.

The district must not destroy any education records if there is an outstanding request to review those records.

**MEDIATION**

Mediation is a voluntary process to help resolve disputes. You or your district may request mediation from the Minnesota Special Education Mediation Service (MNSEMS) at 651-582-8222 or 1-866-466-7367. Mediation uses a neutral third party trained in facilitative dispute resolution techniques. Mediation may not be used to deny or delay your right to a due process hearing. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation.

**WRITTEN COMPLAINTS**

Any organization or individual may file a complaint with the Minnesota Department of Education (MDE). Complaints sent to MDE must:

1. Be in writing and be signed by the individual or organization filling the complaint;
2. Allege violations of state or federal special education law or rule which have occurred within the last year;
3. State the facts upon which the allegation is based and include a proposed resolution to the alleged violation;
4. Include the name, address and telephone number of the person or organization registering the complaint as well as the name and address of the school attended by the child; and

5. Be forwarded to the public agency servicing the child at the same time the complaint is sent to MDE.

The complaint must be sent to:
Minnesota Department Education
Division of Compliance and Assistance
Due Process Supervisor
1500 West Highway 36
Roseville, MN 55113-4266
651.582.8689 Phone 651.582.8725 Fax

MDE will issue a written decision within 60 days. Final complaint decisions may be appealed to the Minnesota Court of Appeals within 60 days of receipt of the decision.

**IMPARTIAL DUE PROCESS HEARING**

Both you and the district have a right to request in writing an impartial due process hearing. A request for hearing must be sent to MDE and to the other party. A due process hearing may address any matter related to the identification, evaluation, educational placement, manifestation determination or provision of a free appropriate public education of your child. Before you can have a hearing, the district must arrange for a resolution meeting to occur within 15 days of the hearing request. If the matter is not resolved within 30 days of the request, the hearing timelines begin. If you do not attend a resolution meeting or a mediation, and the district does not agree to waive the meeting in writing, you are not entitled to a hearing.

**Procedures for Initiation of a Due Process Hearing**

Upon a written request for a hearing, the district must give you a copy of this procedural safeguard notice and a copy of your rights at hearing. All written request must include:

1. The name of your child;
2. The address of your child;
3. The name of the school your child is attending;
4. A description of the problem(s), including your view of the facts, and
5. A proposed resolution of the problem to the extent known to you at the time.

MDE will appoint an impartial hearing officer to conduct the hearing. Below are a few of your rights at hearing. This is not a complete list of rights.

Both you and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Block the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including evaluation data and recommendations based on that data; and
4. Receive a free copy of the hearing transcript or recording and the findings of fact and decisions.

As a parent, you, specifically, have the right to:

1. Have your child, who is the subject of the hearing, present; and
2. Open the hearing to the public.

A hearing decision must be issued within 45 days of the expiration of the 30-day resolution period. Extensions may be available under some circumstances. The hearing decision is final unless you or the district file a civil action.
Disclosure of Additional Evidence Before a Hearing
At least five (5) business days before a hearing, you and the district must disclose to each other all evaluations of your child completed by that date and recommendations based on those evaluations that are intended to be used at the hearing. A hearing officer may refuse to allow you to introduce any undisclosed evaluations or recommendations at the hearing without consent of the other party. All evidence must be limited to the specific issues described to the hearing officer.

CIVIL ACTION
When you or the district disagree with the findings or decisions made by a hearing officer, either party may file a court action. The action may be brought in federal district court or the state 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 your receipt of the decision. An appeal to federal district court must be made within 90 days of the date of the decision.

PLACEMENT DURING A HEARING OR CIVIL ACTION
During a hearing or court action, unless you and the district agree otherwise, your child will remain in the education placement where he/she is currently placed. This is commonly referred to as the “stay-put” rule.

Two exceptions to the “stay-put” rule exist:
1. Students may be removed from their educational setting for not more than 45 days to an interim alternative educational placement for certain weapon, drug or serious bodily injury violations; and
2. A hearing officer’s decision agreeing with the parents that a change in placement is appropriate is the “stay-put” placement during subsequent appeals.

EXPEDITED HEARINGS
Expeditied hearings may occur in the following situations:
1. Whenever you request a hearing to dispute the district's determination that your child's behavior was not a result of his/her disability;
2. Whenever you request a hearing to dispute a 45-day interim alternative education placement order by school personnel; or
3. When a district requests an expedited hearing to establish that it is dangerous for your child to remain in the current placement.

Expedited hearings must be held and a decision issued within 10 days of the expiration of a 15-day resolution period. The district must arrange for a resolution meeting to occur within seven days of a request for an expedited hearing. If you do not attend the resolution meeting or mediation, and the district does not agree to waive the meeting in writing, you are not entitled to a hearing.

PLACEMENT BY A HEARING OFFICER
A hearing officer may decide to move your child to an interim alternative educational setting for up to 45 calendar days if the hearing officer determines your child is substantially likely to injure self or others if he/she remains in the current placement.

INTERIM ALTERNATIVE EDUCATIONAL PLACEMENT
The district may change your child's educational placement for up to 45 school days, if your child:
1. Possesses a weapon at school or at a school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or at a school function; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function.

The IEP/IIIP/IFSP team determines the interim alternative educational setting. Even though this is a temporary change, it must allow your child:
1. To continue to progress in the general curriculum, although in a different setting;
2. To continue to receive those services and modifications, including those described in your child’s IEP/IIIP/IFSP, that will help your child meet his/her IEP/IIIP/IFSP goals; and
3. Include services and modifications designed to prevent the behavior from recurring.

If your child is placed in an interim alternative educational setting, an IEP/IIIP/IFSP meeting must be convened within ten (10) school days of the decision. At this meeting, the team must discuss the behavior and its relationship to your child’s disability, review evaluation information regarding the behavior, and determine the appropriateness of your child’s IEP/IIIP/IFSP and behavior plan.

ATTORNEY’S FEES FOR HEARINGS

You may be able to recover attorney fees if you prevail in a due process hearing. 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, you may be required to pay the district’s attorney’s fees.

PRIVATE SCHOOL PLACEMENT

You may be able to recover tuition expenses for a private school placement if you inform the district of your intent to enroll your child in private school at public expense. This must be done at the most recent IEP/IIIP/IFSP meeting prior to removal of your child from public school or by written notice to the district at least 10 business days prior to removal of your child from public school. Your notice must state why you disagree with the district’s proposed IEP/IIIP/IFSP or placement. If a hearing officer or court finds that the district failed to provide or is unable to provide your child with an appropriate education and that the private placement is appropriate, you may be reimbursed for the cost of the private placement.

Failure to tell the school of your intent to enroll your child in a private school at public expense, failure to make your child available for evaluation, or other unreasonable delay on your part could result in a reduction of reimbursement for the private school placement. If the district prevented you from providing this notice or you cannot write in English, the hearing officer may not reduce the reimbursement.