

INSTRUCTION

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INSTRUCTION

Special Education and Related Services for Eligible Students

The purpose of the district's special education program procedures is to address program areas where state and federal regulations require specific local procedures or permit local discretionary choices.

The state regulations governing implementation of special education services pursuant to the Individuals with Disabilities Education Improvement Act (IDEA) of 2004 are addressed in Chapter 392-172A WAC. These procedures do not address all of the requirements established in the regulations. Those who are not familiar with the regulations need to contact the Student Services Department if there are questions regarding special education. These procedures describe how the district implements its special education program.

Free and Appropriate Public Education (FAPE)

The district will apply annually for Federal Part B and state special education funding to assist in the provision of special education and any necessary related services. This funding is in addition to eligible special education students' basic education funding.

Services to eligible special education students age 3 to 21 will be provided without charge to the student. This does not include incidental fees that are normally charged to all students. Special education services will include preschool, elementary and secondary education and are provided in conformance with the student's Individualized Education Program (IEP).

The district provides a continuum of services for students, regardless of the funding source. Where the district is unable to provide all or part of the special education or necessary related services, it will make arrangements through contracts with other public or non-public sources, interdistrict agreements or interagency coordination.

Early Intervening Services

The superintendent, in consultation with the Director of Student Services, shall annually determine whether to use Early Intervening Services (EIS) funding for students who have not been identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

The district shall annually report to the Office of Superintendent of Public Instruction (OSPI) the number of students receiving EIS; and the number of students who received EIS and subsequently received special education and related services under Part B of IDEA during the preceding two-year period.

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Special Education and Related Services for Eligible Students

Students Covered by Public or Private Insurance

The district may use Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required to provide a Free Appropriate Public Education (FAPE), as permitted by the public insurance program. However, the district shall not:

- require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;
- require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;
- use a parent or student's benefits under a public insurance program if that use would:
 - decrease available lifetime coverage or any other insured benefit,
 - result in the family paying for services required after school hours that would otherwise be covered by the public insurance program;
 - increase premiums or result in discontinuation of insurance; or
 - risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

The district may access a parent's private insurance proceeds to provide FAPE to an eligible student only if the parent provides informed consent to the district. Whenever the district proposes to access the parent's private insurance proceeds, the district shall:

- obtain parent consent in accordance with Chapter 392-172A WAC each time the district wishes to access benefits for a new procedure; and
- inform the parents that their refusal to permit the district to access their insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents.

Before first accessing a parent's or student's public benefits, for the first time and annually after the first notification, the district will provide written notification using the prior written notice provisions under WAC 392-172A-05010(3) that includes:

1. a statement of the parental consent provisions;
2. a statement of the "no cost" provisions;
3. a statement that the parents may withdraw their consent to disclose personally identifiable information to the agency responsible for administering the state's public benefits or insurance, and
4. a statement that a parent's withdrawal or refusal to consent does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

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Special Education and Related Services for Eligible Students

Students Covered by Public or Private Insurance (continued)

After providing the required notification, the district will obtain written informed consent from the parent allowing the district to disclose information from the student's educational records to the agency responsible for administering the state's public benefits or insurance programs. The consent will specify:

1. The personally identifiable information that may be disclosed, such as records or information about the services that may be provided to the student;
2. The purpose of the disclosure;
3. The agency to which the disclosure will be made; and
4. That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under the act.

To avoid financial cost to parents who would otherwise consent to use private insurance, or public insurance if the parent would incur a cost such as a deductible or co-pay, the district may use its Part B funds to pay the cost the parents would incur.

Parent Participation and Meetings

The district encourages parental involvement and the exchange of information regarding parents' children so that the district is able to provide appropriate services to its students. As used in these procedures, the term "parent" includes biological and adoptive parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, persons appointed as surrogate parents, foster parents and adult students.

Parents (and as appropriate, students) will be provided the opportunity to participate in any meetings with respect to the identification, evaluation, educational placement and provision of a free appropriate public education.

When a meeting is scheduled, parents will be:

- notified of the meeting early enough that they will have an opportunity to attend, and
- notified of the purpose, time, location of the meeting, and who will be in attendance.

When a meeting involves an IEP or placement:

- meetings shall be scheduled at a mutually agreeable time and place;
- parents will be notified that the district or the parent may invite others who have knowledge or special expertise of the student;
- the student will be invited when the meeting involves transition needs or services.

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Special Education and Related Services for Eligible Students

Parent Participation and Meetings (continued)

The district shall take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

The school psychologist or IEP case manager shall provide the written notifications, supervise the preparation of forms for the meeting, and other special arrangements.

If the parent cannot attend the IEP or placement meeting but wishes to participate, the district will arrange for other means to participate. This can include individual or conference phone calls or other methods already available within the school district.

The staff person responsible for inviting the parents to meetings will keep documentation of the information provided and the methods used to notify the parents of the meeting. The district may proceed with the IEP or placement meeting if the district is not able to get the parent to attend. In this case, the district will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent, and/or other means used to contact the parent. **Note:** Initial IEP and placement requires written parental consent. This documentation will be kept in the student's special education file.

A meeting does not include informal or unscheduled conversations involving district personnel; conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions; or preparatory activities that district personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

Early Intervention

The district participates in the provision of early intervention services to eligible children with a disability, birth to three, consistent with the state lead educational agency's policies and procedures and the regulations implementing Part C of the IDEA.

Identification and Referral (Child Find)

Identification

The purpose of Child Find is to locate, evaluate and identify children, aged birth through 21, who have a disability, who are not currently receiving special education and related services, and who may be eligible for those services. Activities are to reach:

- students who reside within the school district boundaries, including preschool-aged children;
- students attending approved, non-profit private elementary and secondary schools located within the district boundaries;
- highly mobile students (such as homeless, foster care and migrant children);
- students who reside within the school district boundaries at home or home schooled; and
- students who reside within the school district boundaries who have a disability and may need special education services even though advancing from grade to grade.

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Special Education and Related Services for Eligible Students

Identification (continued)

The district will consult with parents and representatives of private school students to ensure its Child Find activities are comparable in approved, non-profit private schools located within district boundaries. These consultations with private schools will occur annually by letter, meetings or telephone conference call.

The district reaches students who may be eligible for special education services through:

- notification to parents of Child Find activities in its annual information packet;
- district informational mailings;
- posting notices regarding screening and referral in schools and public locations including physicians' offices, local newspapers, and Kinderfest;
- information regarding Child Find on the district's Web site;
- notification to private schools located in the district's boundaries;
- notifying and coordinating with the designated Part C lead agencies;
- early childhood screenings conducted by the district;
- written information provided to district staff on referral procedures;
- training teachers and administrators on referral-evaluation-identification procedures;
- review of student behavior, discipline and absentee information, and information gathered from district-wide assessment activities.

When district staff have concerns that a student may have a suspected disability which could result in eligibility for special education services, they will notify the school psychologist, a district administrator, special education certificated staff, or the Student Services Department personnel.

The district, through its Student Services department, conducts early childhood screenings for ages three to five. These occur monthly, or as needed. When parents or others inquire about screenings, the caller will be referred to the Early Childhood Education Office. When parents of students with a disability aged birth to three call for an evaluation, they are given a Birth-to-3 agencies referral list.

The screening process involves the following:

- parents are asked to provide information to assist in assessing their student;
- children are screened to assess cognitive, communication, physical, social, emotional and adaptive development, as appropriate.

Parents will be notified at the screening of the results, and the parents will also be provided prior written notice of the results within ten days of the screening. If the screening supports evaluation, obtain written consent for evaluation at the exit interview (if possible), or include consent forms with the written notice notifying the parents of the results. If the screening results indicate that the student does not need an evaluation, written notice shall be sent to the parents within 10 days of the screening explaining the basis for the district's decision not to evaluate. Evaluation occurs in accordance with evaluation procedures.

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Special Education and Related Services for Eligible Students

Referral

A student, whether or not enrolled in school, may be referred for a special education evaluation by parents, district staff or other persons knowledgeable about the student. Each building principal will designate the school psychologist or department head for ensuring that staff understands the referral process. Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked to either make the referral in writing or go to the main office of the building for assistance in making the referral.

When a referral is made regarding a student, the district must act within a 25 school-day timeline to make a decision about whether or not the student will receive an evaluation for eligibility for special education services.

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person shall notify the school psychologist or appropriate service provider (e.g. SLP). The school psychologist or appropriate service provider: a) records the referral, b) provides written notice of the referral to the parent, and c) collects and reviews district data and information provided by the parent to determine whether evaluation is warranted.

During the referral period, the building team led by the school psychologist or appropriate service provider will collect and review existing information from all sources, including parents. Examples may include:

- student history, including developmental milestones;
- report cards and progress reports;
- individual teacher's or other provider information regarding the student, including observations;
- assessment data;
- medical information, if provided; and
- other information that may be relevant to assist in determining whether the student should be evaluated.

If the review of data occurs at a meeting, the parent will be invited. The school psychologist or appropriate service provider provides written notice to the parents of the decision regarding evaluation, whether or not the parents attend the meeting.

Recommendations regarding evaluation are forwarded to the school psychologist or appropriate service provider.

After the school psychologist or appropriate provider reviews the request for evaluation and supporting data and does not suspect that the student has a disability, the district may deny the request. In this case, written notice, including the reason for the denial and the information used as the basis for the denial, must be given to the parent.

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Special Education and Related Services for Eligible Students

Referral (continued)

If the determination is that the student should be evaluated, the building team shall include information about the recommended areas of evaluation, including the need for further medical evaluation of the student. This information will assist the building team in providing parents prior written notice and in selecting appropriate evaluation group members. The school psychologist or appropriate service provider is responsible for notifying parents of the results using prior written notice. When the determination is that the student will be evaluated, parent consent for evaluation and consent for release of appropriate records will be sent with the notice.

The school psychologist or appropriate service provider will seek parental consent to conduct the evaluation. The school district is not required to obtain consent from the biological parent if:

- the student is a ward of the state and does not reside with a parent;
- the parent cannot be located, or their rights have been terminated; or
- consent for an evaluation is given by an individual appointed to represent the student.

When the parent provides consent, the building team shall select an evaluation group. The evaluation group is to complete the evaluation within 35 school days after receipt of parent consent unless:

- the parents and district agree in writing to extending the timeline;
- the parent fails or refuses to make the student available for the evaluation; or
- the student enrolls in another school district after the evaluation is begun but before completion and the parent and the new district have an agreement for the completion of the evaluation.

If a parent does not provide written, informed consent for the evaluation, notify the Student Services office personnel. District staff will make a determination as to whether it wishes to use mediation to seek agreement to evaluate or file a due process hearing to override the parent's refusal to consent. The district may not override a parent's refusal to consent for an evaluation if the student is homeschooled or is unilaterally placed in a private school. If the parent does not provide written informed consent and the district does not use mediation or due process, the school psychologist or appropriate provider will provide the parent with prior written notice informing the parent that the district cannot proceed with the evaluation to determine eligibility and is not responsible for providing special education and related services without an initial evaluation to determine eligibility.

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Special Education and Related Services for Eligible Students

Eligibility – Part C Students

The district will participate in transition planning conferences, arranged by the designated Part C lead agency for each preschool aged student who may be eligible for special education services. Transition plans will be designed to promote uninterrupted provision of appropriate services to the student.

The Director of Early Learning or school psychologist will serve as the point of contact with the family resource coordinator for timely execution of transition planning conferences that are arranged at least 90 days before the student's third birthday by the designee of the Part C agency.

The district will follow the procedures for obtaining consent and conducting an initial evaluation, if it determines that the student will be evaluated to determine eligibility for Part B services.

The district will follow the timelines and evaluation requirements for students moving from Part C to Part B except that the evaluation must be completed in enough time to develop an initial IEP by the date of the student's third birthday.

Evaluation and Eligibility

The purpose of evaluation is to collect information about a student's functional, developmental and academic skills and achievements from a variety of sources, to determine eligibility for special education and related services and obtain enough information to develop the IEP, if eligible. Evaluation activities and procedures are used to determine whether:

- the student has a disability that adversely affects educational performance;
- the student requires special education and any necessary related services; and
- the nature and extent of special education and related services needed by the student, including information related to enabling the student to be involved in and progress in the general education curriculum.

The district shall select the members of the evaluation group. The evaluation group members selected must be knowledgeable about the student, the areas of his or her suspected disabilities, and familiar with qualifying disability definitions and criteria in federal and state rules. Qualifications of a group member include having the appropriate professional license or certification, and may include outside practitioners when necessary. When assessing for specific learning disabilities, the parent and a group of qualified professionals must be part of the group. If the student requires a medical evaluation in order to determine eligibility, the district will coordinate with the parents to arrange for the evaluation at district expense or through the use of public or private insurance if the parent consents to allow the district to use the insurance.

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Special Education and Related Services for Eligible Students

Evaluation and Eligibility (continued)

Evaluation procedures or materials must be free of racial, cultural or sexual/gender bias and they must be used for the purpose for which they are valid and reliable. Tests must be appropriate for the student's age and stage of developmental level. Tests should be administered in the native language of the student or conducted in the mode of communication most familiar to the student. If it appears to be clearly not feasible to conduct a procedure or test in the mode of communication most frequently used by the student, the IEP team will contact the special education administrator to develop an individualized strategy for valid evaluation of the student's skills. The inclusion of parents in this collaboration is desirable and strongly encouraged.

Specific areas to be included in the evaluation are determined by the school psychologist or appropriate provider and other qualified professionals, as appropriate, as part of a review of existing data concerning the student. The evaluation group shall use a variety of methods, tools, and strategies designed to gather relevant functional and developmental information. The evaluation does not rely on one source or procedure as the sole criterion for determination and may include:

- review of existing data, including corresponding response to intervention (RTI) documentation;
- relevant functional and developmental information;
- information from parents;
- information from other providers;
- information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;
- current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records, and observations;
- teacher and related service providers' observations; and
- testing and other evaluation materials, which may include medical or other evaluations when necessary.

The evaluation group members select the specific assessments to be used in the evaluation, based on a review of existing data and the student's particular needs. The review of the existing data may be in the form of a meeting of IEP team members, or may be conducted without a meeting. It includes data provided by parents, data gathered in the general education and/or special education classroom or from state and district level assessments. The data may provide information about the student's physical condition, social or cultural background and adaptive behavior.

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Special Education and Related Services for Eligible Students

Evaluation and Eligibility (continued)

When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting, and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The gathering of additional data in combination with existing data must be sufficiently comprehensive to address all areas of the suspected disability and any special education needs, whether linked to the disability category or not. If it is determined that no additional data are needed, the student's parent will be notified of that determination and the reasons for it, and inform them of their right to request additional assessments. The district will complete the evaluation using existing data. The district will follow the evaluation procedures outline in WAC 392-172A.

Parents and district staff are encouraged to work towards consensus, but the school district has the ultimate responsibility to determine whether the student has a disability or not. The school district will provide the parent with prior written notice of the eligibility decision, as well as a copy of the evaluation report. If the parent disagrees with the eligibility decision they need to be informed of their dispute resolution options described in the procedural safeguards.

Specific Learning Disability (SLD)

The district continues to use the severe discrepancy approach for identifying students with a specific learning disability.

Evaluation of Transfer Students

If a student transfers into the school district while an evaluation process is pending from the other district, the school psychologist is responsible for determining the status of evaluations conducted to date and making a determination as to whether the evaluation can be completed within the 35 school day timeline from the date the parent provided consent. If the determination is that additional time will be needed, the parents will be provided prior written notice of the timeline needed to complete the evaluation, the reasons for the additional time needed and obtain the parent's agreement to establish a new timeline.

Evaluation Report

Each person conducting an assessment of the student will specify the procedures and instruments used, their results and the significance of findings related to the student's instructional program, including a specification of the factors interfering with performance and the special education and related services needed.

The evaluation group will determine who is most appropriate to develop the evaluation report reflecting the evaluation information. This will be completed before the conclusion of the evaluation period and will, at a minimum:

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Special Education and Related Services for Eligible Students

Evaluation Report (continued)

- identify the disability which requires special education and related services, if a disability exists;
- discuss assessments and review data supporting conclusions regarding eligibility;
- identify how the disability or disabilities affect the student's involvement and progress in the general curriculum;
- make recommendations to the IEP team with respect to special education and related services needed;
- include other information, as determined through the evaluation process and parent input;
- include the additional information required for the specific learning disability eligibility category;
- provide any necessary professional judgments and the facts or reasons in support of the judgments; and
- be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions shall prepare a statement presenting his or her conclusion.

The school psychologist or appropriate service provider is responsible for notifying parents of the date, time, and location of evaluation meetings.

Eligibility

The evaluation group and the parent will determine whether the student is a student eligible for special education services.

Eligibility may be determined by documented professional judgment when:

- properly validated tests are unavailable; or
- corroborating evidence indicates that results were influenced due to measuring a disability.

A student may not be determined to be a student eligible for special education services if the determinant factor for that decision is:

- lack of appropriate instruction in reading or math based on state's grade level expectations; or
- limited English proficiency; or
- the student does not otherwise meet the eligibility criteria in this chapter.

The parent will be provided with a copy of the evaluation report and the documentation of determination of eligibility. Parents will be provided with prior written notice of the eligibility decision within ten school days of the decision.

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Special Education and Related Services for Eligible Students

Eligibility (continued)

If a determination is made that a student is eligible for special education and related services, an IEP must be developed for the student within 30 calendar days after the date of eligibility. An IEP must be in effect before initiation of special education services. If the decision is that the student is not eligible for special education, the parent(s) of the student shall be provided with written notice of the eligibility decision.

Eligible students remain eligible for special education services until one of four events occur:

- the student is determined through a reevaluation to no longer be eligible for special education;
- the student has met the district's high school graduation requirements;
- the student has reached the age twenty-one. A special education student, whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year;
- the student no longer receives special education services based upon the parents' written revocation of services.

When a special education student is expected to graduate prior to age 21 or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. The district will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services. The district will also provide the parents and student with a summary of academic achievement and functional performance and recommendations to assist the student with postsecondary goals.

Reevaluation

A reevaluation of a student receiving special education or related services is conducted:

- if academic achievement and functional performance has improved to warrant a reevaluation;
- if the IEP team suspects that the student may no longer be a student with a disability; or
- if the student's parent or teacher requests a reevaluation.

A reevaluation does not occur more than once per year, unless parent and school agree otherwise. A reevaluation must occur at least once every three years, unless parent and school staff agree that a reevaluation is unnecessary. An agreement that an evaluation is unnecessary shall be confirmed in writing to the parent. The school psychologist will notify the Student Services Department of this agreement.

Students who turn six who met the eligibility requirements for the disability category of "Developmentally Delayed" under the criteria for ages three to six years need not be reevaluated at age six under the criteria for six to nine years until three years after their initial evaluation was completed and their eligibility was established in the age three to six category.

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Special Education and Related Services for Eligible Students

Reevaluation (continued)

Students who were previously eligible under the category “Developmentally Delayed” must be reevaluated before age nine to determine eligibility within another category.

As part of any reevaluation, the IEP team members and other professionals the district determines appropriate will review existing data that includes:

- evaluations and information provided by the parents,
- current classroom-based assessment, local or state assessments and classroom based observations, and
- observations by other teachers and related service providers data.

Based on this review, the team will determine whether any additional data is necessary to determine:

- whether the student continues to be eligible for special education and any necessary related services,
- the present levels of performance and educational needs, and
- whether any additions or modifications to the student’s program are needed.

This review can occur at a meeting or through individual team member review. If the IEP team members and any other persons reviewing the data determine that no further testing is necessary, the school psychologist or appropriate service provider will notify the parents of this determination, using prior written notice, and inform parents that they have the right to request assessments if they disagree with the determination that additional testing is not necessary. Parent consent is not required if the reevaluation does not require additional testing.

If additional testing is needed, the school psychologist or appropriate service provider will request written parental consent for reevaluation and provide prior written notice identifying the areas of assessment. If the parents do not return the signed consent form, the school psychologist or appropriate service provider will attempt other means to obtain consent. At minimum, two methods (e.g. letter, phone call, home visit) must be attempted and documented. The school psychologist or appropriate service provider will document the reasonable attempts to obtain consent such as telephone calls, emails, personal contact and other efforts to obtain consent. If the parents do not respond to the request for consent and the district has documented its reasonable attempts to obtain consent, the building team can proceed with the reevaluation. If the parents refuse consent, the evaluation group will notify the Student Services Department so that the district can determine whether it will seek mediation in order to obtain consent or request a due process hearing to ask an administrative judge to override the parents refusal to consent.

After the reevaluation is completed, the school psychologist or appropriate service provider will both invite parents to the eligibility meeting and will provide prior written notice of the results of reevaluation to parents in their primary language [or through oral translation when needed], indicating one or more of the following:

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Special Education and Related Services for Eligible Students

Reevaluation (continued)

- whether the student continues to be eligible and in need of special education;
- present levels of performance and educational needs of the student; and
- whether any additions or modifications to the special education and related services are needed to enable the student to meet IEP annual goals and to participate, as appropriate, in the general curriculum.

This notice will occur within ten school days of the eligibility decision. The school psychologist or appropriate service provider is responsible for sending the notice.

Reevaluation and Graduation

No reevaluation is required when special education eligibility terminates due to graduation from high school with a regular diploma or due to reaching the end of the school year during which the student turned 21. Instead, the district will provide prior written notice and the IEP team will provide the student with a summary of academic achievement and functional performance including recommendations on how to assist the student in meeting post-secondary goals.

Independent Educational Evaluations

Parents of students eligible for special education have a right to request an independent educational evaluation (IEE) at public expense if the parent disagrees with the district's evaluation each time the district conducts an evaluation of the student.

When parents request an independent educational evaluation, the district must decide within 15 calendar days whether or not to provide it. Any parent request for an independent evaluation should be immediately referred to the Student Services Department. The Director of Student Services shall review the request and determine whether or not the request is warranted. If the district agrees to provide an IEE, arrangements will be made promptly. If the district denies the request, it must file for a due process hearing within 15 calendar days of the parent's request. The district may request mediation as an option, after filing the due process hearing. If the parents withdraw their request for an independent educational evaluation, the due process hearing can be dismissed.

If the school district initiates a hearing and a decision is made that the district's evaluation is appropriate, the parent still has the right to an IEE but not at public expense. A parent is only entitled to one IEE at public expense each time the district conducts an evaluation with which the parent disagrees.

When a parent requests an IEE, the district must provide parents a list of district criteria and evaluators.

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Special Education and Related Services for Eligible Students

Independent Educational Evaluations (continued)

The following criteria for the selection of an individual to conduct an independent educational evaluation at public expense are established for the purpose of identifying the knowledge, experience and qualifications of individuals selected to conduct the evaluations. Any individual selected to conduct either a district evaluation or an independent educational evaluation must be:

- licensed, credentialed, or otherwise qualified within the State of Washington or state of residence/practice to perform an evaluation in the specific professional discipline for which an independent evaluation is sought;
- knowledgeable and experienced in evaluating children with similar disabilities;
- geographically located within the State of Washington; and
- available to the district at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the State of Washington
- willing to release protocols, assessment information, raw data, and other evaluation records to appropriately credentialed District staff

Exceptions to the criteria will be granted only when it can be shown that the unique circumstances of the student or the disability:

- make it impossible to identify anyone within the State of Washington who holds the appropriate credentials or experience necessary to conduct the evaluation;
- require a specialized evaluator whose fee exceeds the prevailing average by more than 25%; or
- include factors which would warrant an exception in order to obtain an appropriate evaluation.

Individualized Education Programs (IEP)

IEP Development

The IEP is the written statement reflecting the implementation of instructional programs and other services for special education students based on the evaluation and student needs.

An IEP must be in effect before initiation of special education services. The IEP must be developed no later than 30 calendar days after an initial determination of eligibility for special education services.

Parent consent is required for initial placement and before the initial provision of special education services. Parent consent is not required after initial eligibility is established. If a parent refuses to consent to the initial provision of special education services, the district may not use mediation or due process to override a parent's refusal. When a parent refuses to provide consent, the appropriate provider will notify the parent that the district does not have a FAPE obligation to the student. The notification will be documented in the student's file.

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Special Education and Related Services for Eligible Students

IEP Development (continued)

IEPs must be updated annually. IEPs may be revised more frequently as needed to adjust the program and services.

The district will maintain a copy of the current IEP in the location(s) serving the special education student. The IEP is accessible to all staff members responsible for providing education or other services for implementation of the IEP. All staff members will be informed of their responsibilities for its implementation. This includes not only teachers and other service providers, but also bus drivers, playground and lunchroom supervisors, nursing staff and others who may be responsible for the proper implementation. The building principal and/or his or her designee (e.g. assistant principal, school psychologist, department chair) are responsible for ensuring that staff members are knowledgeable about their responsibilities.

IEPs will be implemented without undue delay following IEP meetings, regardless of the payment source for special education and/or related services.

Parents are members of the IEP team and shall have the opportunity to fully participate. The building team will make sure that the parents understand the proceedings, including arranging for an interpreter for parents who are deaf or whose native language is other than English. The building team will also ensure that meeting locations are accessible. The building staff are responsible for coordinating interpreters, and a member of the building team makes arrangements for the meeting location.

The district will provide parents/guardians with a copy of the district's *Use of Restraint, Isolation and Other Uses of Reasonable Force* policy and procedures (Policy 3317 and 3317P) with each initial and annual IEP.

The IEP team includes:

- the parent(s) of the student;
- not less than one general education teacher (or preschool education provider) of the student if the student is or will be participating in the general education environment; The general education teacher (or preschool provider), as a member of the IEP team, must, to the extent appropriate, participate in the development, review and revision of the student's IEP including assisting in the determination of appropriate positive behavioral interventions for the student and the determination of supplementary aides and services and program modifications and supports for school personnel;
- not less than one special education teacher, or if appropriate, not less than one special education provider of the student;
- a representative of the district who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of district resources;
- an individual who can interpret the instructional implications of the evaluation results;

INSTRUCTION

Special Education and Related Services for Eligible Students

IEP Development (continued)

- any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both the district and the parents, at the discretion of the person making the invitation;
- the student, when appropriate, or when required; students must be invited when the purpose of the meeting includes discussion of transition services or needs
- If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited, with the parent's consent. If the agency representative cannot attend the meeting, district personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision;
- Parents will be notified of the participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead educational agency for Part C at the initial IEP meeting for a student previously served under Part C of IDEA.

Existing team members may fill more than one of these roles if they meet the criteria for the role.

Refer to the *Parent Participation and Meetings* section for the requirements of a parent invitation to IEP meetings.

The parents and district must agree in writing before any of the above team members are excused from all or part of a meeting. If a team member's area of the IEP is being discussed or modified, then the parent and district must consent to their excusal; and that specific team member must provide advance written input for their part of the IEP prior to the meeting.

Sometimes parents do not attend IEP meetings. Additionally, there will be times the parents do not agree with the IEP as proposed, and despite attempts to reach agreement on IEP content, the team does not reach agreement. If a parent does not attend, or attends the IEP meeting and agreement is not reached on the IEP, the team shall determine whether another IEP meeting should be scheduled as soon as mutually possible, or whether there is enough information to complete the IEP. When the decision is made that the IEP will be implemented, the district must send prior written notice of the decisions reached to the parent, including the date the IEP will be implemented.

When the parents do not attend despite the district's efforts to ensure participation or if the team does not reach agreement, it is the district's obligation to offer an appropriate educational program:

- Have IEP members present sign the IEP or document participation if any member is unwilling to sign.
- Send a copy to the parent, and provide the parent prior written notice that the district intends to implement the IEP.

INSTRUCTION

Special Education and Related Services for Eligible Students

IEP Development (continued)

- Forward the documentation of actual or attempted contacts to the Student Services Office for processing when parents do not attend the meeting.

Note: Initial IEPs cannot be implemented without parent consent.

IEP Preparation and Content

IEP teams will consider the recommendations in the most recent evaluation to develop the IEP. In developing the IEP, the team should consider:

- the strengths of the student including the academic, developmental and functional needs of the student and concerns of the parents for enhancing the education of their student;
- whether positive behavioral interventions and supports are needed to address the behavior;
- whether the student with limited English proficiency has language needs;
- whether Braille instruction is appropriate for a student who is blind or visually impaired;
- whether a student has communication needs, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- whether assistive technology devices or services are needed.

IEP content must include:

- the student's present levels of academic and functional performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or preschool activities;
- measurable academic and functional goals for the student (including benchmarks or short term objectives if the student is participating in alternate assessments) that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs;
- a statement of special education services, any necessary related services, supplementary aids and services based on peer reviewed research to the extent practicable to be provided to the student, and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum, and be educated and participate with other special education students and nondisabled students and participate in extracurricular and other nonacademic activities;
- a statement of the extent, if any, that the student will not participate with nondisabled students in the general classroom, extra-curricular and non-academic activities;

INSTRUCTION

Special Education and Related Services for Eligible Students

IEP Preparation and Content (continued)

- a statement of any individual appropriate accommodations in the administration of state or district-wide assessments of student achievement that are needed to allow the student to participate in the assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why the student cannot participate in the regular assessment and why the particular alternative assessment is appropriate for the student;
- the date for the beginning of services and the anticipated frequency, location and duration of services and modifications;
- a statement of how the student's progress towards goals will be measured, how the student's parents will be regularly informed of their student progress towards the annual goals, and whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Measurement of the student's progress will be based on the data collected as designated on the IEP. The individual responsible for implementing the goal is responsible for maintaining the data used to measure progress. Information to the parents can be provided through the use of progress reports or report cards or other agreed means, but the information must be provided at least as often as information is provided to students without disabilities;
- the projected beginning date for the special education and related services;
- with an IEP that is in effect when a student turns 16, or sooner if the IEP team determines it is appropriate, a statement of needed transition services and any interagency responsibilities or needed linkages. Transition services description must include appropriate measurable postsecondary goals based on age appropriate transition and assessments related to training, education, employment, independent living skills where appropriate; and transition services (including course of study) needed to assist the student in reaching those goals;
- emergency response protocols, if determined necessary by the IEP team for the student to receive FAPE and parents must provide consent;
- a behavioral intervention plan (BIP) if determined necessary by the IEP team for a student to receive FAPE;
- the procedures by which parents/guardians will be notified of the use of isolation or restraint or a restraint device on their student (*see Procedure 3317P*).
- a statement regarding transfer of rights at the age of majority. The IEP manager will provide prior written notice to the student one year prior to student turning 18 years of age; and
- extended school year (ESY) services. Extended school year services are specially designed instruction provided beyond the regular school year to IEP eligible students to insure that they receive FAPE. Whether or not ESY should be provided is an IEP Team decision. Extended school year services are not limited by categories of disability, or limited by type, amount, or duration of services. The need for extended school year services is addressed in the annual IEP meeting. The IEP team may also meet at any time during the school year to address the need for ESY. Factors for the team to consider when determining the need for ESY may include, but are not limited to:

INSTRUCTION

Special Education and Related Services for Eligible Students

IEP Preparation and Content (continued)

- documentation of significant regression or significant difficulty recouping skills during school breaks with data-based evidence to support the need;
- a documented data-based determination based on the professional judgment of the IEP team including consideration of the nature and severity of the student's disability, the rate of progress and emerging skills.

Transfer Students

Students who transfer from one district to another within the state continue to be eligible for special education and any necessary related services. When a special education student transfers into the district, the building principal will notify the school psychologist. The school psychologist or appropriate service provider, building principal, and team members as appropriate in consultation with parents will review the student's IEP to ensure the district provides services comparable to those in the previous IEP until the district adopts the previous IEP or develops, adopts and implements a new IEP.

When a student who was identified as eligible for special education transfers from out of state into the district, the building principal will notify the school psychologist or appropriate service provider as soon as possible. The school psychologist will review the evaluation, eligibility documentation and IEP, to determine whether the student meets state eligibility criteria. If the student meets the state eligibility criteria, the district will follow the procedures described in the previous paragraph to provide comparable services until the district develops an IEP for the student. If the student needs to be evaluated to determine eligibility in this state, the school psychologist will notify the parents, obtain consent and evaluate the student for eligibility within 35 school days of receipt of the parent's consent. The district, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP, pending the results of the initial evaluation.

The district must take reasonable steps to promptly obtain records, including IEP supporting documents and any other records related to special education or related services from the previous school.

Placement

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes a special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes, and the actual program is considered within the context of least restrictive environment (LRE) and the continuum of placement alternatives (reviewed below).

INSTRUCTION

Special Education and Related Services for Eligible Students

Placement (continued)

When determining initial eligibility for special education, including determination of the appropriate placement, the parent or adult student must provide written consent to services before the student receives special education services. If the parents do not consent to the provision of special education and related services, the district will not provide special education services to the student. The district will notify the parents that the student is eligible for services and that the district is willing to provide services when the parent provides written consent. The notification will also inform parents that the district has no FAPE obligation to the student when parents refuse to provide consent.

When programming decisions are addressed by the IEP team, proper consideration must be given to the least restrictive environment. Within the educational setting, the student should be placed, whenever possible:

- in the school the student would normally attend; and
- with non-disabled students in the general educational setting, to the maximum extent possible.

Special classes, separate schools or removal of students with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in the general education classroom with use of supplementary aids and services cannot be satisfactorily achieved.

If the IEP team believes that the student will not be successful within the general education classroom, the team will consider:

- the educational benefits of placement full-time in a general education classroom,
- the non-academic benefits of such a placement,
- the effect the student will have on the teacher and other students in the general education classroom, and
- the costs of placing the student in the general education classroom.

The degree to which the student is to be integrated into the general education classroom setting is dependent upon the evaluation-identified needs of the student. This placement is to occur unless the nature of the needs are so severe that this cannot be satisfactorily achieved, even with supplementary aids and services. If the placement is in another building, the appropriate educational placement will be as close to the student's home as reasonably possible.

Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students which could include: counseling services, athletics, field trips, transportation, health services, recreational activities, clubs, etc. Limits on nonparticipation or conditions of participation must be designated in the IEP.

INSTRUCTION

Special Education and Related Services for Eligible Students

Placement (continued)

The district will also make opportunities available for students eligible for special education to participate with non-disabled students in the district's elective course offerings.

Within the district, a continuum of placement options exists spanning within-class, resource room, self-contained, home-bound, and out-of-district provisions. These options are intended to address the individual needs of students, and they are considered according to the following process:

- The placement of each student with a disability(ies) will be determined annually or sooner if appropriate by the IEP team; and
- The appropriateness of placement options will be based upon various decisions, including:
 - data based judgments in the student's IEP development,
 - consideration of least restrictive environment,
 - the reasonable probability of the placement option(s) assisting the student to attain annual goals and objectives, and
 - the consideration of potentially harmful effects upon the student or on the quality of services needed.

Placement options along the continuum must include alternative placement options identified in the definition of special education and make provisions for supplementary services to be provided in concert with the general education placement.

Students Unilaterally Enrolled in Private Schools by Parents

On November 1st each year, the district shall conduct an annual count of the number of private school special education students who are unilaterally enrolled by their parents in a private school located within district boundaries. The district shall have timely and meaningful consultation with appropriate representatives of private schools and representatives of parents of private school students and make determinations about who will receive services and what services will be provided. The purpose of the student count is to determine the proportionate amount that the district must allocate for providing special education and related services, including transportation, to private school or preschool students in the next fiscal year.

INSTRUCTION

Special Education and Related Services for Eligible Students

Students Unilaterally Enrolled in Private Schools by Parents (continued)

The district is required to allocate a proportionate amount of federal special education Part B and Section 619 funds to provide special education and related services to private school students. In order to determine which students will receive services, what services will be provided, how and where the services will be provided, and how services provided will be evaluated, the district shall consult with appropriate representatives and parents of private school students. The district shall make the final decision with respect to services to be provided to eligible private school students. The Student Services office will contact each approved private school operating in the district to establish the plan and timeline and to discuss how to identify students; which students will receive services; what services will be provided; how and where services will be provided; and how services will be evaluated, if any.

A private school student has no individual entitlement to any service or amount of service (s)he would have received if enrolled in a public school. However, for each private school student receiving special education or related services, the district shall initiate and conduct meetings to develop, review and revise a service plan describing the specific special education and related services that the district will provide. The service plan must: 1) meet the IEP content requirements with respect to the services to be provided; and 2) be developed, reviewed, implemented and revised annually. The district shall make every effort to include a representative from the private school at each meeting. If the private school representative is not able to attend, the district shall use other methods, including individual or conference telephone calls, to assure the representative's participation.

Private school students eligible for special education services may receive a different amount of services than students eligible for special education services in public schools. However, the services provided to special education private school students will be provided by personnel meeting the same standards as personnel providing the services in the district.

Services to students in private schools including private sectarian schools may be provided on-site. District personnel may be made available to private schools only to the extent necessary to provide the services required, if those services are not normally provided by the private school. Services shall not include payment of private school teachers' or other employees' salaries, except for services performed outside regular private school hours and under public supervision and control.

Equipment and/or supplies may be placed on private school premises for the period of time necessary for the service plan program, but the district shall retain and exercise title and administrative control of said equipment/supplies. The district shall keep records and make an accounting assuring that said equipment/supplies is/are used solely for the service plan program. Said equipment/supplies shall be removed if necessary to avoid its/their use for other purposes or if no longer needed for the service

INSTRUCTION

Special Education and Related Services for Eligible Students

Students Unilaterally Enrolled in Private Schools by Parents (continued)

plan program. No district funds shall be used for repairs, minor remodeling or construction of private school facilities.

The district shall provide services to students in private schools in a manner that: (1) maintains physical and administrative separation between the private and public school programs, and (2) does not benefit the private school at public expense.

Procedural Safeguards

Consent

The district will obtain informed, written parental consent before:

- conducting an initial evaluation;
- providing initial special education and related services to a special education student; and
- conducting a reevaluation if the reevaluation includes administration of additional assessments.

Parental consent is not required to review existing data as part of an evaluation or reevaluation or to administer a test or other evaluation that is administered to all students unless consent is required of all students' parents.

Informed consent means that the parent or adult student:

- has been fully informed of all information that is relevant to the activity for which the district is asking consent, and that the information is provided in his or her native language or other mode of communication;
- understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and
- understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

The district may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit or activity of the district.

If the district is unable to obtain a parent's consent, the district may use mediation procedures to obtain a parent's consent or request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. The district may not request a due process hearing to override a parent's refusal to consent to initial special education services. The district may not use mediation or due process procedures to override a parent's refusal to consent to an evaluation or reevaluation if the student is homeschooled or enrolled in a private school.

INSTRUCTION

Special Education and Related Services for Eligible Students

Revocation of Consent

Parents may revoke consent for the continued receipt of special education and related services. If parents revoke consent, the staff member receiving the revocation will forward the revocation to the Student Services department.

If a parent revokes consent after the district has provided special education and related services, the district will not amend the student's education records to remove any references to the student's receipt of special education and related services.

Upon receipt of the parent's written notice of revocation, the school psychologist:

- A. Will provide prior written notice before ceasing services. The notice will include information about the effect of revocation and will inform the parent of the date the district will stop providing special education and related services;
- B. Will stop providing special education and related services after the effective date contained in the district's prior written notice;
- C. Will not use mediation or the due process procedure to obtain agreement.

Discontinuation of special education and related services in response to the parent's written revocation will not be in violation of FAPE and eliminates the district's requirement to convene an IEP meeting or develop an IEP.

Notice of Procedural Safeguards

In addition to protections provided to parents of eligible students, parents also have procedural safeguard protections when a student's identification, evaluation or placement is at issue. The school district shall provide a copy of procedural safeguards to the parents and adult students one time a year and upon:

- initial referral or parent request for evaluation;
- receipt of the parent's first state complaint and first request for due process hearing in a school year;
- a disciplinary action that will result in a disciplinary change of placement; and
- request by the parent.

The procedural safeguard notice used by the district includes a full explanation of all the procedural safeguards relating to: independent educational evaluation, prior written notice, parental consent, access to educational records, discipline procedures for students who are subject to placement in an interim alternative educational setting, requirements for unilateral placement by parents of children in private schools at public expense, state complaint procedures, the student placement during pendency of due process proceedings, including requirements for disclosure of evidence, mediation, due process hearings, civil actions and attorney's fees. Copies of the district's special education procedural safeguards are available at all school sites and Student Services office.

INSTRUCTION

Special Education and Related Services for Eligible Students

Prior Written Notice

Prior written notices are provided to parents when a district makes a decision relating to a student's identification, evaluation, placement or provision of a FAPE. Prior written notices document the decisions made by the IEP teams and evaluation group.

The district will provide prior written notice to the parent whenever the district proposes or refuses to initiate or change the identification, evaluation, educational placement or provision of a free appropriate public education to the student.

The prior written notice will include:

- a statement that the parents have procedural safeguard protections and if a copy of the procedural safeguards do not accompany the notice, a statement that describes how a copy of the statement of procedural safeguards may be obtained;
- a description of the action proposed or refused by the district;
- an explanation of why the district proposes or refuses to take the action and a description of other options that the district considered and the reasons why the options were rejected;
- a description of any other factors which are relevant to the district's proposal or refusal;
- a description of each evaluation procedure, test, record, or report the district used as a basis for the proposal or refusal; and
- a description of any evaluation procedures the district proposes to conduct and sources for parents to contact to obtain assistance in understanding the procedural safeguards provision of this chapter.

Prior written notice and the notice of procedural safeguards must be provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the district will take steps to ensure that the notice is translated orally or by other means to the parent. This may involve:

- arranging for an interpreter if English is not the native language of the parent or if the parent has a hearing impairment; or
- providing notice orally if the written language is not a native language.

The district will document in writing how this information was provided and that the parent understands the content of the notice.

INSTRUCTION

Special Education and Related Services for Eligible Students

Transfer of Educational Rights to an Adult Student

When a student eligible for special education reaches the age of 18, all educational rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless the student is determined incapacitated in a guardianship proceeding or the district has appointed an educational representative for the student. When the student turns 18, the district will notify the parent and student that the educational rights have transferred to the student and will send any required notices to both the parent and the adult student.

At the IEP meeting occurring one year before the student turns 18, the district will inform the parents and the student that educational rights will transfer to the student, and the district will inform the student about those educational rights. This information will be documented on the IEP.

Appointment of an Educational Representative

A student over the age of eighteen is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be “incapacitated” through a legal guardianship proceeding. If a parent, another interested party or the district believes that a student over the age of eighteen is unable to provide informed consent or to make educational decisions, and the student does not have a legal guardian, the parent or other interested party may ask the district to appoint an educational representative. This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student, and concluded the student is incapable of providing informed consent. The district will inform the student of the decision and appoint either the spouse, the student’s parent’s, another adult or a surrogate educational representative to represent the student. The appointment of the educational representative will continue for one year. The student or other adult may challenge the certification at any time. If a challenge occurs, the district will not rely on the education representative, until the representative is recertified.

Confidentiality and Records Management

The superintendent’s designee (i.e. the building principal) is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The Director of Student Services will maintain, for public inspection, a current list of the names and positions of district employees who have access to personally identifiable information of special education students. The district will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained, or used by the district.

The district will provide instruction annually to employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in WAC 392-172A, state law, and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 CFR Part 99).

INSTRUCTION

Special Education and Related Services for Eligible Students

Confidentiality and Records Management (continued)

Upon request, the parent(s) of a special education student or adult student will be afforded an opportunity to inspect, review and challenge all educational records which shall include, but not be limited to, the identification, evaluation, delivery of educational services, and provision of free appropriate public education (FAPE) to the student. The district shall comply with the request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. In any case, the district shall respond no more than 45 calendar days after the date the district received the request. If an educational record includes information on more than one student, the parents (and/or adult student) may only inspect and review information relating to their student. School personnel receiving requests for educational records will immediately forward the request to the Deputy Superintendent's Office.

If parents believe that information in an education record is inaccurate or misleading, or violates the privacy or rights of the student, they may request that the district amend the information. Policy and Procedure #3600, Student Records, describes the process and timelines for challenges to and hearings regarding student records.

The district follows the guidelines for records retention outlined in the Secretary of State's General Records Retention Schedule and Records Management Manual. The district shall inform parents or adult students when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. The information shall be destroyed at the request of the parent(s) or adult student, or will be provided to the parent or adult student upon their request. However, a permanent record of the student's name, address, and phone number, his or her grades, attendance, record, classes attended, grade level completed and year completed may be maintained without time limitation.

Records management is also governed by Policy and Procedure #3600, Student Records.

Surrogate Parents

A surrogate parent is a person appointed by the school district to act on behalf of a student to help ensure the rights of the student to a free and appropriate public education when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state and does not have a foster parent.

The Director of Student Services is responsible for determining the need for appointment of a surrogate parent.

INSTRUCTION

Special Education and Related Services for Eligible Students

Surrogate Parents (continued)

Natural or adoptive parents, foster parents, persons acting in the place of a parent such as stepparents or relatives, and persons with legal custody or guardianship are considered parents.

The following is guidance for the district to follow to assist in determining the status of the parent's rights to make educational decisions:

- in cases where the student is in out of home care, the district must determine the legal custodial status of the student;
- parents who have voluntarily placed their student in state placement still retain legal custody of the student and retain the right to make educational decisions. In this situation the student is not a ward of the state;
- parents whose children are placed in group care, pending a determination of "dependency", may still retain rights to make educational decisions unless otherwise ordered by the court;
- when a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the student. Parents may no longer have the right to make educational decisions during this stage of dependency; and
- parents whose parental rights are terminated no longer have the right to make educational decisions on behalf of their student.

When a student is placed in foster care, the foster parent may act as the parent. When a student is placed in group care the district will work with the parents, case-worker(s), foster parents, and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate.

When selecting a surrogate parent the district will select a person willing to participate in making decisions regarding the student's educational program, including participation in the identification, evaluation, placement of, and provisions of FAPE to the student.

If a student is referred for special education or a student eligible for special education transfers into the district who may require a surrogate parent, the district Student Services Office will be notified of the potential need. The Director of Student Services will then select a trained individual who can adequately represent the student to ensure that all student rights are observed.

The person selected as a surrogate:

- must have no interest that conflicts with the interests of the student he or she represents;
- must have knowledge and skills that assure adequate representation of the student; and
- may not be an employee of a school district and/or other public agency which is involved in the education or care of the student. Public agencies include Office of

INSTRUCTION

Special Education and Related Services for Eligible Students

Surrogate Parents (continued)

Superintendent of Public Instruction (OSPI) and Department of Social Health and Services (DSHS) in addition to district employees.

The district may appoint as surrogate parents, non-public agency employees involved in the care of the student, and other persons who meet the standards described above.

The district will, at a minimum, review with the surrogate parent procedural safeguards, parent involvement in the special education process, parent education publications, and special education regulations. The district will also cooperate with other districts, the Educational Service District (ESD) or OSPI in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

Mediation

The purpose of mediation is to offer both the parent and the school district an alternative to a formal due process hearing. Mediation is voluntary and requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing. Mediation is used to resolve disagreements concerning the identification, evaluation and delivery of educational services or provision of a FAPE to a special education student. Mediation may be terminated by either party at any time during the process.

The primary participants are the parent(s), school district representative(s), and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a non-adversarial manner. Mediation services will be provided by OSPI at no cost to either party.

The Director of Student Services is responsible for coordinating requests for mediation. If a parent requests mediation, notify the director and the director will respond to the parent and coordinate with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process shall be confidential.

One person designated by the district to attend the mediation must have authority to bind the district in any agreement reached through mediation.

Due Process Hearing

Both parents and districts may file due process hearings involving the identification, evaluation, placement or provision of FAPE to a student. IDEA requires that specific information be provided as part of a due process hearing request. The requirements are identified in the notice of procedural safeguards. If parents request information about how to file a due process hearing, the district will provide the parent with a due process hearing request form that contains the required information. Due process hearing request forms are available in the Student Services Department and on the OSPI Special Education and Administrative Resources Web site.

INSTRUCTION

Special Education and Related Services for Eligible Students

Due Process Hearing (continued)

If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to the Director of Student Services. If the parent has not filed the request for hearing with OSPI, the district will forward the parent request to OSPI Administrative Resources Section. The district may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The Director of Student Services is responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

When a parent files a due process hearing, the student remains in the placement he or she was in at the time of the request for hearing unless the parents and district agree to a different placement. See the discipline section below for placements when a disciplinary action is challenged.

When parents file a request for a due process hearing, the Director of Student Services will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent files a due process request with the district and provides a copy of the request to OSPI, or within seven days if the hearing request involves an expedited hearing regarding discipline. The Director of Student Services will determine the appropriate district staff that will attend the resolution meeting. The district will ensure that one of the district representatives attending the resolution meeting has authority to bind the district in any resolution agreement. The district will not bring district counsel to a resolution meeting unless the parent is bringing an attorney to the meeting.

Any resolution agreement reached will be documented in writing and is binding on the parties. The document will inform the parent of their right to void the agreement within three business days of signing the agreement.

Discipline

Students eligible for special education may be disciplined consistent with the disciplinary rules that apply to all students and with the special rules under Chapter 392-172A as summarized in the flow chart on pages 34 and 35.

Staff Qualifications

All employees of the district funded in whole or part with state or federal excess special education funds will meet the standards established by the State Board of Education and defined in WAC 392-172A-02090.

All employees will hold such credentials, certificates, endorsements or permits as are now or hereafter required by the State Board of Education for the particular position of employment and shall meet such supplemental standards established by the district.

INSTRUCTION

Special Education and Related Services for Eligible Students

Staff Qualifications (continued)

All special education teachers providing, designing, supervising, evaluating or monitoring the provision of special education shall possess "substantial professional training." This shall be shown by the issuance of an appropriate special education endorsement on an individual teaching certificate issued by the Superintendent of Public Instruction.

In the event a special education teacher does not have a certificate endorsed in special education, a district may apply for a pre-endorsement waiver through the special education section of the OSPI. To qualify for the special education pre-endorsement waiver, the teacher must meet State Board of Education criteria.

If the district must temporarily assign a classroom teacher without a special education endorsement to a special education position, the district's Director of Student Services in collaboration with the Human Resources Department will document in writing that:

- the district is unable to recruit a teacher with the proper endorsement who was qualified for the position; and/or
- the need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or
- the reassignment of another teacher within the district would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

If one or more of these criteria can be documented, the district determines that a teacher has the competencies to be an effective special education teacher, and the teacher has completed six semester hours or nine quarter hours of course work which are applicable to the special education endorsement, the district can assign the teacher to special education in compliance with the process for making out-of-endorsement assignments and reporting them to the state.

Classified staff will present evidence of skills and knowledge necessary to meet the needs of students with disabilities. The district will provide training to classified staff to meet the state recommended core competencies.

Personnel Development

In order to provide a professional development program to improve the quality of instructional programs, the following procedures will be employed:

- Special education concerns will be identified through a staff needs assessment.
- All personnel who use restraint, restraint devices and/or isolation must be certified and annually trained in the use of such restraint, restraint devices and/or isolation;
- Inservice training schedules will be developed based upon the results of the district assessment and in support of needs identified;

INSTRUCTION

Special Education and Related Services for Eligible Students

Personnel Development (continued)

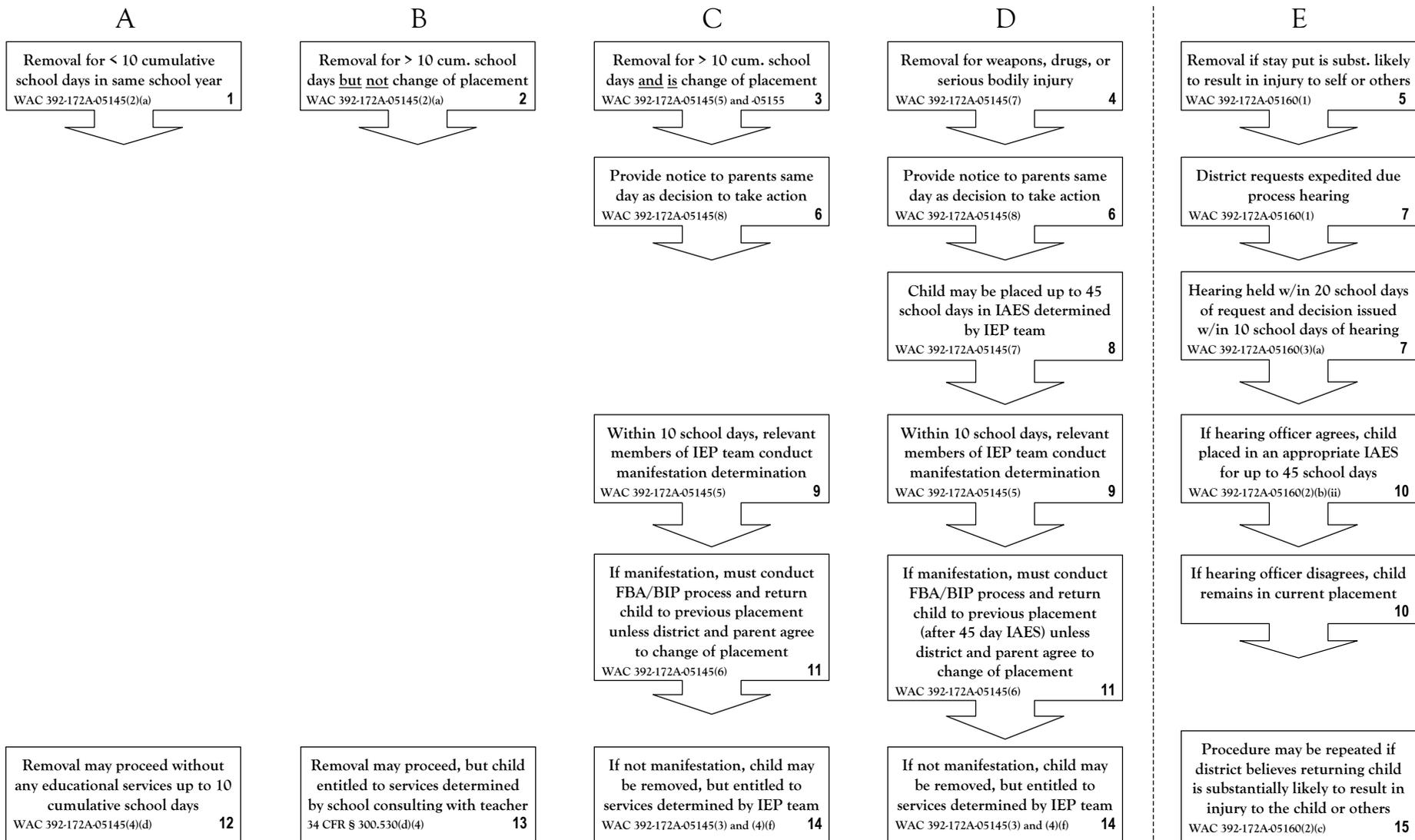
- Training activities will be conducted for general and special education staff, and staff of other agencies, organizations, and private school staff providing services for special education students; and
- Training for classified staff in the state recommended core competencies will occur through the Classified Professional Development Program.

Participation

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through the district's special education office and the office of the superintendent. A notice regarding the availability of such documents will be placed on the district's Web site.

Submitted	<u>August 12, 2016</u>
	<u>May 29, 2015</u>
	<u>January 16, 2015</u>
	<u>September 3, 2010</u>
	<u>March 21, 2008</u>
	<u>January 13, 2002</u>
	<u>December 10, 2001</u>
	<u>December 11, 2000</u>
	<u>November 20, 1995</u>
	<u>October 17, 1994</u>
	<u>February 12, 1991</u>

REMOVAL OF SPECIAL EDUCATION STUDENTS



- A “change of placement” is (1) a removal for more than 10 consecutive school days; or (2) a series of removals that constitute a pattern because they total more than 10 school days in a school year, because the child’s behavior is similar to previous incidents and because of factors such as the length of each removal, the total amount of time, and the proximity of the removals to one another. WAC 392-172A-05155.
- The options presented above assume that the district is unable to obtain parental agreement to a change of placement. Any removal from the current placement agreed to by the members of the IEP team is permissible.
- In addition to the options presented above, “at any time, school officials may seek to obtain a court order to remove a child with a disability from school or to change a child’s current educational placement if they believe that maintaining the child in the current educational placement is substantially likely to result in injury to the child or others.” 64 Fed. Reg. 12415 (March 12, 1999).

1 This column is for the removal of a special education student for ten (10) cumulative school days or less in the same school year for a violation of school rules.

2 This column is for the removal of a special education student for more than ten (10) cumulative school days in the same school year for violation of school rules when the removal does not constitute a “change of placement.” (See definition on front.)

3 This column is for the removal of a special education student for more than ten (10) cumulative school days in the same school year for violation of school rules when the removal also constitutes a “change of placement.” (See definition on front.)

4 This column is for the removal of a student to an interim alternative educational setting (IAES) for misconduct at school or school functions relating to weapons, drugs or causing serious bodily injury. “Weapon” is defined as a device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that the term does not include a pocket knife with a blade of less than two and one-half (2½) inches in length. The drugs exception applies when the student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function. The term “controlled substance” includes prescription drugs; the term “illegal drugs” does not. “Serious bodily injury” is defined as a bodily injury which involves (a) substantial risk of death, (b) extreme physical pain, (c) protracted or obvious disfigurement, or (d) protracted

loss or impairment of a bodily function, organ or mental faculty.

5 This column is for the removal of a student to an interim alternative educational setting (AES) when maintaining the current placement of a child is substantially likely to result in injury to the child or others.

6 On the same day that a decision to take disciplinary action is made, the district must notify the parents of the decision and provide the parents the procedural safeguards notice.

7 If the LEA believes that maintaining a child’s current placement is substantially likely to result in injury to the child or others, the LEA may request an expedited due process hearing. The hearing must be held within 20 school days of the request and a decision issued by the hearing officer within 10 school days of the hearing.

8 The student may be removed to an IAES determined by the IEP team for up to 45 school days. The district must provide services which enable the student to participate in the general curriculum and to progress toward the goals in the student’s IEP. The student must also receive, as appropriate, a FBA and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. The IEP team determines the necessary services. The IAES may continue up to 45 school days even if the conduct is determined to be a manifestation of the child’s disability.

9 Within 10 school days of triggering this column, the district, parents, and relevant members of the IEP team must

review all relevant information in the student’s file, including the IEP, any teacher observations, and any relevant information provided by the parents to determine if: (a) the conduct was caused by, or had a direct and substantial relationship to, the child’s disability; or (b) if the conduct in question was the direct result of the district’s failure to implement the IEP. If either of these determinations is made, the conduct must be determined to be a manifestation of the child’s disability.

10 If the hearing officer determines that maintaining the child’s current placement is substantially likely to result in injury to the child or others, the hearing officer may order a change of placement to an appropriate interim alternative educational setting (AES) for not more than 45 school days.

11 If the conduct was a manifestation of the child’s disability, the IEP team must either (1) conduct a FBA and implement a BIP for the child; or (2) review a BIP already in place and modify if necessary to address the behavior. The child must be returned to the previous placement unless the district and parents agree to a change of placement as part of modifying the BIP.

12 The district does not have to provide any services to a special education student who has been removed from his or her current placement for ten (10) cumulative school days or less in the same school year, as long as services are not provided to students without disabilities.

13 If the removal does not constitute a change of placement, the student may be subject to the same disciplinary consequences as would be applicable to

students without disabilities, except that the district must provide services which enable the student to participate in the general curriculum and to progress toward the goals in the student’s IEP. The child must also receive, as appropriate, a FBA and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. School personnel in consultation with a least one of the child’s teachers determine the necessary services and the location of services.

14 If the conduct was not a manifestation of the child’s disability, the student may be subject to the same disciplinary consequences as would be applicable to students without disabilities, except that the district must provide services which enable the student to participate in the general curriculum and to progress toward the goals in the student’s IEP. The student must also receive, as appropriate, a FBA and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. The IEP team determines the necessary services and the location of services.

15 If the district believes that returning the child to the previous placement is substantially likely to result in injury to the child or others, the district may repeat the procedures by requesting another expedited due process hearing.