

Chapter 5 Delivery of Program Standards

Introduction: Instructional Delivery of Program Standards

Instructional delivery of programs refers to the system districts use to ensure that a Free Appropriate Public Education (FAPE) is available for each child and that a continuum of alternative placements is available to meet the needs of children or students with disabilities for special education and related services. Each district will ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. This continuum will include, but is not limited to, instruction in regular education classes, special schools, home instructions, instruction in hospitals and institutions, instruction at a state academy, instruction in a care and treatment facility, and extended school year services. Each district will also make a provision for supplementary services, such as a resource room or itinerant instruction, to be provided in conjunction with regular education class placement.

Providing a Free Appropriate Public Education (FAPE)

Availability of a Free Appropriate Public Education (FAPE)

Districts provide a Free Appropriate Public Education (FAPE) to all children between the ages of three and 21. FAPE begins on a child's third birthday. If the child turns age three during the summer, the IEP/IFSP team determines the date when services will begin. Special education and related services are provided based on identified needs and not based upon disability.

The FAPE requirements include:

- Related Services
- Positive Behavior Intervention and Supports
- Transition Service (by grade 9 or age 14):
 1. Post-Secondary Education and Training
 2. Employment
 3. Community Participation
 4. Recreation and Leisure
 5. Home Living
- Interagency responsibility before secondary services are concluded.

All students with disabilities are provided the special instruction and services which are appropriate to their needs. The individual education plan (IEP) team determines appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs. The IEP addresses the student's need to develop skills to live and work as independently as possible within the community. The IEP team considers **positive behavioral interventions** (see [chapter 15](#)), strategies, and supports that address behavior.

By grade 9 or age 14, the plan will address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts will inform parents of the full range of transitional goals and related services that should be considered. The plan will include a statement of the interagency responsibilities or linkages before secondary services are concluded.

Limitations on Obligations to Provide (FAPE)

1. Student Discipline

Districts will provide services to students with disabilities after they have been removed from their current placement for ten days or more in that school year.

2. Students Incarcerated in Adult Prisons

The obligation to make FAPE available to all children with disabilities does not apply to children age 18 through 21 who in the last educational placement prior to their incarceration in an adult correctional facility:

- were not actually identified as being a child with a disability;
- did not have an IEP
- does not apply to children with disabilities, age 18 through 21 who:

- had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
 - did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability.
3. Students with High School Diplomas
- A student’s right to FAPE is terminated upon graduation with a regular high school diploma, but is not terminated by any other kind of graduation certificate. Graduation is a change of placement, therefore, a [Prior Written Notice](#) and [Parental Consent/Objection Form](#) will be provided to parents or the adult student within a “reasonable time” before proposing to graduate a student. This ensures that there is sufficient time for the parents and student to plan for, or challenge, the pending graduation. Evaluation is not required before graduation. (See [Procedure for Exiting Students through Graduation](#) in chapter 3).

Protections for Students Not Yet Eligible for Special Education and Related Services

Basis of knowledge

Districts will be deemed to have knowledge that a student is a child with a disability if before the behavior that precipitated the disciplinary action occurred:

1. The parent of the child expressed concern in writing to supervisory or administrative personnel of the district, or a teacher of the child, that the child is in need of special education and related services;
2. The parent of the child requested an evaluation of the child; or
3. The teacher of the child, or other personnel of the district, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel.

Districts would not be deemed to have knowledge if:

1. The parent of the child:
 - Has not allowed an evaluation of the child; or
 - Has refused services: or
2. The child has been evaluated and determined to not be a child with a disability.

Conditions that apply if no basis of knowledge

If the district does not have knowledge that a student is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors.

NOTE: If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by the school, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration the information from the evaluation conducted by the district and information provided by the parents, the district must provide special education and related services.

Services at No Cost to Parents

Placement in Residential Program

When districts provide instruction and services outside the district of residence, board and lodging, and any tuition is to be paid by the resident district.

Placement in Private School Facility

A student's district of residence is responsible for assuring that an appropriate program is provided for all students eligible for special education services placed by the district's team within the district or in an out-of-district placement regardless of the method or location of instruction provided.

Eligibility of Educational Programs and Services

The HVED will take steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children including art, industrial arts, consumer and homemaking education, and vocational education.

Participation in Nonacademic and Extracurricular Services and Activities

The HVED will take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referral to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.

Availability of Physical Education Services

Physical education services, specially designed if necessary, will be made available to every child with a disability receiving FAPE, unless the district enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades. Each child will be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:

- The child is enrolled full time in a separate facility; or
- The child needs specially designed physical education, as prescribed in the child's IEP.

If specially designed physical education is prescribed in a child's IEP, the district will provide the services directly or make arrangements for those services to be provided. The district responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services.

Methods and Continuum of Instructional Services

Each district will ensure that a continuum of alternative placement is available to meet the special education and related services needs of students with disabilities who are residents of our districts.

Overview of the Least Restrictive Environment

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

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

The emphasis of LRE has not diminished with the reauthorization of IDEA 2004. In many components of the IEP, the team addresses how to increase the involvement of students with disabilities in the general curriculum. IEP goals, including benchmarks or short-term objectives, must now be written with this participation in mind.

The IEP must include an explanation of the extent to which the student will not be participating with nondisabled children in the general education classroom and in non-academic and extracurricular activities. Thus, the onus is on the IEP team to consider all placement options and provide an explanation if the student's FAPE is not provided in the general curriculum.

Determining a Student's LRE

LRE differs for each child receiving special education and related services. Basically, a child's LRE is the environment where the child can receive an appropriate education designed to meet his or her special education needs, while still being educated with nondisabled peers to the maximum extent appropriate. Depending on the child's individual needs, the LRE could be the regular classroom (with or without supplementary aids and services); a pull-out program for part of the day with the remainder of the day being spent in the regular classroom or in activities with students who do not have disabilities; a special education class within the child's neighborhood school; or even a separate school specializing in a certain type of disability. Thus, one child's least restrictive environment—where that child can get the education he or she needs while still interacting with nondisabled peers--may be very different from another child's. **The determining factor is the child's needs.**

However, the IEP team may determine the student cannot be educated satisfactorily in the general education classroom, even when supplementary aids and services are provided. An alternative placement must then be considered. Accordingly, schools have been, and still are, required to ensure that "a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services". This continuum includes a range of alternative placement such as "instruction and regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions".

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

A Description of the Process to Develop an IEP

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

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

The next step is to determine the type of service and the amount of time that is needed to accomplish **each** objective.

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

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

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

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

Guidelines for LRE Discussion

These guidelines are provided to assist IEP teams in writing acceptable LRE statements:

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

Discuss the following learning characteristics as they relate to an educational environment:

- rate of skill acquisition and overall functioning level;
- need for social interaction;

- need for age appropriate non-educationally disabled peer models;
- need for support to facilitate inclusion;
- need for limited environmental distractions;
- need for restricted space within a building;
- behavioral characteristics (effect of student's behaviors on learning of other learners within his/her classroom, neighboring classrooms, and/or school building); and
- special health or safety needs.

Questions the IEP team should ask:

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

PLEASE NOTE:

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

Methods of Instruction

Special instruction and services for children with a disability must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

- in connection with attending regular elementary and secondary school classes;
- establishment of special classes;
- at the home or bed side of the child;
- in other districts;
- instruction and services by the special education cooperative separate site therapeutic education programs;
- in a state residential school;
- by contracting with public, private or voluntary agencies;

- for children under age five and their families, programs and services established through collaborative efforts with other agencies; and/or
- for children under age five and their families, programs in which children with a disability are served with children without a disability.

(See [Alterations of Student's School Day](#)).

Indirect and Direct Services

- A. Indirect Services for a Student with a Disability in the General Education Classrooms or Settings –** “Indirect services” means special education services which include ongoing progress reviews; cooperative planning; consultation; demonstration teaching, modification and adaptation of the environment, curriculum, materials, or equipment; and direct contact with the student to monitor and observe. Indirect services may be provided by a teacher or related services professional to another regular education teacher, special education teacher, related services professional, paraprofessional, support staff, parent(s), and public and nonpublic agencies to the extent that the services are written in the student’s IEP, IFSP or IIIP.
- B. Direct Services for a Student with a Disability in the Special or General Education Classrooms or Settings –** “Direct services” means special education services provided by a teacher or a related service professional when the services are related to direct instruction, including cooperative teaching.

Extended School Year (ESY)

Districts will provide extended school year (ESY) services to students if the IEP team determines the services are necessary during a break in instruction in order to provide Free Appropriate Public Education (FAPE).

Extended school year service means special education and related services that are provided to a student with a disability:

- beyond the normal school year;
- in accordance with the IEP; and
- at no cost to the parents.

Districts will provide ESY service to students with a disability living within the district and nonresident students temporarily placed in the district. When a child is placed in a district prior to March 31 or 30 days after the student is placed, whichever is later, the district will give notice to the district of residence of its intention to provide ESY service. (See [Notification of Intent to Offer Extended School Year Services](#)).

Limitation of Extended School Year (ESY)

The HVED will not:

- limit extended school year services to particular categories of disability; or
- unilaterally limit the type, amount, or duration of those services.

Multidisability Team Teaching Models

A district may assign more than one teacher licensed in different areas or one or more teachers and related services staff as an IEP team to provide instruction and related services to students in a school-age educational service alternative.

There must be a teacher on the IEP team who is licensed in the disability area of each student served by the team. The team member licensed in a student's disability shall be responsible for conducting the student's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services will be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services shall be determined by the IEP team.

Students may receive instruction and related services from any or all of the team members with appropriate skills. The special education provided by each team member shall be included in the IEP.

Early Intervention Services

Early intervention services are provided along with an individualized family service plan (IFSP) that meet the special developmental needs of a child with a disability under the age of three and their families.

Types of Early Intervention Services

Following are types of services included under “early intervention service,” and, if appropriate, definitions of those services:

1. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. Assistive technology service means a service that directly assists a child with a disability in the selection, acquisition or use of an assistive technology device. Assistive technology services include:
 - a. the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
 - b. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
 - c. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - d. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - e. training or technical assistance for a child with disabilities or, if appropriate, that child’s family; and
 - f. training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities.
2. Audiology includes:
 - a. identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;
 - b. determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
 - c. referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;
 - d. provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
 - e. provision of services for prevention of hearing loss; and
 - f. determination of the child’s need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.
3. Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child’s development.
4. Health services.
5. Medical services only for diagnostic or evaluation purposes means services provided by a licensed physician to determine a child’s developmental status and need for early intervention services.

6. Nursing services includes:
 - a. the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
 - b. provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
 - c. administration of medications, treatment, and regimens prescribed by a licensed physician.
7. Nutrition services includes:
 - a. conducting individual assessments in:
 1. nutritional history and dietary intake;
 2. anthropometric, biochemical, and clinical variables;
 3. feeding skills and feeding problems; and
 4. food habits and food preferences.
 - b. developing and monitoring appropriate plans to address the nutritional needs of children eligible; and
 - c. making referrals to appropriate community resources to carry out nutrition goals.
8. Occupational therapy includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:
 - a. identification, assessment, and intervention;
 - b. adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
 - c. prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.
9. Physical therapy includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:
 - a. screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;
 - b. obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - c. providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.
10. Psychological services includes:
 - a. administering psychological and developmental tests and other assessment procedures;
 - b. interpreting assessment results;
 - c. obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and
 - d. planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.
11. Service coordination services means assistance and services provided by a service coordinator to a child and the child's family.
12. Social work services includes:
 - a. making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
 - b. preparing a social or emotional developmental assessment of the child within the family context;

- c. providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parent(s);
 - d. working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and
 - e. identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.
13. Special instruction includes:
- a. the design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
 - b. curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan;
 - c. providing families with information, skills, and support related to enhancing the skill development of the child; and
 - d. working with the child to enhance the child's development.
14. Speech-language pathology includes:
- a. identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
 - b. referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and
 - c. provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.
15. Transportation and related costs includes the cost of travel (e.g., mileage, common carrier, or other means) and other costs that are necessary to enable an eligible child and the child's family to receive intervention services.
16. Vision services means:
- a. evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;
 - b. referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
 - c. communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

Appropriate Program Alternatives

Program alternatives to meet the special education needs, goals, and objectives will be determined on an individual basis. Program alternatives will be based on the student's current levels of performance, special education needs, goals, and objectives and will be written into the IEP. Program alternatives include the type of service, setting, and the amount of time and frequency in which special education service occurs.

1. Types of special education services:
 - Direct service (see [Direct Services](#))
 - Indirect service (see [Indirect Services](#))
2. Types of special education settings:

- Home: includes the home of the student and parent or relative or licensed family child care setting in which the student is placed by the parent.
- District ECSE classroom: classrooms located within the districts, including elementary students or preschool aged children who do not have disabilities.
- Community based programs: licensed public or private child care programs (other than a family child care setting), early education programs, community cultural centers, Head Start programs, hospitals, and school districts.

Early Intervention Respite

Respite services for an eligible child will be determined during IFSP development based on the individual needs of the child and family. The IFSP team will consider:

- severity of the child’s disability and needs;
- potential risk of out of home placement if respite services are not provided;
- parental lack of access to informal support systems including extended family, supportive friends, and community supports;
- presence of factors known to increase family stress, including family size, presence of another family member or child with a disability;
- availability of other public services provided to the family that assist the parent; and
- perceived or expressed level of need for respite from the parent.

Related Services

Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (See [Guidelines: Rationale for Related Services](#)).

Assistive Technology

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term **does not include a medical device that is surgically implanted, or the replacement of such device.**

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

- a. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
- b. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- c. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

- d. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- e. Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
- f. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

Districts will ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child’s:

1. Special education;
2. Related services; and
3. Supplementary aids and services.

On a case-by-case basis, the use of school-purchased assistive technology devices in a child’s home or in other settings is required if the child’s IEP team determines that the child needs access to those devices in order to receive FAPE.

Districts will ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly. (See [Assistive Technology](#) in chapter 4).

Staff to Student Ratios

Early Childhood Case Loads

A teacher’s case load must be adjusted downward based on students’ severity of disability or delay, travel time necessary to serve students in more than one program alternative, and if the students on the teacher’s case loads are receiving services in more than one program alternative or the students are involved with other agencies. The maximum number of students that can be assigned to a teacher in any early childhood program alternative is:

- birth through two years: 12 students per teacher;
- three through six years: 16 students per teachers; and
- birth through six years: 14 students per teacher.

Case Loads for School-Age Educational Service Alternatives

1. The maximum number of school-age students that may be assigned to a teacher:
 - A. for students who receive direct special instruction from a teacher 50 percent or more of the instructional day, but less than a full school day;
 - a. deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired, three students;
 - b. deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, six students;
 - c. developmental cognitive disability; mild-moderate range or specific learning disabled, 12 students;
 - d. developmental cognitive disability: mild-moderate range or specific learning disabled with one program support assistant, 15 students;
 - e. all other disabilities with one program support assistant, ten students;

- f. all other disabilities with two program support assistants, 12 students; and
 - g. the **workload formula** is used for all other decisions regarding caseload limits.
1. The maximum number of school-age students that may be assigned to a teacher:
 - B. for students who receive direct special education for a full day;
 - a. deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, four students;
 - b. deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with two program support assistants, six students; and
 - c. all other disabilities with one program support assistant, 8 students.

For students who receive direct special education less than 50 percent of the instructional day, case loads are to be determined by the local district's procedures based on the amount of time and services required by the students' IEP plans.

Placement in Private School

Parental Placement in Private School

Disagreements between parent and district about the provision of Free Appropriate Public Education (FAPE);

Districts will not be responsible for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that district made FAPE available to the child and the parents elected to place the child in a private school or facility.

Disagreements between the parents and district regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures.

Reimbursement for parents' expenditure when Free Appropriate Public Education (FAPE) is not provided;

If the parents of a child with a disability, who previously received special education and related services under the authority of the district, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the state standards that apply to education provided by the district.

Limitation on Reimbursement

The cost of reimbursement may be reduced or denied if:

1. At the most recent IEP team meeting that the parents attended prior to removal of the child from the district, the parents did not inform the IEP team that they were rejecting the placement proposed to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the district, the parents did not give written notice of the information regarding why they were rejecting the proposed program; or
2. Prior to the parents' removal of the child from the public school, the district informed the parents, through notice requirements, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or
3. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Provision of Services to Children Enrolled by their Parents in Private School

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities or home school.

Determining Services

The district will make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from the district, the district must:

1. Initiate and conduct meetings to develop, review, and revise a services plan for the child, and
2. Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the district will use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

Consultation with Private School and Parent Representative

To ensure timely and meaningful consultation, the district will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

1. The consultation process among the district, the private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
2. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of:
 - a. the types of services, including direct services and alternate service delivery mechanisms;
 - b. how special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
 - c. how and when those decisions will be made.
3. If the district disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the district will provide to the private school officials a written explanation of the reasons why they chose not to provide services directly or through a contract.

Location of Services

For those children with a disability who attend nonpublic school at their parent's choice, the district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school. The school district shall determine the location at which to provide services on a student-by-student basis.

Personnel to Deliver Services

The services provided to parentally-placed private school children with disabilities will be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements.

Level of Service

Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

Equipment and Supplies

1. Districts will control and administer the funds used to provide special education and related services and administer materials, equipment, and property purchased.
2. The district may place equipment and supplies in a private school for the period of time needed.
3. The district must ensure that the equipment and supplies placed in a private school:
 - a. are used only for the intended purpose; and
 - b. can be removed from the private school without remodeling the private school facility.
4. The district must remove equipment and supplies from a private school if:
 - a. the equipment and supplies are no longer needed; or
 - b. removal is necessary to avoid unauthorized use of the equipment and supplies.

Transportation Services

If a child with a disability attends a nonpublic school located within the district, the district must provide necessary transportation for the child between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a child with a disability attends a nonpublic school located in another district and if no agreement exists for providing special instruction and services on a shared time basis to that child by the district, the district will provide necessary transportation for that child between the boundary of the district and the educational facility. The district will provide necessary transportation for the child between its boundary and the nonpublic school attended, **but the nonpublic school must pay the cost of transportation provided outside the district boundary.** (See [Procedures for the Transportation of Students with Disabilities](#) in chapter 11).

District Initiated Placement in a Private School or Facility

Prior to Placement in a Private School or Facility

Before the district places a child with a disability in, or refers a child to a private school or facility, the district will initiate and conduct a meeting to develop an IEP for the child. The district will ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

Once Placed in a Private School or Facility: Provision of Services

Districts will ensure that a child with a disability who is placed in or referred to a private school or facility by the district:

- Is provided special education and related services;
- At no cost to the parents; and
- Has all of the rights of a child with a disability who is served by the district.

Meetings to Review and Revise IEPs

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the district. If the private school or facility initiates and conducts these meetings, the district will ensure that the parents and district representative –

- Are involved in any decision about the child's IEP;

- Agree to any proposed changes in the IEP before those changes are implemented; and
- Even if a private school or facility implements a child’s IEP, responsibility for compliance remains with the district.

Providing Special Education to Shared-Time Students

Public school programs that provide instruction in core curriculum may be provided to shared time students only at a public school building. Public school programs, excluding programs that provide instruction in core curriculum, may be provided to shared time students at a public school building, a neutral site, the nonpublic school, or any other suitable location. Guidance and counseling and diagnostic and health services may be provided at a nonpublic school building. “Diagnostic services” means speech, hearing, vision, psychological, medical and dental diagnostic services and “health services” means physician, nursing or optometric services provided to students in the field of physical and mental health.

For those children with a disability who attend nonpublic school at their parent’s choice, a school district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school. The school district shall determine the location at which to provide services on a student-by-student basis.

Students Enrolled Outside of the Resident District

The resident district is responsible for the student's initial evaluation, initial IEP, due process procedures, and initial placement regardless of whether the placement is within the district or outside the district, unless the student is placed for care and treatment or through one of the education choice options.

If the IEP team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the student including needs, goals, objectives, services, and placement of the student.

Purchased Services

The district shall not purchase special educational services for a student from a public or private agency when the service is available or can be made available and can be more appropriately provided as the least restricting alternative within the district. Whenever it is appropriate for a district to purchase special education services for students with disabilities and who reside in the district, it continues to be the responsibility of the school district to assure and ascertain that such students and youth receive the education and related services and rights to which they are entitled.

Educational and Financial Responsibilities of the Resident District

Development of an Appropriate Program

The district of residence is responsible for assuring that an appropriate program is provided for all eligible students placed by the district's team within the district or in an out-of-district placement regardless of the method or location of instruction used.

The resident district is responsible for the student's initial evaluation, initial IEP, due process procedures, and initial placement regardless of whether the placement is within the district or outside the district, unless the student is placed for care and treatment or through one of the education choice options.

If the IEP team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the student including the needs, goals, objectives, services, and placement of the student.

If the district places a student in an out-of-district placement, the district is still responsible to assure that an appropriate IEP is developed, that the student is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed.

The district is responsible for resolving disagreements between the student's parents and district, including conciliation and due process hearings when the placement has been made by the district. If the providing district, agency, or academy receives a request for a conciliation conference, mediation, or due process hearing from the parent, the providing district, agency, or academy must notify the resident district of the parent's request within one school day.

Minnesota Requirements Regarding Nonpublic Schools

State Law Exceeds Federal Requirements

Minnesota law exceeds federal requirements for services to a student with a disability who is placed by parents in a nonpublic school.

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. Minn.Stat. § 125A.18

In short, Minnesota state law obligates school districts to stand ready to serve students enrolled in nonpublic schools. Districts must identify students who are potentially eligible for special education services, and, once identified, offer parents a plan for services.

District Obligations for Child Find

Both Districts A and B have child find requirements for students placed in nonpublic schools. Child find activities may be general (i.e., annual letter to nonpublic schools) or specific (individualized evaluation). Districts are responsible to “locate, identify, and evaluate all nonpublic school children with disabilities” in its boundaries, including those who are residents of District A attending a nonpublic school in District B.

Concurrent Obligation to Propose a Plan for Services

Districts have service obligations for students enrolled in nonpublic schools in its boundaries. Since nonpublic school enrollment is governed by state law as an “education choice” exercised by parents, the standard in Minn. R. 3525.0800:

Students placed through education choice options. When a student is placed outside of the district residence by the parent or student for the purpose of education and in accordance with a statutory education choice enrollment act, the resident district shall be responsible for assuming the cost of the education program when notified in accordance with Minnesota Statutes. The providing district shall be responsible for assuring that an appropriate program is available for the student including the notice and hearing provisions. Responsibility for transportation costs between the student’s home and the providing school district shall be determined in accordance with Minnesota Statutes.

A common use term applied to the district in these circumstances is the “responsible district,” while the resident district retains its obligation to pay excess program costs billed back by the serving district. The serving district is required to conduct evaluations, propose a plan for services to eligible students, and provide services agreed upon through the Individual Services Plan (ISP) process.

School District Determines Site for Services

In Minnesota, the school district has the right to determine the location of services for students enrolled in nonpublic schools.

For those children with a disability who attend nonpublic school at their parent’s choice, a school district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school. The school district shall determine the location at which to provide services on a student-by-student basis, consistent with federal law.

This provision in state law means that the responsible district determines whether the service location will be in a public school, the nonpublic school, or some other neutral site.

Guidelines Regarding Location of Services for Students Attending Nonpublic Schools (Shared-Timed Students)

Districts must identify students who are disabled who attend nonpublic schools (sectarian, nonsectarian, home school) who have been placed in those schools by their parents or guardians. Further, districts must make special education services available to those identified students. Public school districts are obligated to propose a plan of services to students with disabilities who are enrolled in private schools. In providing these services, the HVED will propose the location for services on a case by case basis. State law requires school districts to determine the location where services will be made available. The districts' prerogative over location applies to all services, including those that are not severable from the child such as a paraprofessional, sign language interpreter, or assistive devices.

In making decisions regarding location of services to students attending nonpublic schools, district teams will consider the following:

- Coordination of program needs
- Scheduling to maximize educational benefit afforded all students
- Control and quality of staff
- Supervision and screening of staff
- Need to teach developmental skills in integrated manner
- Use of limited resources to maximize benefit and coordinate services to the critical mass of students

Due Process Hearings Limited to Child Find and Identification Issues

Federal regulation stipulates that parents of students enrolled in nonpublic schools may seek a due process hearing if they feel that the responsible school district has failed to meet its obligations for [only] child find or evaluation. Under state law, the school district responsible for a hearing over these issues is the one in which the student's nonpublic school is located.

In Certain Situations Parents May Use Hearing System to Seek Reimbursement for Nonpublic School Placement

A separate federal regulation provides an exception to the limits cited above. Disagreements over the availability of an appropriate program by the public school district, and the question of financial responsibility if the student is subsequently enrolled in a nonpublic school, may be brought to hearing by parents. This regulation poses several conditions by which parents may be reimbursed, including a history of previous special education service and a showing that the student did not receive FAPE in a timely manner. This regulation does not allow open access to the hearing system for any FAPE or placement issue outside of the parameters listed in federal law.

A hearing brought under this standard would involve the school district responsible for the student's IEP prior to parent placement in the nonpublic school.

Districts Can Take Nonpublic Schools to Hearing

State law was amended in 1999 to allow that "...Parties serving students on a shared time basis have access to the due process hearing system described in federal and state law. The reference to "parties serving students" in state law is not specific enough to override federal limits on access to the hearing system by parents of nonpublic students. Rather, this Minnesota law provided recourse for school districts when FAPE is impeded by the nonpublic school or its staff, and correspondingly extended the Commissioner's authority to withhold public

funds from the nonpublic school. Without this legislation, school districts were potentially vulnerable since neither the parent nor public school could previously take action against the nonpublic school at fault.

Any Parent Can Use Complaint System for Any “Hearable” Matter

Parents have the option of using the complaint system under IDEA for any matter that can be brought to hearing. This option includes parents of nonpublic school students. The MDE web site at <http://education.state.mn.us> contains information on how to utilize this complaint system.

MDE Does Not Determine Preliminary Jurisdiction of a Hearing Officer

If a parent of a nonpublic student seeks a hearing under IDEA, MDE does not examine the issues or determine whether the parent has hearing rights under the conditions cited. MDE will continue to appoint an Independent Hearing Officer (IHO) upon request. The question of jurisdiction is left to the IHO’s determination.

Placements in Minnesota State Academies

There are two kinds of student admission to the Minnesota State Academies:

1. A student who is deaf, hard of hearing, or blind-deaf, may be admitted to the academy for the deaf. A student who is blind or visually impaired, blind-deaf, or multiply impaired may be admitted to the academy for the blind. For a student to be admitted, two decisions must be made:
 - a. It must be decided by the individual education planning team that education in regular or special education classes in the student's district of residence cannot be achieved satisfactorily because of the nature and severity of the deafness or blindness or visual impairment respectively.
 - b. It must be decided by the individual education planning team that the academy provides the most appropriate placement within the least restrictive alternative for the student.
2. A deaf or hard of hearing child or a visually impaired student may be admitted to get socialization skills or on a short-term basis for skills development.

Care and Treatment in Public or Private Placement

Definition of Care and Treatment Placement

Students placed in the following public or private facilities are considered to be placed for care and treatment:

- group foster home, Department of Corrections;
- secure juvenile detention facilities, Department of Corrections;
- juvenile residential facilities, Department of Corrections;
- temporary holdover – eight day, Department of Corrections;
- group homes, Department of Corrections;
- residential academies, Department of Human Services;
- transitional programs, Department of Human Services;
- shelter care, Department of Human Services and Department of Corrections;
- shelter for homeless, Department of Human Services
- adult facilities that admit persons under the age of 22; and
- residential treatment programs.

Students with disabilities and regular education students placed in the following facilities by someone other than the district are considered to be placed for care and treatment:

- chemical dependency and other substance abuse treatment centers;
- shelter care facilities;
- home, due to accident or illness;
- hospitals;
- day treatment centers;
- correctional facilities;
- residential treatment centers; and
- mental health programs.

Students Unable to Attend School but Placed in Care and Treatment Facilities

Education services must be provided by the care and treatment placement to a student beginning within three business days after the student enters the care and treatment facility. The first four days of the student's placement may be used to screen the student for educational safety issues.

If the student does not meet the eligibility criteria for special education, regular education services must be provided to that student.

The district in which the facility is located must provide regular education, special education, or both, to a student with a disability or regular education student in kindergarten through grade 12 placed in a facility or in the student's home for care and treatment. Education services must be provided to a student who is:

- prevented from attending the normal school site for 15 consecutive school; or
 - prevented from attending the normal school site for 15 consecutive school days according to the placing authority, such as a medical doctor, psychologist, psychiatrist, judge, or other court-appointed authority;
- or

- health-impaired and in need of special education and predicted by the team to be absent from the normal school site for 15 intermittent days.

A student will begin receiving instruction as soon as practicable under treatment conditions.

Special education services will be provided as required by a student's IEP, and to the extent that treatment considerations allow the student to participate. Number of school days for determining due process procedures shall begin upon enrollment in an education program. Placement for care and treatment does not of itself require special education placement.

Provisions of Education for Short-Term Placement

When a student is placed in a care and treatment facility that has an on-site education program, the providing district, upon notice from the care and treatment facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education plan (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The districts will send a facsimile copy to the providing district within two business days of receiving the request.

A placement for care and treatment is a short-term placement if the anticipated duration of the placement is **less than 31 school days**. The providing school district must begin instruction to the student immediately after the student is enrolled in the education program. If the student is enrolled in the educational program without an educational record, or IEP, the providing district should make immediate phone contact with the resident school to see if the student has been identified as disabled.

When the Student has an Identified Disability and an IEP

If the student placed for care and treatment has been identified as having a disability and has an individual education plan in a RRSEC district:

1. The providing district must conduct an individualized education plan meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education plan goals and objectives and to determine if additional evaluations are necessary; and
2. At the least, the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education plan meeting:
 - a. the person or agency placing the student;
 - b. a representative from the resident district;
 - c. the appropriate teachers and related services staff from the providing district;
 - d. appropriate staff from the care and treatment facility;
 - e. the parents or legal guardians of the student; and
 - f. when appropriate, the student.

When a Disability Has Not Been Identified

For a student who has not been identified as a student with a disability a screening must be conducted by the providing district as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

If a regular education student has not been identified as disabled or if the providing district cannot determine if a student has been identified as disabled:

1. Regular education instruction must begin immediately upon enrollment in the education program.
2. A screening must be conducted by education staff to determine the student's academic, social, and behavior needs.
3. Based on the documented results of the screening, a decision must be made about the need for pre-referral interventions or an appropriate special education evaluation. It is not required that an appropriate evaluation be started unless it appears that it can be completed.
4. During the student's placement, regular education instruction must be provided.

Provisions of Education for Long-Term Placements

When a student is placed in a care and treatment facility that has an on-site education program, the providing district, upon notice from the care and treatment facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education plan (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

A placement made for care and treatment is long term if it is anticipated to **extend beyond 30 school days**. The student must receive educational services immediately upon enrollment in the education program:

1. When the student has an identified disability and an IEP. If the student placed for care and treatment has been identified as having a disability and has an individual education plan in the resident district:
 - a. the providing district must conduct an individualized education plan meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education plan goals and objectives and to determine if additional evaluations are necessary; and
 - b. at the least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education plan meeting:
 1. the person or agency placing the student;
 2. a representative from the resident district;
 3. the appropriate teachers and related services staff from the providing district;
 4. appropriate staff from the care and treatment facility;
 5. the parents or legal guardians of the student; and
 6. when appropriate, the student.
2. When a disability has not been identified. For a student who has not been identified as a student with a disability a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

Financial Responsibilities for Care and Treatment

If a HVED district places a student for care and treatment, the HVED district will be responsible for providing and paying for an appropriate education program, either directly or through tuition agreement.

When a student is temporarily placed for care and treatment in a day program located in another district and the student continues to live within the district during the care and treatment, the HVED district of residence is responsible for providing transportation to and from the care and treatment program. Transportation will only be provided during regular operating hours of the district.

When a student is temporarily placed in a residential program for care and treatment, the nonresident district in which the student placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program. However, the board, lodging, and treatment costs incurred on behalf of a child with a disability placed outside of the school district of residence for reasons other than providing for the child's special educational needs, will not become the responsibility of either the district providing the instruction or the district of the child's residence.

When the student is placed in a residential facility or foster care by someone other than the resident district, the district in which the facility is located is responsible for providing an appropriate education program. The resident district is responsible for assuming the cost of the educational program.

When the student is placed in a day treatment program by an agency other than the resident district, the resident district is responsible for determining the location of the special education services. The resident district shall be responsible for ensuring that an appropriate program is provided including all costs for the education program and any due process proceedings regardless of the method or locations of services selected.

Minimum Service Requirements When Placed for Care and Treatment

At a minimum, the district where care and treatment is provided is responsible for:

1. the education necessary for a student who is not performing at grade level as indicated in the education record or IEP; and
2. a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

The team must predict how long the student must be placed for care and treatment. If the prediction is for a restricted period of more than 170 days or its equivalent, the district shall make available:

1. the instruction necessary for the student to make progress in the appropriate grade level for the successful completion of the courses, programs, or classes the student would have been enrolled in if the student were not placed for care and treatment;
2. preferably a normal school day in accordance with the student's IEP;
3. an average of at least two hours a day of one-to-one instruction; or
4. a minimum of individualized instruction for one-half of the normal school day if it is justified in the student's IEP that none of these options are appropriate.

If the predicted restricted period is fewer than 171 school days, the district shall make available at a minimum either small group instruction for one-half of the normal school day or at least an average of one hour a day of one-to-one instruction.

Documentation

- Interagency Agreements with Houston, Fillmore, Winona, and Wabasha
- Documentation of Necessary Teacher Licenses (filed in individual districts)
- District Policy on Access to Educational Programs and Services (filed in individual districts)
- Guidelines on Alteration of Student’s School Day
- Notification of Intent to Offer Extended School Year (ESY)
- Extended School Year (ESY) Services Guidelines and Procedures
- Extended School Year (ESY) Determination Checklist
- Example: Extended School Year (ESY) Determination
- Extended School Year (ESY) Discussion Process and Checklist (Optional)
- Extended School Year (ESY) Data Collection Tool
- Extended School Year (ESY) Time Allotment
- Delivery Models for Extended School Year (ESY) Services
- Extended School Year (ESY) in ECSE
- Procedures for Determining Teacher Workload and Staffing Needs
- Workload Analysis
- Sample Letter Regarding Withdrawal from Public School
- Sample Memo: Parents of Children Who Attend Private Schools or are Educated at Home
- Referral Procedures for Nonpublic Special Education Evaluations
- Nonpublic School Parent Referral Form
- Newspaper Article: Special Education Evaluations for Home-Schooled or Private-Schooled Students
- Sample Memo: Administrators of Nonpublic Schools
- Affirmation of Timely and Meaningful Consultation
- Guidelines: Rational for Related Services
- Related Services Role Descriptions
- Special Education Due Process Log
- Record of Inspection and Index of Due Process Forms
- Special Education File Monitoring Review Form
- Procedures for the Transportation of Student with Disabilities
- Recommendations and Requirements Under State and Federal Laws Regulations/Rules for Suspensions/Removals of Students with Disabilities
- When to Hold Manifestation Determination Meetings
- Medical Assistance Third Party Payment Program
- Methods of Ensuring Services: Public and Private Insurance

Guidelines on Alteration of Student's School Day

The Child Study Team, in preparing a student's IEP, may alter a student's day, if needed. The student's day should not be shortened because of administrative convenience (e.g., buses are needed to transport another building's students, the teacher has a shortened contract). An alteration in a student's school day should be based on the student's needs (e.g., student's health does not allow the student to be alert for full school day, the student is only able to tolerate a certain number of hours per day, parents have requested a shortened day).

Notification of Intent to Offer Extended School Year (ESY) Services

TO: Superintendent

 ISD# _____

FROM: Amy Adams, Director of Special Education

DATE: March

RE: Notification of Intent to Offer Extended School Year Services

In accordance with Minnesota statutes, the Hiawatha Valley Education District and its member districts: Bluffview Montessori #4001, Caledonia #299, Chatfield #227, Dakato Area Community School #4123, Dover-Eyota #533, Houston #294, LaCrescent-Hokah #300, LaCrescent Montessori #4054, Lake City #813, Lanesboro #229, Lewiston-Altura #857, Mabel-Canton #238, Plainview-Elgin-Millville #2899, Ridgeway Community School #4083, Rushford-Peterson #239, Spring Grove #297, St. Charles #858, Wabasha-Kellogg #811, Winona #861, are hereby notifying your district of its resident students for whom the District and/or its member district (specified below) intends to provide extended school year (ESY) services or summer school (if part of the placement).

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

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

Student Name			MARSS #	Primary Disability	Age	DOB	District #	Serving District	Program Name
Last	First	Middle Initial							

Extended School Year (ESY) Services Guidelines and Procedures

Rationale and Law

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

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

As a result of Minnesota Rule 3525.0210, Hiawatha Valley Education District sets forth the following guidelines and procedures.

Development and Content of the Individual Education Program Plan

Consider an extended school year program when it is determined:

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

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

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

Extended School Year	Special education services that are continued beyond the traditional school year.
Regression	A significant decline in the performance of a skill or acquired knowledge specified in the annual goals as stated in the IEP that occurs because of an extended break in educational programming.
Recoupment	The ability of a student to regain skills or acquired knowledge to approximately the same level of performance just prior to a break in instruction.
Self-Sufficiency	Students attain self-sufficiency through the maintenance of functional skills addressed on IEP.
Critical Goals	The goal(s) selected by the IEP team that represent areas of learning critical to the child in attaining an appropriate education.
General Outcome Measurement	Measurement of the student's performance on long-term goals.
FAPE	Free Appropriate Public Education – as measured by "Rowley Standard." Was benefit conferred?

Key Concepts:

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

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

Determining the Need for ESY Services

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

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

Making Decisions Based on Data

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

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

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

- Review of the achieved IEP goals and objectives;
- Observations and data from teachers, therapists, parents, and others having direct contact with the student before and after breaks in educational programming;
- Data and observations regarding the student's performance after long weekend, vacations, and past summer breaks;
- Assessment of information maintained on the student, including pretest and post-test data;
- Performance-based testing including pretest and post-test data;
- Other relevant factors

Documentation of ESY Decisions: ESY Form

When preparing to address ESY decisions at IEP meetings, it is important for case managers and service providers to **prepare in advance the data needed to make such a decision**. When documenting the need to provide or not provide ESY services, consider the following actions:

1. Document the child's mastery of IEP goals and objectives many times during the school year. Record objectives mastered and the level of achievement for each goal on the IEP.
2. Depending on the student's areas of service, it is helpful to collect additional data to provide the IEP team with enough information to make a decision. Ideally, these skills could be written as instructional

objectives in the child's IEP. In each of the critical goal areas, consider data collection in the following areas:

- a. **Academics of reading, writing, and math:** Document performance on reading and writing fluency and accuracy, and math facts accuracy; etc.
 - b. **Behavior:** Document performance in the following areas: time on-task, physical contact, out of place, noise; etc.
 - c. **Communication—speech and socialization skills:** Document performance on speech sounds, fluency, and articulation; etc.
 - d. **Self-sufficiency:** Identify self-sufficiency concerns in areas of:
 1. basic self-help, including toileting, eating, feeding, and dressing;
 2. muscular control;
 3. physical mobility;
 4. impulse control;
 5. personal hygiene;
 6. development of stable relationships with peers and adults;
 7. basic communication; and
 8. functional academic competence, including basic reading and writing skills, concepts of time and money, or numerical and temporal relationships.
 - e. Document performance areas which are significant for the child and also consider the reasonableness of that goal area for that student. For instance, if the student has had the same goal for over a year, is it a reasonable goal for that student?
3. Document the length of time required by the child to regain previously mastered skills following any significant periods of absence from school, such as: after a long illness, winter vacation, summer vacation, or other school holidays. It is highly recommended to follow the timelines below when collecting data measuring the student's performance on goals and objectives for ESY decisions. The most valid ESY decisions are made when data is compiled from each of the following time periods:
- a. Data taken late in May before summer vacation. This information is very helpful in making ESY decisions for the following school year.
 - b. Data taken during the first two weeks after school resumes in September.
 - c. Data taken six-eight weeks after school resumes, usually in mid-October or early November.
 - d. Data taken pre and post school breaks.
4. Compare the level of achievement the child had reached when the school ended the previous school year to the level of achievement the child had reached within six to eight weeks after the new school year has begun.
5. If, in the 6-8 week after school resumes, the child has not regained the level of performance that he/she had attained at the end of the previous school year, the child should be considered as a candidate for extended school year services.
6. Compare the pre and post school year break data to determine if the child regressed and if he/she was able to recoup the loss of skill within a time that was commensurate with the length of the break.

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

How does the IEP/IFSP team determine eligibility for students

1. **IEP/IFSP team must review the goals and objectives and discuss the performance levels from the following times within the school year:**
 - Data collected several weeks before the summer vacation in May.
 - Data collected during the first two weeks after school resumes in the fall.
 - Data collected six to eight weeks after school resumes, usually in October.
 - Data collected pre and post breaks (MEA, Winter Break, Spring Break).
2. **Compare the levels from data taken in May to the data taken in October and/or compare data taken pre and post breaks that occur during the school year.**
3. **Document the data using the ESY Data Collection Tool and ESY Determination Checklist.**
 - If a student qualifies for services, attach these forms to the student's IEP/IFSP/IIIP.
 - If a student doesn't qualify, document the team's decision.

REMEMBER:

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

The Hiawatha Valley Education District will use one or more of the following models in providing ESY services in the following critical goal areas:

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

Extended school year decisions should be made at the IEP team meeting using the data collected throughout the school year. Complete the [Extended School Year Determination Checklist](#) at the child study team meeting.

Extended School Year (ESY) Determination Checklist

Student Name: _____ ID: _____ Date: _____

School: _____ Grade: _____ DOB: _____

Extended School Year Determination

School districts are required to provide extended school year (ESY) services to a student if the IEP Team determines the services are necessary during a break in instruction in order to provide a free appropriate public education. In making its determination, the IEP team must consider the following factors:

- Student’s progress and maintenance of skills during the regular school year;
- Student’s degree of impairment;
- Student’s rate of progress;
- Student’s behavior or physical problems;
- Availability of alternative resources;
- Student’s ability and need to interact with nondisabled peers;
- Areas of the student’s curriculum that need continuous attention; and/or
- Student’s vocational needs.

A. **Regression/Recoupment:** There will be significant regression of a skill or acquired knowledge from the student’s level of performance on an annual goal that requires more than the length of the break in instruction to recoup – unless the IEP team determines a shorter time for recoupment is more appropriate. [Supported by ongoing data collection, test scores (pre/post break), progress reports, grades, observations, etc.]

yes no The student exhibited significant regression during a prior summer break that required more than the length of the break to recoup.

yes no There are current predictors of significant regression (during short break in instruction, such as winter or spring breaks) that required more than the length of the break to recoup.

B. **Self-sufficiency:** The student, who is in a functional curriculum, has the following functional skills identified as goals in their current IEP: (check all that apply)

Basic communication Impulse control Muscular control

Personal hygiene Physical mobility

Basic self-help, including toileting, eating, feeding and dressing

Development of stable relationships with peers and adults

Functional academic competency, including basic reading, writing, concepts of time and money, and numerical or temporal relationships

yes no Taking into consideration the student’s age, level of development, the nature and degree of the disability, the timeliness for teaching the skill, and the critical nature of the functional skill(s) identified above, the longitudinal data (i.e., ongoing data collection, test scores, progress reports, observations, etc.) indicates the student is not making reasonable progress toward self-sufficiency as identified in one or more goals from their current IEP.

C. Student’s Unique Need

yes no Given the student’s unique need(s), the team determines ESY services are necessary to insure the student receives a free appropriate public education. [Attach documentation of student’s unique need and explanation why ESY services are necessary].

D. ESY Determination

yes no The IEP team has determined the student is eligible for Extended School Year services by answering yes to the questions in items A, B, or C.

For students who are eligible for ESY services, identify the IEP goal(s) to be worked on during the break in instruction and determine the amount of time (i.e., number of sessions and length of each session) necessary to maintain the skill or address the self-sufficiency concern.

IEP Goal	Number of Sessions	Session Length

Example: Extended School Year Service Determination

Student Name: _____ ID: _____ Date: _____

School: _____ Grade: _____ DOB: _____

School districts are required to provide extended school year (ESY) services to a student if the IEP team determines the services are necessary during a break in instruction in order to provide a free appropriate public education. **Subpart 1.** At least annually, the IEP team must determine a student is in need of ESY services if the student meets the conditions of item A, B, or C. **Subpart 3.** (Check all that apply)

- A. There will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate.

- B. Services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill.

- C. The IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education.

Team Member Signatures

_____	_____
_____	_____
_____	_____
_____	_____

Extended School Year (ESY) Discussion Process and Checklist (Optional)

	✓ Check
Critical goal areas need to be identified. Goal areas identified should be those skill areas determined to be “life skills” the student will need to become independent or self-sufficient.	
Review the student’s data taken in spring, again in fall, and throughout the school year (for regression and recoupment).	
Use program data to discuss whether student has maintained or increased skills during ESY programming.	
Team must use data to determine amount of time needed to maintain (e.g., how often, how much, how long), critical skills, not increase skills (e.g., if student presently receives a social skills program 5 days a week for 30 minutes, how much time would be required for maintenance only?).	
If student data supports need for ESY Program:	
Discuss all possible program options for program (e.g., center-based, home-based, work packets with consultation from teacher, direct teacher instruction, Community Education classes, etc.).	
Use Extended School Year (ESY) Determination to document the Team’s decision.	
Complete the ESY Time Allotment Sheet to determine the time required per goal, as well as to assist the district in planning for ESY services.	

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

For Students Who Are Not Residents Of The District

MN Statute requires districts providing services to non-resident students to notify the district of residence of its intent to provide extended school year services. A **Notification of Intent to Offer Extended School Year Services** must be sent by March 31 of the year in which the services are to be provided. If the non-resident student begins receiving services after March 31, the **Notification of Intent to Offer Extended School Year Services** must be sent within 30 school days.

Extended School Year (ESY) Data Collection Tool (Optional)

Student Name: _____ Grade: _____ School: _____

Disability: _____ Previously received ESY services: Yes No

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

Pre Break Assessment Date _____	Post Break Assessment Date _____
Pre Break Functioning Level	Post Break Functioning Level
Critical Goal #1	
Critical Goal #2	
Critical Goal #3	
Pre Break Assessment Date _____	Post Break Assessment Date _____
Pre Break Functioning Level	Post Break Functioning Level
Critical Goal #1	
Critical Goal #2	
Critical Goal #3	
Pre Break Assessment Date _____	Post Break Assessment Date _____
Pre Break Functioning Level	Post Break Functioning Level
Critical Goal #1	
Critical Goal #2	

Critical Goal #3	

Extended School Year (ESY) Time Allotment Optional

Student: _____ Building: _____

Case Manager: _____ Grade: _____

Critical Goal Area(s)	Activities to Meet Goals	Regular School Year Time Allotted	Estimated Amount of Time Required for Maintenance	How Will Data Be Collected

Delivery Models for Extended School Year (ESY) Services

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

School Based Services

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

Skill Maintenance Activities

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

Skill Maintenance Packets/Kits

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

Licensed Staff Telephone Consultation

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

Licensed Staff In-Person Consultation

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

Extended School Year (ESY) in ECSE

It is not necessary to address extended school year (ESY) for children ages birth to 3 years. These children are entitled to year round services under Part C legislation.

For children ages 3 and older, extended school year services should be provided when children:

- experience significant regression in the absence of ECSE services; and
- the time required to relearn the skill lost is excessive; or
- the effects of the breaks in programming are such to prevent the student from attaining self-sufficiency the student would otherwise reasonably be expected to reach.

To document the need or lack of need for ESY, complete the Extended School Year Determination Checklist.

In addition, be sure to check the appropriate box on the *Age 3 and Older* page of the IFSP.

Hiawatha Valley Education Districts' Guidelines for Developmental Delay

It is the practice of all HVED Districts (Bluffview Montessori #4001, Caledonia #299, Chatfield #227, Dakato Area Community School #4123, Dover-Eyota #533, Houston #294, LaCrescent-Hokah #300, LaCrescent Montessori #4054, Lake City #813, Lanesboro #229, Lewiston-Altura #857, Mabel-Canton #238, Plainview-Elgin-Millville #2899, Ridgeway Community School #4083, Rushford-Peterson #239, Spring Grove #297, St. Charles #858, Wabasha-Kellogg #811, Winona #861) that every child ages three to seven who has a substantial delay or has an identifiable physical or mental condition known to hinder normal development as defined by the standards of the state board shall continue to be a child with a disability and shall receive appropriate special education and related services.

Procedures for Determining Teacher Workload and Staffing Needs

HVED uses the workload analysis model to determine the staffing levels needed to provide a Free and Appropriate Public Education (FAPE) to students with disabilities and increase the retention of special education teachers by evaluating their work environment.

Since the number of students for whom a special education teacher manages IEPs does not provide a true picture of workload (intensity of the work), the workload analysis model is used to determine the reasonableness of a teacher's workload. There are fundamental assumptions regarding reasonableness that requires time for the following functions: duty free lunch, evaluations, due process paperwork, and meetings. The workload model incorporates these functions.

Components of the Workload Analysis Model

The basic model is:

$$\text{Contact minutes} + \text{Minutes} + \text{IEPs Managed} = \text{Workload}$$

Rather than recommend a maximum caseload based on the student's disability, number of IEPs managed, or levels of service, the *workload analysis model* is based on the severity of student need or the time required to meet the identified needs of the students related to his or her disability. This kind of analysis will allow a district to plan accordingly. It is essential that any method for determining workload be responsive to the circumstances of individual special education teachers and the students with IEPs for whom the teacher is responsible. In so doing, this model is responsive to the needs of school district and to individual special education teachers.

An effective *workload analysis model* identifies excessive workload when it occurs. The approach described below provides a model for workload analysis that contributes to an increased ability to meet the needs of students by special education teachers and will result in increased job satisfaction. The six quantifiable elements found in below are incorporated into the model for workload analysis.

The six elements are:

- Specially Designed Instruction
- Evaluations and Re-Evaluations
- Due Process Procedures and IEP Management Responsibilities
- Preparation Time
- Directing the Work of Paraprofessionals
- Other Assignments

A district's target range of 12-16 for elementary age students, for example, would remain the same in this model. However, target ranges need to be thought of as workload rather than caseload ranges. That is, the number of students served by will not necessarily match the number in the range. The number resulting from use of the model represents the teacher's workload. That number should fall into the target range.

Sample Letter Regarding Withdrawal From Public School

Student's Full Name: _____ Birthdate: _____

School: _____ Date: _____

Dear,

Since you have chosen to withdraw your child with a disability from public school, I am writing to inform you of your rights under Minnesota Statute 123B.41

If you have chosen a private school option (includes home school) in lieu of public school, Minnesota school districts are required to provide direct and/or indirect special education services to students with disabilities whose parents have chosen a private school option.

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

Sincerely,

Case Manager

Enclosure: Parent Rights and Procedural Safeguards

Sample Memo: Parents of Children Who Attend Private Schools or are Educated at Home

Memo

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

From: Amy Adams, Director of Special Education for the Hiawatha Valley Education District

Re: Identification of Students with Disabilities

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

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

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

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

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

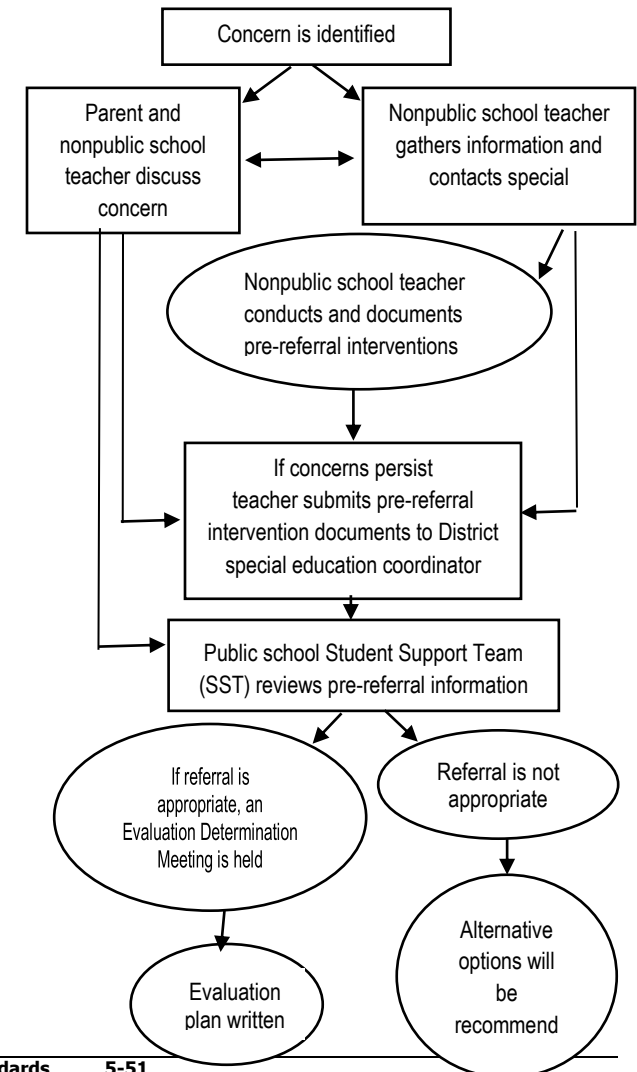
Referral Procedures for Nonpublic Special Education Evaluations

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

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

process used if a parent or teacher suspects that a student between the ages of 5 and 21 may have a disability and needs special education and related services.

Child Find Process



The purpose of this brochure is to outline the initial referral



Referral Process

- Parent or nonpublic school teacher identifies a concern with the student's academic performance, communication, health/physical status, social/emotional or behavioral skills, motor skills, or functional skills.
- Parent and nonpublic school teacher discuss concern.
- Nonpublic school teacher gathers information on student performance.
- Nonpublic school teacher conducts and documents pre-referral interventions.
- If concerns persist and performance is discrepant from classmates/norms, teacher submits pre-referral interventions and information to the special education coordinator assigned to the district (see back of brochure) in which the nonpublic school is located to initiate referral.
- The public school Student Support Team (SST) reviews pre-referral

information and interventions and will contact parent, teacher, and/or principal for additional information or consultation.

- The SST determines whether pre-referral information is adequate. If not, the information is returned to the referring party for completion. The SST determines if an evaluation is needed.
- If evaluation is needed, an evaluation determination meeting is held and an evaluation plan is completed. The plan is shared with parents for their written consent.
- If the referral is inappropriate, alternative options for action will be recommended.

For additional information:

Special Education Director Contact:

Glenn Haupt, 507-452-1200

Newspaper Article: Special Education Evaluations for Home-Schooled or Private-School Students

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

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

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

If you have questions or would like to receive information about specific disabilities or evaluation, please contact the principal of the school building your child would be attending if he/she was enrolled in public school. Your school district is committed to success for all learners.

Sample Memo: Administrators of Nonpublic Schools in Wabasha and Winona Counties

Memo

To: Administrators of Nonpublic Schools in Wabasha and Winona Counties

From: Amy Adams, Director of Special Education

Re: Identification of Students with Disabilities

The newly reauthorized Individuals with Disabilities Education Improvement Act (IDEA) requires that public school districts consult with and provide certain information to the representatives of private schools and to the representatives of parents of parentally-placed private school students. Toward that end, the Hiawatha Valley Education District (Bluffview Montessori #4001, Caledonia #299, Chatfield #227, Dakota Area Community School #4123, Dover-Eyota #533, Houston #294, La Crescent-Hokah #300, La Crescent Montessori #4054, Lake City #813, Lanesboro #229, Lewiston-Altura #857, Mabel-Canton #238, Plainview-Elgin-Millville #2899, Ridgeway Community School #4083, Rushford-Peterson #239, Spring Grove #297, St. Charles #858, Wabasha-Kellogg #811, Winona #861) is providing you with this memorandum. Please post this memorandum in a prominent location in your schools so that parents may have access to this information as well. I have also enclosed a letter to parents of privately placed students. Please make copies and give these to the parents of your students along with a copy of the enclosed brochure. The brochure provides our child find process at a glance. It is also meant to be shared with parents.

If you would like to schedule a meeting with me and, if you choose, parent representatives to discuss the topics contained in this memorandum, please contact me at 507-452-1200. *If you are a private school representative and you do not desire to meet to engage in further consultation regarding the topics in this memorandum, please sign the attached form and return it to me at Hiawatha Valley Education District, 1410 Bundy Blvd., Winona, MN 55987, (507) 452-1200, at your earliest convenience.*

1. What is the child find process?

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

IDEA requires that all children with disabilities be reevaluated at least once every three years. Therefore, the school district must initiate a reevaluation of a private school child with a disability at least once every three years. If the district cannot complete the reevaluation because the child’s parents refuse to cooperate, the district is not required to take further action.

The requirement to reevaluate also includes private school children with disabilities who are not receiving special education and related services from the district. Such children need to be reevaluated to determine whether they continue to have a disability for the private school child count and funding purposes.

2. How can parentally-placed private school children suspected of having a disability participate equitably in the child find process?

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

How does the Hiawatha Valley Education District (Bluffview Montessori #4001, Caledonia #299, Chatfield #227, Dakato Area Community School #4123, Dover-Eyota #533, Houston #294, LaCrescent-Hokah #300, LaCrescent Montessori #4054, Lake City #813, Lanesboro #229, Lewiston-Altura #857, Mabel-Canton #238, Plainview-Elgin-Millville #2899, Ridgeway Community School #4083, Rushford-Peterson #239, Spring Grove #297, St. Charles #858, Wabasha-Kellogg #811, Winona #861) inform parents, teachers, and private school officials of the child find process?

In addition to disseminating this memorandum, once a year the district's Director of Special Education and/or a representative of the Director will meet with private school representatives to discuss the child find process. The district will provide a brochure that explains the child find process. Copies of the brochures will be provided to private school officials and will be available to parents, teachers, and private school officials.

3. What process will the school district use to consult with private school officials and parents of parentally placed children with disabilities and how will the process operate throughout the school year to ensure that parentally-placed private school children with disabilities who are identified through the child find process can meaningfully participate in special education?

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

Insert individual district contact information here:

4. Where, how, and by whom will special education and related services be provided to parentally-placed private school children with disabilities?

School districts are required to offer a free appropriate public education to children with disabilities who are enrolled in its public schools. Parents have the right to choose to send their child to a private school. However, no parentally placed private school child with a disability has an individual right to receive some or

all of the special education and related services that the child would receive if enrolled in a public school. Consequently, if parents choose to send their child to a private school, the child may receive no direct special education services from the school district or the services may be limited.

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

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

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

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

Example

Number of Private School Students with Disabilities		District’s Part B Allocation ÷ Child Count
		$10,000 \div 25 = \$400$
3	X	$\$400 = \1200

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

6. What types of services may be provided?

The special education services that the district provides to private school children with disabilities may include all types of direct and indirect services, including transportation services. Indirect services may include, but are not limited to, assisting with the professional development of private school teachers who work with children with disabilities and providing consultation to assist private school personnel in meeting the needs of children with disabilities.

Special education services, including student specific materials and equipment, must be secular, neutral, and non-ideological. The school district must control the funds used to provide special education services and have title to all materials, equipment, and property purchased with the funds. The district must administer

the funds and property and ensure they are used for the purpose of providing services to parentally placed private school children with disabilities.

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

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

Enclosures: Parent Letter

Brochure Pre-referral Procedures for Special Education Evaluations

Affirmation of Timely and Meaningful Consultation

Affirmation of Timely and Meaningful Consultation

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

- the child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- the determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities, including the determination of how the amount was calculated;
- the consultation process among the school district, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure parentally- placed private school children with disabilities identified through child find can meaningfully participate in special education and related services;
- how, where, and by whom special education services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms; and
- how, if the school district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through contract, the school district will provide private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

Name of Private School

Representative's Name (please print)

Date

Representative's Signature

Guidelines: Rationale for Related Services

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

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

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

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

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

1. Based upon initial evaluation data or information revealed in a periodic or annual review, the team raises the question as to whether or not meeting the goals agreed to, under the student's primary educational disability, require additional specialized help beyond the capabilities or resources of the student's special and regular education teachers.
2. A determination as to whether or not additional evaluation information is needed to make a determination of need. If additional information is determined to be necessary, specific details of what information is needed, who will collect the data or administer the tests, and when this will occur, should be specified.
3. Upon concluding the additional evaluation or if none was needed, the team determines if related services are needed in order to accomplish the specific goals previously established on the IEP relative to the educational disability. The team must document in the student's IEP the rationale or the "flow" between

the evaluation information, present level of performance, the statement of the child's needs, and the goals and objectives, and the need for the related services.

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

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

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

Justification for Related Services

For each related service, an explanation must be included why that service is necessary for the student to benefit from the educational program. M.R. 3525.1100.

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

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

What are Related Services?

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

IDEA lists the following examples of related services:

- the early identification and evaluation of disabling conditions in children;
- speech-language pathology and audiology services;
- psychological services;
- physical and occupational therapy;
- recreation, including therapeutic recreation;
- social work services;
- counseling services, including rehabilitation counseling; and

- medical services that are for diagnostic and evaluation purposes.

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

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

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

Student Support Assistant vs. Program Support Assistant

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

Reporting Related Services Time on the IEP/IFSP

In order to clearly communicate the level of commitment of resources to parents and other members of the IEP team, the amount and frequency of service to be provided by a given agency is stated on the IEP. The amount of time and frequency to be committed for each service should be appropriate to the student's needs.

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

If OT, PT, or orientation and mobility is determined to be a need for a student, the amount of time and type of service must be included on the IEP. Do not average monthly consultation time into minutes per week (e.g., two 30 minute consults per month does not equal 15 minutes/week). Put the actual time provided by listing 60 minutes/month.

Related Services Role Descriptions

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

Registered Occupational Therapist (OTR)

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

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

Certified Occupational Therapy Assistant (COTA)

Under the direction and supervision of a registered occupational therapist, the COTA participates in team evaluations and program planning. Direct service is provided in the following goal areas:

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

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

Registered Physical Therapist (PTR)

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

Developmental Adaptive Physical Education

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

Educational Audiologist

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

Speech and Language Pathologists

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

School Social Workers

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

School Psychologists

The school psychologist’s role is to assist staff in establishing and conducting mainstream intervention activities. Activities may include the following: review of student records, consultation with students, teachers and parents, assisting in the development and implementation of positive behavioral intervention strategies including functional behavioral assessments. For students birth-21, the school psychologist participates in evaluation and reevaluation activities to determine a student’s special education needs. Another function of the school psychologist is the availability to assist education staff in systems change, program development, and the coordination/communication of Hiawatha Valley Education District activities. The school psychologist is also

available to provide technical assistance to specialized teams (TAT, SAT and SST). This support may include developing individual student plans, goals and evaluation reports.

Special Education Due Process Log

Student's Name _____ DOB _____ Reevaluation Due Date _____

Address _____

Parent(s) _____ Phone _____

School Year _____ Grade _____	School Year _____ Grade _____	School Year _____ Grade _____
IEP Manager:	IEP Manager:	IEP Manager:
<i>Put date on line</i>	<i>Put date on line</i>	<i>Put date on line</i>
NOTICE OF A TEAM MEETING-EVAL DETERM.	NOTICE OF A TEAM MEETING (IEP)	NOTICE OF A TEAM MEETING (IEP)
<input type="checkbox"/> Call to set up meeting	<input type="checkbox"/> Call to set up meeting	<input type="checkbox"/> Call to set up meeting
<input type="checkbox"/> Sent Notice of a Team Meeting	<input type="checkbox"/> Sent Notice of a Team Meeting	<input type="checkbox"/> Sent Notice of a Team Meeting
<input type="checkbox"/> Reminder Call	<input type="checkbox"/> Reminder Call	<input type="checkbox"/> Reminder Call
NOTICE OF EDUCATIONAL EVALUATION/REVALUATION PLAN		
<input type="checkbox"/> 1 st Notice	<input type="checkbox"/> IEP Staffing	<input type="checkbox"/> IEP Staffing
<input type="checkbox"/> 2 nd Notice		
<input type="checkbox"/> Calls/Writes letter	<u>Parental Consent/Objection and Prior</u>	<u>Parental Consent/Objection and Prior</u>
<input type="checkbox"/> Date signed or date of last documented attempt (<i>initial evaluations require signature</i>)	<u>Written Notice Forms</u>	<u>Written Notice Forms</u>
<input type="checkbox"/> Date completed (<i>within 30 school days</i>)	<input type="checkbox"/> 1 st Forms Notice	<input type="checkbox"/> 1 st Forms Notice
<input type="checkbox"/> IEP Staffing	<input type="checkbox"/> 2 nd Forms Notice	<input type="checkbox"/> 2 nd Forms Notice
	<input type="checkbox"/> Call/Write letter	<input type="checkbox"/> Call/Write letter
	<input type="checkbox"/> Date signed or date of last documented attempt	<input type="checkbox"/> Date signed or date of last documented attempt
NOTICE OF A TEAM MEETING (EVALUATION REVIEW)		
<i>(could also include IEP meeting)</i>	<u>Progress Review</u>	<u>Progress Review</u>
<input type="checkbox"/> Call to set up meeting	<input type="checkbox"/> 1st quarter after IEP	<input type="checkbox"/> 1st quarter after IEP
<input type="checkbox"/> Sent Notice of a Team Meeting	<input type="checkbox"/> 2 nd quarter after IEP (<i>optional PR meeting</i>)	<input type="checkbox"/> 2 nd quarter after IEP (<i>optional RR meeting</i>)
<input type="checkbox"/> Reminder Call	<input type="checkbox"/> 3rd quarter after IEP	<input type="checkbox"/> 3rd quarter after IEP
	*If significant change in program or placement is proposed, hold Review.	*If significant change in program or placement is proposed, hold Review.
<u>Parental Consent/Objection and Prior Written Notice Forms</u>	<u>Notice of a Team Meeting</u>	<u>Notice of a Team Meeting</u>
<input type="checkbox"/> 1 st Forms Notice	<input type="checkbox"/> Call to set up meeting	<input type="checkbox"/> Call to set up meeting
<input type="checkbox"/> 2 nd Forms Notice	<input type="checkbox"/> Sent Notice of a Team Meeting	<input type="checkbox"/> Sent Notice of a Team Meeting
<input type="checkbox"/> Call/Write letter	<input type="checkbox"/> Reminder Call	<input type="checkbox"/> Reminder Call
<input type="checkbox"/> Date signed or date of last documented attempt (initial IEP requires signature)		
<u>Progress Review</u>	<u>Parental Consent/Objection and Prior Written Notice Forms</u>	<u>Parental Consent/Objection and Prior Written Notice Forms</u>
<input type="checkbox"/> 1st quarter after IEP	<input type="checkbox"/> 1 st Forms Notice	<input type="checkbox"/> 1 st Forms Notice
<input type="checkbox"/> 2 nd quarter after IEP (<i>optional PR meeting</i>)	<input type="checkbox"/> 2 nd Forms Notice	<input type="checkbox"/> 2 nd Forms Notice
<input type="checkbox"/> 3rd quarter after IEP	<input type="checkbox"/> Call/Write letter	<input type="checkbox"/> Call/Write letter
*If significant change in program or placement is proposed, hold Review.	<input type="checkbox"/> Date signed or date of last documented attempt (initial IEP requires signature)	<input type="checkbox"/> Date signed or date of last documented attempt (initial IEP requires signature)
<u>Notice of a Team Meeting (IEP)</u>	<u>Parental Consent/Objection and Prior Written Notice Forms</u>	
<input type="checkbox"/> Call to set up meeting	<input type="checkbox"/> 1 st Forms Notice	
<input type="checkbox"/> Sent Notice of a Team Meeting	<input type="checkbox"/> 2 nd Forms Notice	
<input type="checkbox"/> Reminder Call	<input type="checkbox"/> Call/Write letter	
	<input type="checkbox"/> Date signed or date of last documented attempt	
SUSPENSION DATES (SEE SUSPENSION CHECKLIST)		
<input type="checkbox"/> ISS or OSS	<input type="checkbox"/> ISS or OSS	<input type="checkbox"/> ISS or OSS
<input type="checkbox"/> ISS or OSS	<input type="checkbox"/> ISS or OSS	<input type="checkbox"/> ISS or OSS

ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS
ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS	ISS or OSS

Record of Inspection & Index of Due Process Forms

Public Schools

Person Reviewing File	Relationship To Student	Reason For Reviewing	Date

Section

- 1 Record of Inspection & Index of Due Process Forms
- 1 Regular Education Routing Slip
- 1 Transfer of Due Process File Between Case Managers' Checklist

-
- 2 Parental Consent/Objection and Prior Written Notice Forms
 - 2 Pre-referral Documentation (2 required)
 - 2 Referral Review & Evaluation Determination Plan
 - 2 Notice of an Educational Evaluation/Reevaluation Plan
 - 2 Notice of a Team Meeting
 - 2 Parents Rights and Procedures Relative to a Hearing
 - 2 Team Override
 - 2 Consent to Seek Reimbursement for Health Related IEP/IFSP/IIIP Services (or signed release of information)

-
- 3 IEP/IFSP/IIIP (including progress reports)
 - 3 Periodic Review (ECSE only)
 - 3 ESY Decision Form
 - 3 Manifestation Determination Meeting Form
 - 3 Restrictive Procedure Reporting Documentation Forms
 - 3 Follow-up Review

-
- 4 Evaluation Reports
 - 4 Psychological, Speech, and other Related Services Reports (OT, PT, DAPE)
 - 4 Observations and other Checklists
 - 4 Computerized Scored Reports: Cognitive & Achievement Tests
 - 4 Exit Summary Report
 - 4 Benchmarks (if your district uses them)
 - 4 ECSE Outcomes Summary Forms
 - 4 Family Outcomes Surveys

-
- 5 Pertinent Special Education Communications
 - 5 Communications To and From Parents
 - 5 Record Destruction Letter
 - 5 Home School Letter
 - 5 Notification of ESY Services To Resident Districts
 - 5 Prospective Surrogate Parent
 - 5 Notice of Transfer of Parent Rights

-
- 6 Outside Agency Evaluations and Reports From Hospitals - Mental Health Services - County Agencies
 - 6 Consent to Release Private Data

Special Education File Monitoring Review Form

IEP Manager: _____ Date: _____
 School: _____ Student Initials: _____ Grade: _____

MISCELLANEOUS ITEMS	Circle
• Does the file include an identifiable record of inspection ?	Yes No NA
• Does this file contain evidence of a transfer of due process file between case managers' checklist?	Yes No NA
• Does this file contain evidence of a regular education routing slip?	Yes No NA
• Does this file contain a parent contact documentation form?	Yes No NA
EVALUATION CONTENT AND PROCEDURES	
• Are two pre-referral interventions documented (K-12 only)?	Yes No NA
Did the district provide parents with Notice of Proposed Evaluation/Reevaluation plan that includes:	
• The reason for evaluation or the refusal to evaluate?	Yes No NA
• A description of areas to be assessed?	Yes No NA
• Where and by whom the evaluation will be conducted?	Yes No NA
• Materials and procedures, and, if appropriate, modifications to the evaluation process?	Yes No NA
• Did the district provide written notice to the parent(s) when no additional data were required for reevaluation?	Yes No NA
Parental Informed Consent For Evaluation	
• <u>Initial evaluation</u> : written signature prior to evaluation?	Yes No NA
• <u>Reevaluation</u> : signature or documentation of attempts (2 or more) to get consent, if signature not received?	Yes No NA
• Documentation of date received by district?	Yes No NA
• Initials documented to indicate that Notice of Procedural Safeguards sent?	Yes No NA
Evaluation Timelines	
• Evaluation/reevaluation completed within 30 school days of receipt of informed consent? (Birth-3 yrs—45 calendar days)	Yes No NA
• <u>Reevaluation ONLY</u> : expiration of 14 calendar days before beginning evaluation if no response after reasonable attempts?	Yes No NA
• Was the evaluation report written within the 30 school day evaluation period? (Birth-3 yrs—45 calendar days)?	Yes No NA
• Did the reevaluation occur within a three-year timeline?	Yes No NA
• Evaluation completion date provided?	Yes No NA
Multidisciplinary Team	
• Parent, the child's regular teacher (or regular education teacher who is qualified to teach this age child), a qualified early childhood teacher (when the child is less than school age) , a person qualified to conduct individual diagnostic examinations, a representative of the district, team member(s) licensed in the student's suspected disability(ies), and when appropriate, other individuals with knowledge or expertise regarding the learner?	Yes No NA
Nondiscriminatory Evaluation Practices	
• Evaluation materials are selected and administered so as not to be discriminatory on a racial or cultural basis, and administered in the child's native language or mode of communication. Recognition or accommodation for persons whose differences or conditions cause standardized instruments to be invalid?	Yes No NA
Evaluation Materials and Procedures	
• Performed in all areas related to the suspected disability (vision, health, hearing, social/emotional, intellectual, academic, communication, and motor)?	Yes No NA
• Performed with a variety of technically sound instruments that may evaluate relative contribution of cognitive and behavior factors, and physical or developmental factors?	Yes No NA
• Included parent information, progress in general curriculum, and private evaluations provided by parent (when available)?	Yes No NA
• Included an explanation of the procedures and findings in the ER?	Yes No NA
Comments:	

Braille Evaluation for Students Who Are Visually Impaired	
Was a Braille skills inventory completed?	Yes No NA
Did the ER include a statement of strengths and deficits?	Yes No NA
Secondary Transition Evaluation	
• By grade 9 or age 14 (whichever comes 1 st), a multidisciplinary evaluation of secondary transition needs was completed. Areas of evaluation must be relevant to a student's needs and must include the following areas: Work, Recreation and Leisure, Home living, Community Participation, Post-secondary Training and Learning Opportunities?	Yes No NA
Functional Behavioral Evaluation (FBE)	
An FBE was conducted either before or not more than 10 business days after:	
• A removal that constitutes a change or placement?	Yes No NA
• Removal from a child's current educational placement for more than 10 cumulative school days in a school year?	Yes No NA
• An FBE was conducted before implementation of restricted procedures?	Yes No NA
• The FBE included an analysis of purpose, effect, seriousness of behavior, and documented that it <u>has ruled out any other treatable cause</u> such as a medical or health condition?	Yes No NA
Infant and Toddler Evaluation	
Did the evaluation/reevaluation:	Yes No NA
• Include a review of all pertinent records related to the child's current health status and medical history?	Yes No NA
• Include an evaluation of the child's level of functioning and unique needs in each of the following developmental areas: cognitive, physical (including vision and hearing), communication, social/emotional, and adaptive?	Yes No NA
• A family evaluation (voluntary on the part of the family) to determine the resources, priorities, and concerns of the family and identify the supports and services necessary to support the family in meeting the needs of their child?	Yes No NA
Were the procedures and findings explained in ER?	Yes No NA
Evaluation Report (ER)	
Did the evaluation report contain the following information:	
• Parent(s) information about the child?	Yes No NA
• A summary of the results for any or all evaluations?	Yes No NA
• Statement describing the team's interpretation of the evaluation results?	Yes No NA
• The team's judgments verifying the decision regarding eligibility/continuing need?	Yes No NA
• PLEPs in the areas evaluated?	Yes No NA
• Statements describing educational needs?	Yes No NA
• Team members' names, titles and date of report?	Yes No NA
If appropriate for this learner...	
• Relevant behavior noted during observation of the learner?	Yes No NA
• Statement regarding validity of the evaluation?	Yes No NA
• Statement whether tests are valid for the purpose for which they are used?	Yes No NA
• Statement describing the extent to which standard administration procedures and conditions were varied from standard procedures and conditions, if appropriate?	Yes No NA
• If child has minority status, is there a statement relating to nondiscriminatory procedures being addressed?	Yes No NA
ELIGIBILITY	
Refer to the criteria sheets for specific eligibility criteria information.	
• ASD – Autism Spectrum Disorders	Yes No NA
• Deaf-Blind	Yes No NA
• EBD – Emotional Behavioral Disorders	Yes No NA
• DHH – Deaf/Hard of Hearing	Yes No NA
• DCD – Developmental Cognitive Delay	Yes No NA
Comments:	
• OHD – Other Health Disabilities	Yes No NA

• PI – Physically Impaired	Yes No NA
• Severely Multiply Impaired	Yes No NA
• SLD – Specific Learning Disability	Yes No NA
SLD Written Report For children identified as learning disabled, did the IEP/IFSP/IIIP team certify in writing in the evaluation report:	
• The existence of severe underachievement in response to general education classroom instruction?	Yes No NA
• The existence of severe discrepancy between intellectual ability and achievement?	Yes No NA
• The existence of an information processing disorder in a variety of settings?	Yes No NA
• Observations of relevant behavior of the learner, made by one team member other than the classroom teacher?	Yes No NA
• The relationship of that behavior to the learner’s academic functioning?	Yes No NA
• The existence of any educationally relevant medical finding?	Yes No NA
• The discrepancy cannot be corrected without the provision of special education and related services?	Yes No NA
• The disability is not the result of visual, hearing, motor impairment, mental retardation, or emotional disturbance, environmental cultural, economic influences or history of inconsistent educational programming?	Yes No NA
• SP/L – Speech/Language Impaired	Yes No NA
• TBI – Traumatic Brain Injury	Yes No NA
• VI - Visually Impaired (3.4.2 Blindness)	Yes No NA
• ECSE – Early Childhood Special Education (Developmental Delay)	Yes No NA
• Criteria for DAPE – Developmental Adapted Physical Education (see criteria sheet)	Yes No NA
Team Override	
Includes:	
• Explanation of invalid results?	Yes No NA
• An explanation that indicates what objective data were used?	Yes No NA
• An identification of which data had the greatest relative importance for the eligibility decision?	Yes No NA
• A signature of team members agreeing to the decision and a signed statement from each team member that disagrees with the decision explaining the reasons for the disagreement?	Yes No NA
Exit Procedures	
A child with a disability was evaluated prior to determining that the child is no longer a child with a disability?	Yes No NA
IEP/IFSP/IIIP Content and Procedures	
IEP/IFSP/IIIP Team Members	
The following were in attendance at the meeting:	
• the parent(s)?	Yes No NA
• the student (must be invited when transition needs are being considered)? If not present, student’s preferences/interests are documented?	Yes No NA
• at least one regular education teacher (where the child is enrolled or expected to enroll)?	Yes No NA
• the student’s special education teacher?	Yes No NA
• a representative of the district?	Yes No NA
• an individual who can interpret the instructional implications of the evaluations (can be one of the above district members or an additional person)?	Yes No NA
• a team member licensed in the student’s disability?	Yes No NA
• when appropriate, other individuals with knowledge or expertise regarding the learner?	Yes No NA
• out of District Representation, if applicable?	Yes No NA
• parent invited member(s)?	Yes No NA
• district invited member(s)?	Yes No NA
• interagency personnel?	Yes No NA
• Was Notice of a Team Meeting sent to parents? OR does documentation of parent attendance exist?	Yes No NA

Comments:	
Required IEP/IFSP/IIIP Content	
INTERNALLY CONSISTENT? Overall, is there a direct relationship between evaluation results, present level of performance statements, need statements, goals and objectives/benchmarks, and the education services to be provided?	Yes No NA
Present Levels of Educational Performance (PLEP)/Program Planning	
<ul style="list-style-type: none"> • Has summary statement for present problems? • Summary statement addresses current functioning? • Summary statement addresses unique special education instruction needs? • Each statement is written in objective measurable terms with enough information to describe the student’s skill status? • Describes how the student’s disability affects his/her involvement and progress in the general curriculum? • Student-based need statements identify specific skills and behaviors to be learned? • For children age 3 to kindergarten entrance, there is a description of how the child’s disability affects participation in developmentally appropriate activities? • By the time a student turns age 14 or enters grade 9, his/her current educational performance and needs in all five transition areas are described? • Documentation of the present level of performance in the IEP must provide an explanation of the connection between the related service condition and the service. 	Yes No NA Yes No NA Yes No NA Yes No NA Yes No NA Yes No NA Yes No NA Yes No NA Yes No NA
Goals and Objectives	
Includes: Measurable annual goals and short-term objectives or benchmarks, including evaluation procedures?	Yes No NA
Focus on the skills and behaviors the student needs to learn in order to be involved and progress in the general curriculum?	Yes No NA
Developed from student needs and present levels of performance?	Yes No NA
States skill/behavior to be changed?	Yes No NA
States direction of change?	Yes No NA
States expected ending annual level of performance?	Yes No NA
Passes “The Stranger Test?”	Yes No NA
Passes “The Deadman Test?”	Yes No NA
<u>Objectives/Benchmarks</u>	
Describes skills to be performed?	Yes No NA
Identifies conditions or circumstances for evaluation?	Yes No NA
Identifies criteria for attainment/evaluation?	Yes No NA
Identifies evaluation procedures?	Yes No NA
Objectives logically support the goals?	Yes No NA
At least two measurable objective benchmarks written for each goal?	Yes No NA
LRE Explanation	
• Describes the extent, if any, to which the child will not participate with learners without disabilities in general education classes, extra-curricular and nonacademic activities and reason for nonparticipation?	Yes No NA
Special Education and Related Services	
Includes: <ul style="list-style-type: none"> • SpEd & related services, including date that matches Parental Consent/Objection and Prior Written Notice Forms for initiating services and modifications & anticipated frequency, duration and location of the recommended services? • Program modifications and support for school personnel (Supplementary aids/services to be provided to, or on behalf of the learner?) 	Yes No NA Yes No NA
Adaptations in General and Special Education	
Includes: <ul style="list-style-type: none"> • Description of supplemental aids/services in regular and special education? • Description of program modifications or supports for school personnel? 	Yes No NA Yes No NA

• Special considerations (Blind, LEP, DHH/Behavioral Issues, use of paraprofessional addressed if appropriate)?	Yes No NA
• Assistive technology needs considered/addressed?	Yes No NA
Comments:	

Progress Reporting	
• There is a statement of how the child's parents will be regularly informed (at least as often as nondisabled peers) including frequency and method of reporting?	Yes No NA
Transition Services	
By grade 9 or age 14 , the IEP must address the student's needs for transition from secondary services to:	Yes No NA
• Post-secondary education and training?	Yes No NA
• Employment?	Yes No NA
• Community participation?	Yes No NA
• Recreation and leisure?	Yes No NA
• Home living?	Yes No NA
• A statement must identify the needed transition services and the interagency responsibilities or linkages?	Yes No NA
• Activities planned to meet identified outcome goals?	Yes No NA
• Goals and objectives written to address transition needs?	Yes No NA
Transfer of Rights	
• Beginning at least one year before a student reaches the age of majority, a statement must be included that the student has been informed of his/her rights that will transfer upon reaching (per Minnesota State law) age 18?	Yes No NA
• Documentation of Transfer of Rights that was sent to parents is on file?	Yes No NA
Modification of State/District-wide Assessment	
• A statement of any individual adaptations in the administration of assessments of student achievement (state and district) that are needed for the child to participate?	Yes No NA
• A statement of any individual modifications in the administration of assessments of student achievement (state and district) that are needed for the child to participate?	Yes No NA
• If the team determines the child will not participate, a statement must be included that explains why that assessment is not appropriate, and how the child will be assessed?	Yes No NA
Alteration of the School Day	
• Based on learner needs and not administrative convenience?	Yes No NA
Interim IEP/IFSP/IIIP	
• May be written for a period of no more than 60 school days to determine appropriateness of placement and to resolve questions regarding the content of the IEP/IFSP/IIIP?	Yes No NA
Significant Change in Program or Placement (Parental Consent/Objection and Prior Written Notice Forms)	
• IEP/IFSP/IIIP goals have been completed or require modification based on a progress report?	Yes No NA
• there is a need to add or delete a service based on a progress report or evaluation?	Yes No NA
• there is a change in the type of site or setting in which the student receives special education?	Yes No NA
• the amount of time a student spends with nondisabled peers is changed?	Yes No NA
• the amount of special education to accomplish the goals or objectives needs to be increased or decreased, or?	Yes No NA
Is this appropriately documented in the IEP/IFSP/IIIP?	Yes No NA
Continuum of Alternative Placements	
• Regular classes, special classes, special schools, home instruction, instruction in hospitals and institutions.	Yes No NA
• Provisions for supplementary services (such as resource room or itinerant instruction)?	Yes No NA
Comments:	

Extended School Year (ESY)	
• Available as necessary to provide FAPE?	Yes No NA
• Not limited to particular categories of disabilities; or unilaterally limit the type, amount, or duration of those services?	Yes No NA
• Need reviewed annually?	Yes No NA
IEP/IFSP/IHP Notice Requirements & Procedural Safeguards	
• Description of the action proposed or refused?	Yes No NA
• Explanation of why the district proposes or refuses to take the action?	Yes No NA
• Options considered + reasons why rejected?	Yes No NA
• Description of each evaluation procedure, test, record or report used as basis for proposed or refused action?	Yes No NA
• Description of any other relevant factors?	Yes No NA
• Statement of the procedural safeguards afforded to the parents?	Yes No NA
• Sources for parent to obtain assistance?	Yes No NA
Parental Consent/Objection and Prior Written Notice Forms	
• Copy of Parental Consent/Objection form along with a completed Prior Written Notice form signed by the parent/student is on file?	Yes No NA
• Date of meeting is documented?	Yes No NA
• Reasons for proposal stated?	Yes No NA
• Date signed notice is received by the district is documented?	Yes No NA
• When not an initial IEP, documentation of attempts (2 or more) to get consent, if signature not received?	Yes No NA
PART C – ECSE	
IFSP Team Meetings	
• Conducted in settings and times convenient to families?	Yes No NA
• In the native language of the family (or other mode of communication) unless clearly not feasible to do so?	Yes No NA
IFSP Team Members	
• The parent(s)?	Yes No NA
• Other family members (per parent request)?	Yes No NA
• An advocate or person outside of the family (per parent request)?	Yes No NA
• The service coordinator?	Yes No NA
• Person(s) directly involved in conducting evaluations?	Yes No NA
• Person(s) who will be providing service(s) to the child/family?	Yes No NA
Required Content of IFSP	
• A statement of the child’s present level of development (“Description” page of IFSP)?	Yes No NA
• A statement of family resources, priorities and concerns (“Family Thoughts” page of IFSP)?	Yes No NA
• Major outcomes or goals determined and short term objectives or benchmarks, including evaluation procedures (“Outcome” page of IFSP)?	Yes No NA
• A statement of services needed, including the project date for initiating services and modifications and the anticipated frequency, duration, and location of the recommended services?	Yes No NA
• A statement of payment arrangements and authorized signatures for services designated (“Team & Summary” page of IFSP)?	Yes No NA
Parent Consent for IFSP	
• Did the IFSP team provide the parent(s) with a notice of the proposed action or denial prior to the initiation of services by using the Parental Consent/Objection and Prior Written Notice forms?	Yes No NA
IFSP Timelines	
• Was the initial evaluation completed and the meeting held within 45 days of referral, or was there appropriate documentation if unable to meet timeline?	Yes No NA
IFSP Periodic Review	
• Was a periodic review completed every six months (“Outcome” page of IFSP)?	Yes No NA
• Was the information complete: degree of progress, modification/revision if necessary?	Yes No NA
• Participants include: parent(s), service coordinator, and service provider?	Yes No NA
Comments:	

Procedures for the Transportation of Students with Disabilities

The purpose of establishing transportation procedures for students with disabilities is to ensure that transportation of students with disabilities is consistent with the requirements of the law and provide for the safe transportation of students with disabilities.

The districts provide free transportation services to any child with a disability who requires special transportation services because of a disabling condition or special program need. Whenever a child's disabling condition requires that the child cannot be safely transported on the regular school bus route or when the child is transported on a special route for the purpose of attending an approved special education program, the districts will provide such transportation or contract with the parent to transport.

It is the practice of the member districts to ensure that the length of time a child with a disability spends in transportation be appropriate to the physical, mental, and emotional well-being of the child.

The member districts reserve the right to determine the type of vehicle used to transport students with disabilities. The decision on the type of vehicle will be based on the disabling condition of the child and all vehicles used to transport students with disabilities will comply with MN Statutes.

Vehicles used to transport students with disabilities will be equipped with a two-way communication system or have a bus monitor or both, to provide the necessary assistance and supervision, unless these accommodations are not necessary or through mutual agreement between parents and the school district.

Specially adapted seats, supports and/or protective devices will be provided for all students who require these devices to ensure their safety in transportation. These devices will be selected by the school district in consultation with the student's parents and on the basis of the specific needs of the student with the disability.

District IEP teams will determine the need for supplementary aids and services for transportation to and from nonacademic and extracurricular activities to allow students with disabilities an equal opportunity to participate in these activities.

Each of the member districts have developed and approved comprehensive written policies governing student transportation safety, including transportation of nonpublic school students. These policies include all of the provisions of Minn. Stat. § 123B.91, subd. 1. Each of the member districts has designated school transportation safety directors to oversee and implement student transportation policies.

District special education teachers who case manage students with disabilities with health related and/or behavioral/emotional concerns, are required to complete a typewritten Bus Emergency Card, which will be kept in a locked place and will be made available to the bus driver and/or bus monitor assigned to the student/bus.

The Special Education member districts will provide transportation to students with disabilities in accordance with all Minn. Statutes related to transportation of students with disabilities, including those related to placement, nonpublic schools, Enrollment Options, ALCs, Charter Schools, State Academies, and Care & Treatment.

Recommendations & Requirements Under State and Federal Laws Regulations/Rules for Suspensions/Removals of Students with Disabilities

Suspensions/Removals One Day and Under

MN Rule: MN Rule does not count as a suspension, a removal from school for one day or less.

Federal Regulations: Federal regulations referred to "removals," rather than "suspensions" because states such as MN do not consider a day or less removal as a suspension. Under federal law, removals of one day or less must be included in the 10 day cumulative count. However, in a memo from OSEP the following latitude was provided, in counting multiple short-term suspensions, a half-day or less can be counted as a half-day. More than a half-day must be counted as a day. If unable to record data on an hourly or half-day basis, count part of a day as a whole day.

Suspensions/Removals of 10 Days or Less Consecutive or Cumulative Within a Given School Year

MN Rule: The MN Rule requires compliance with federal law, however, provides a more restrictive provision for meetings. The student's IEP team is required to meet to conduct a manifestation meeting if the student is removed for 5 or more consecutive days (federal regulations require a meeting only after 10 day removals). A functional behavioral assessment is not required

Federal Regulations: No requirements.

Suspensions/Removals More Than 10 Consecutive or Cumulative Days

MN Rule: The MN Rule requires alternative educational services for all students, disabled or non-disabled, after the 5th consecutive day of removal.

Federal Regulations: Federal Regulations consider a removal of more than 10 days consecutive to be a change of placement. Removals of not more than 10 consecutive days are allowed for any violation of school rules. Additional removals are allowed for separate incidence of misconduct as long as they do not change the student's placement. Federal Regulations require FAPE provisions to begin if a student with disabilities is removed for more than 10 consecutive or cumulative days within a given school year. On day 11, services must be provided to the extent necessary for the student to make progress in the general curriculum and toward achieving IEP goals. The decision regarding these services and the location of the services is made by the principal and student's special education teacher. A review of the IEP/IIP, behavior plan and a manifestation meeting are also required within 10 days of the removal if not previously completed. A Functional Behavioral Assessment (FBA) must be completed within 30 school days. Parent permission is required before completing a Functional Behavioral Assessment (FBA) if not previously completed for the behavior that resulted in the discipline.

Suspensions/Removals Constitute a Change of Placement

MN Rule: Follow Federal Regulations

Federal Regulations: Federal Regulations: IDEA 2004 states, students with disabilities may be suspended for not more than 10 consecutive school days and for additional removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct, as long as removals do not cause a change in placement. IDEA 2004 considers it to be a change of placement if:

- the removal is for more than 10 consecutive school days;
- the student had been subjected to a series of removals that constitute a pattern;
- because the series of removals total more than 10 school days a school year;
- because the student's most recent behavior is substantially similar to the student's previous behavior that resulted in disciplinary action and these behaviors taken cumulatively are determined to be a manifestation of the student's disability.
- because of such additional factors as the length of each removal total amount time the student had been removed and the proximity of the removals to one another.

In-School Suspensions

MN Rule: Follow guidelines under MN Student Fair Dismissal Act.

Federal Regulations: "In-school" suspension days would not have to be included in the 10 day count if:

1. student is allowed to progress in general education curriculum;
 2. student receives IEP services;
 3. student is allowed to participate with nondisabled peers to the extent they would in current placement.
-

Frequently Asked Questions

1. When must FAPE be provided?

- A. Whenever a suspension exceeds five consecutive days (MN Rule), services begin on day 6.
- B. Whenever a student's number of suspensions accumulates to 10 days, services begin on day 11.

2. When must a manifestation meeting be held?

- A. A manifestation meeting must be held within 10 school days of:
 1. A student suspension of 5 or more consecutive days (MN Rule);
 2. Total days of removal exceed 10 cumulative in a school year;
 3. Any removal that constitutes a change of placement, including a 45 school day unilateral change of placement;
 4. Parent requests a manifestation determination following any removal for disciplinary reasons;
 5. Expulsion.

3. When must the IEP team meet to review the student's program plan and revise, if necessary?

- A. Whenever the parent(s) request(s) a meeting;

- B. Whenever the student is removed from the student's current placement for five or more (MN Rule) consecutive days; or
- C. Whenever the student's total days of removal from the current placement during a school year exceed 10 cumulative days.

4. When should a Functional Behavioral Assessment (FBA) be completed?

- A. Whenever a student is evaluated for emotional/behavioral disorder, the functional assessment should be conducted as part of the identification process (HVED requirement).
- B. An IEP team must meet to develop a FBA within 10 days:
 - 1. of removing a student for the 11th cumulative day in a school year, as appropriate;
 - 2. if a behavior is a manifestation of the disability and no Behavior Intervention Plan (BIP) is in place.

5. When does a change of placement occur?

- A. Whenever removals are more than 10 consecutive school days;
- B. Whenever a student has been subjected to a series of removals that constitute a pattern because:
 - the removals are for more than 10 school days;
 - the student's most recent behavior was similar to the student's previous behavior and these behaviors taken cumulatively are determined to be a manifestation of the student's disability; and
 - such additional factors as length of each removal, total amount of time the student had been removed, and the proximity of the removals to one another are considered.
- C. District makes unilateral 45 school day interim alternative educational placement.

6. When may a district make a unilateral 45 school day placement to an interim? alternative educational setting? *

- A. Whenever a student carries (interpreted to also mean possession) a weapon to school or school function. Weapon is defined under federal definition to be a device, instrument or material capable of causing death or serious injury (e.g., guns, grenades). This definition excludes knives smaller than 2.5 in. and hunting rifles, if the planned use is for sporting events;
- B. Whenever a student knowingly possesses or uses illegal drugs;
- C. Whenever a student sells or solicits the sale of a controlled substance (e.g., Ritalin, Viagra);
- D. Whenever a student inflicts serious bodily harm defined as "showing substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss of impairment of function of a bodily member, organ or mental faculty (averyhighstandard) on another person; or
- E. Can be ordered by a hearing officer when evidence exists that a student is substantially likely to injure self or others.

Unilateral changes can only be made to the extent the district would use the same or similar consequence for regular education students for the same course of misconduct.

* State Law requires districts to provide parents with a written statement of the reasons for an interim placement exceeding 45 calendar days. (see **Sample Letter to Parents When Placement Exceeds 45 Calendar Days**).

7. What is an interim alternative educational setting?

The school administrator and IEP manager can make the decision to change the placement of a student with disabilities for the reasons described above. The choice of the interim alternative setting must be made by the

IEP team and can include a continuum of settings, including the student's home, ALC residential treatment, another school district, etc. The team must select a setting that enables the student to continue participating in the general education curriculum and to progress toward meeting goals in the student's IEP. The student "stays put" in the alternative setting if parent(s) disagree and request an expedited hearing.

8. Parent must receive prior *Notice of Change of Placement for Disciplinary Action* whenever a change of placement occurs. "Notices" should include the following information:

- A. Description of proposed action;
- B. Explanation of reasons district is proposing the action;
- C. Description of the other options the team considered and reasons those options were rejected;
- D. Description of procedures, tests, records and reports the team used as a basis for the decision;
- E. Any other relevant factors.

This "**Notice**" must be provided to the parent on the date the decision was made to make the removal that constitutes the change of placement.

9. What constitutes "knowledge" by the district that a student has a disability and is thus entitled to procedural protections of IDEA:

- A. Parental concern in writing to supervisory or administrative personnel or the student's teacher that the child is in need of special education and related services, unless parent is illiterate or has a disability that prevents compliance;
- B. Parent has requested an evaluation of the child pursuant to IDEA;
- C. Teacher or other school staff have expressed a specific concern about a pattern of behavior demonstrated by the child and this concern was expressed to supervisory personnel of the district.

10. Can a student with a disability be expelled?

Under both state and federal law, a student with a disability may not be expelled if the conduct was a manifestation of the student's disability. That means, the conducts must be caused by or have a direct and substantial relationship to the student's disability. MN Student Fair Dismissal Act requires that special education and related services be provided after a period of suspension, if suspension was imposed.

When to Hold Manifestation Determination Meetings

The purpose of this memorandum is to provide requested clarification as to when a manifestation determination must be made for a student with a disability. The following table summarizes district obligations in light of recent changes to state law and federal regulations.

	IEP Team Meeting required?	Manifestation Determination required?	FBA Plan required?
Student removed for 1 school day or less (but not suspended)	No*	No*	No*
Student suspended for less than five consecutive school days	No*	No*	No*
Student suspended for 5 to 10 consecutive school days	Yes	Yes	No*
Student removed for 10 cumulative school days in a school year or less	No	No	No
Student removed for 11 cumulative school days in a school year or more	Yes	Yes	Yes
Student placed on in-school suspension	No**	No**	No**
Parent requests a manifestation determination following any removal for disciplinary reasons	Yes	Yes	No*
Student suspended from the bus	Depends***	Depends***	Depends***

*Unless the removal brings the total number of cumulative days this school year that the student has been removed to more than 10, or unless the parent requests a meeting under Minn. Stat. 121A.41, subd.10.

**An in-school suspension would not be considered a part of the days of removal as long as the student is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP, and continue to participate with nondisabled children to the extent they would have in their current placement.

***If bus transportation is a part of the student's IEP, a bus suspension would be treated as a removal unless the school provides transportation in some other way, because that transportation is necessary for the student to obtain access to the location where all other services will be delivered. If bus transportation is not a part of the student's IEP, a bus suspension typically would not be a removal.

Medical Assistance Third Party Payment Program

Information for Families

In compliance with new state law, school districts are required to seek payment from Medical Assistance (MA) or MinnesotaCare for IEP, IFSP, IIIP covered services.

It is important to highlight the family rights that accompany this law.

The Individual with Disabilities Education Act (IDEA) is a Federal law that describes a “free and appropriate public education.” When children are eligible for special education, this means there is no cost to a family for services on an Individualized Education Program (IEP). This includes services called health related services. While schools must give IEP services at no cost to families, IDEA tells districts to use other funds like Medical Assistance (MA) or MinnesotaCare.

Family Rights

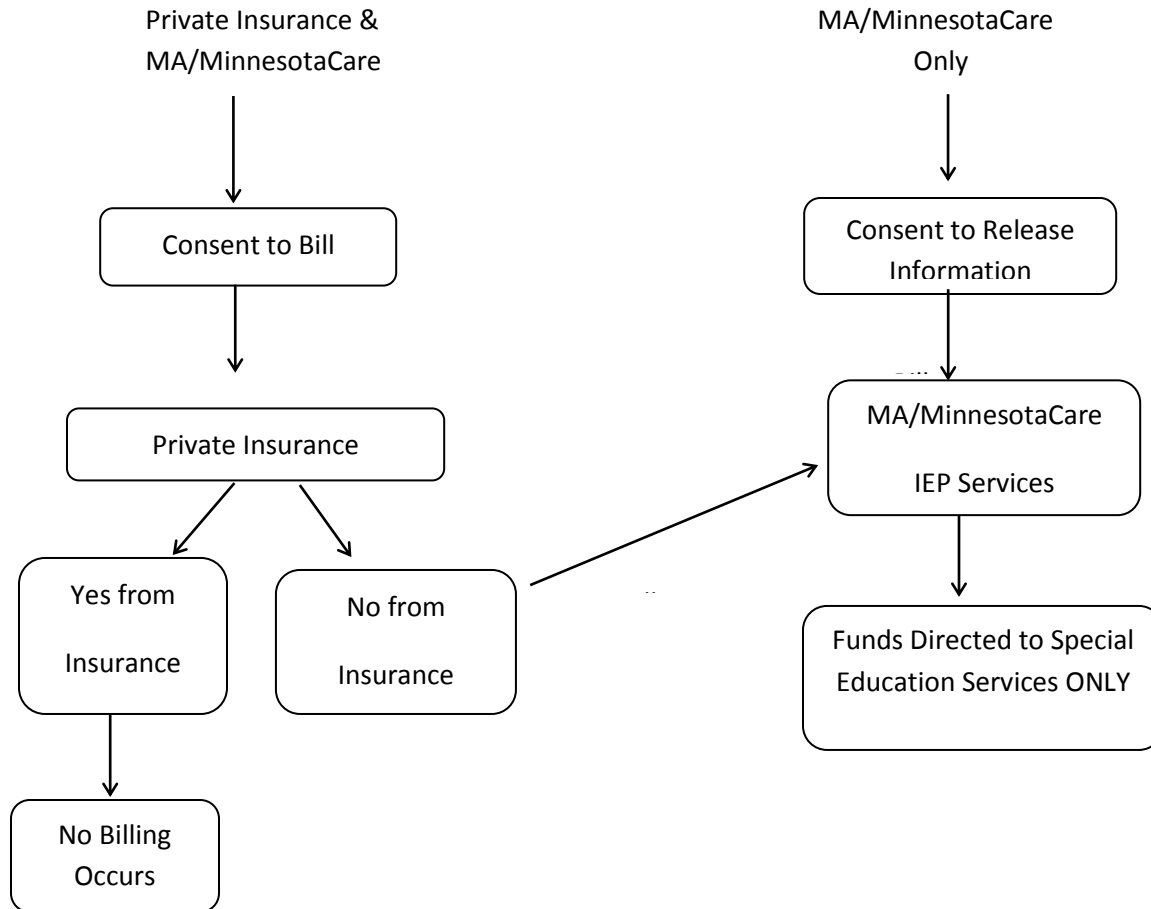
1. The Federal Government has established a separate pool of funds under MA that can only be accessed by school districts. When schools are paid from MA or MinnesotaCare, this does not affect a family’s MA benefits.
2. Payments made by MA or MinnesotaCare to districts for health related services do not count toward any annual service limits, lifetime service limits or authorization thresholds.
3. The covered services in your child’s IEP will not affect the amount of services available under a home and community-based waiver. The cost of any covered IEP services will not be counted against your child’s individual home and community-based waiver cap.
4. For children who have only MA or Minnesota Care, schools will give parents an annual *Notice of Intent to Bill*. Parents will be asked to sign a release of information form allowing school districts to share education records with the Minnesota Department of Human Services (DHS).
5. For children who have MA or MinnesotaCare and private insurance, the following is required:
 - an annual written consent by the parent/guardian to contact your insurance company concerning health related services provided at school for your child.
 - if your private plan does not cover the type of service billed, then MA or MinnesotaCare can be billed.
 - Hiawatha Valley Education Districts *will not* bill your private insurance plan if the plan does agree to cover the type of service billed.

Covered Services

- Physical Therapy
- Occupational Therapy
- Nursing Services
- Mental Health Services
- Personal Care Services
- Assistive Technology
- Speech/Language/Hearing
- Special Transportation

Billing IEP Services

Student has:



If you would like more information from the School District please contact your child’s case manager.

Or if you would like information from an Advocacy Agency you may contact:

Minnesota Department of Human Services (651) 296-7675
 444 Lafayette Road (651) 215-1075
 St. Paul, MN 55155-3856

Arc Minnesota 1-800-582-5256 or
 770 Transfer Road, Suite 26 (651) 523-0823
 St. Paul, MN 55114 Fax: (651) 523-0829

Minnesota Disability Law Center (612) 334-5785
 430 1st Avenue, Suite 300 (612) 334-5755
 Minneapolis, MN 55401

PACER Center, Inc. 1-800-537-2237 or
 8161 Normandale Blvd. (952) 838-9000
 Bloomington, MN 55437-1044 Fax: (952) 838-0190

Methods of Ensuring Services: Public and Private Insurance

Noneducational Public Agencies—May Not Disqualify Eligible Service

IDEA specifies that noneducational public agencies may not disqualify an eligible service for Medicaid reimbursement because the service is provided in an educational context.

Conditions for Accessing Medicaid

IDEA provides that a public agency may access Medicaid or other public insurance if the parents would incur no financial costs, but may not require parents to sign up for public insurance in order for the child to receive FAPE.

Private Insurance

IDEA provides that a public agency:

- A. may access a parent's private insurance proceeds only if the parent provides informed parent consent consistent with the definition of "consent" in §300.500(b)(1); and
- B. must obtain consent each time it proposes to access those proceeds.

Use of Part B Funds for Certain Costs

IDEA permits the use of Part B funds for:

- A. the cost of required services under these regulations if the parents refuse consent to use public or private insurance; and
- B. the costs of accessing parents' insurance, such as paying deductible or co-pay amounts.

Proceeds from Public or Private Insurance

IDEA clarifies that:

- A. insurance proceeds received by a public agency do not have to be returned to the Department or dedicated to the Part B program; and
- B. funds expended by a public agency from reimbursements of federal funds will not be considered state or local funds for purposes of state or local maintenance of effort.