

## **NORTH FRANKLIN SCHOOL DISTRICT 51**

### **SPECIAL EDUCATION AND RELATED SERVICES FOR ELIGIBLE STUDENTS**

The district recognizes that students whose disabilities adversely impact educational performance and who require specially designed instruction have potential for improving educational performance when they receive special education and related services tailored to fit their needs. The district adopts the state's full educational opportunity goal to provide students in need of special education services with a free and appropriate public education.

Special education programs for students eligible for special education shall be an integral part of the general educational programs of this district, and shall be operated in compliance with federal and state requirements governing special education.

Each eligible special education student in the district will be afforded a full education opportunity. This goal will be met consistent with the state's goals through ensuring the provision of a free and appropriate public education, complying with state and local procedures, and improving performance goal indicators.

The district shall comply with state and federal requirements for special education. The superintendent shall develop procedures consistent with state and federal laws and rules to implement the following:

- Free and appropriate public education (FAPE);
- Confidentiality of personally identifiable information;
- Identification, evaluation, eligibility and reevaluation;
- Participation in assessments;
- Development of individualized education program (IEP) and placement;
- Participation in regular education, least restrictive environment (LRE);
- Procedural safeguards;
- Parent participation;
- Transition from part C to part B services for preschool children;
- Private school students unilaterally placed by parents;
- Staff qualifications and personnel development; and
- Program administration and evaluation.

The superintendent shall develop procedures to implement this policy, as directed by federal regulation (34 CFR 300.220). This policy and procedures shall be consistent with the state's special education regulations and filed with the Office of the Superintendent of Public Instruction.

Not all students with disabilities are eligible for special education services. The needs of each student will be addressed individually and provided appropriate accommodations or modifications required under § 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, and the Washington laws against discrimination.

## **Mediation or Resolution Agreements**

The board authorizes the superintendent or a designee to bind the district to a mediation or resolution agreement.

## **Certificate of Attendance**

In order to participate in commencement exercises, students must have met the minimum criteria for graduation prior to the date of the exercise and otherwise be in good standing with their school through the commencement date. Minimum criteria for participation may be adjusted for students with an IEP whose disabilities have impacted their opportunity to accumulate credits. Each student's IEP team will determine the student's graduation plan, including graduation date. IEP students who have attended four years of high school and need additional time to complete IEP goals and/or credits may request participation in commencement exercises. IEP students will receive a certificate of attendance until they complete their credits for graduation.

The district superintendent shall develop and maintain special education procedures necessary to implement this policy. This policy and the procedures shall be available to the public.

## **Free and Appropriate Public Education (FAPE)**

The district shall provide all eligible students with disabilities ages three through twenty-one with a free appropriate public education which consists of special education, necessary related services, and supplemental aids and services, provided:

- A. At public expense, under district supervision and direction;
- B. In compliance with the standards of the state educational public agency,
- C. To include preschool, elementary, and secondary educational opportunities; and
- D. In conformity with an individualized education program (IEP) which meets the requirements of special education rules.

Such educational and support services may extend beyond the traditional 180-day school calendar year if necessary to provide an individual eligible student with a free and appropriate public education.

## **Confidentiality of Personally Identifiable Information**

In addition to complying with the district's policies and state and federal law on the confidentiality of all student records, the superintendent is directed to develop procedures to implement confidentiality requirements that are consistent with state special education rules.

This includes informing parents of students or eligible students of their right to confidentiality, at least annually, through appropriate notice.

## **Identification, Evaluation, Eligibility, and Reevaluation**

### **Childfind.**

The district shall develop and implement awareness and screening activities for the purpose of locating, identifying and evaluating all resident students enrolled in school or not who are suspected of having disabilities and are in need of receiving special education and related

services. These procedures shall encompass students, ages birth through twenty-one, regardless of the severity of their disability, who reside in the district, including those attending public and private agencies and institutions, and religious schools.

The district's procedures shall also include methods for conducting childfind activities including methods to determine which students are not currently receiving needed special education and related services. The procedures shall include methods to locate students who are highly mobile and students suspected of being a student with a disability and in need of services even though they are advancing from grade to grade. Childfind procedures shall be developed in consultation with appropriate representatives of private school students.

#### **Evaluation and Eligibility.**

The district shall develop evaluation procedures that are consistent with state and federal requirements, including: referral, evaluation methods and timeline(s), areas of evaluation, periodic review, evaluation safeguards, reporting and documenting the determination of eligibility, and independent educational evaluation.

The district recognizes the developmentally delayed category for eligible students ages three to nine. The superintendent shall develop procedures for implementation of this eligibility category.

#### **Reevaluation.**

The district shall develop reevaluation procedures that are consistent with state and federal requirements, including general requirements, purposes, notice of results, procedures for appropriate identification and classification, and procedures for determining continuing or additional needs for special education and related services.

### **Development of IEP and Placement**

#### **Development of IEP.**

The district shall develop procedures for implementing the IEP requirements for each student that are consistent with state and federal regulations, including methods for updating each IEP at least annually and appropriate inclusion of eligible students in local and state assessment programs.

#### **Placement.**

The district shall develop procedures for implementing state and federal requirements regarding the delivery of special education services including: least restrictive environment, nonacademic and extracurricular services, alternative service delivery options placement considerations and annual review, initial placement, evaluation of IEP, birth to 3 services in natural environment, preschool services, district initiated placements, transition of preschool students from Part C to Part B services, and placements paid for at public expense.

The district shall also develop procedures to determine the services provided to students unilaterally placed in private schools by their parents. The procedures shall include consultation with appropriate representatives of private school students to determine the number of unilaterally placed students, the needs of students and their location, so that it can be decided which students will receive services, what services will be provided, how and where services will be provided and how services will be evaluated.

### **Procedural Safeguards**

The district shall develop procedures for implementing procedural safeguards for parents and students consistent with state and federal requirements that include notice relating to informed parental consent, assessment (protection in evaluation procedures), confidentiality, opportunity to examine records, prior notice, independent educational evaluation, impartial due process hearing, surrogate parents, discipline, attorney's fees, mediation and citizen complaints.

### **Personnel Development**

The district recognizes the importance of a qualified staff in delivering appropriate educational services to special education students. The superintendent shall develop procedures for the implementation of a district plan for hiring and staff development for administrators, teachers and support personnel. Such a plan shall be complementary to the statewide plan for Comprehensive System of Personnel Development, which includes:

- A. The in-service training of general and special educational administrative, instructional and support personnel to insure that they are appropriately and adequately prepared and trained;
- B. Effective procedures for acquiring and disseminating to teachers and administrators of programs for special education students significant information derived from educational research, demonstration, and similar projects; and
- C. Procedures for adopting promising practices.

### **Program Administration and Evaluation**

#### **Program Administration.**

The district shall develop procedures for implementing the administrative requirements contained in state and federal regulations including: full educational opportunity, public control, use of funds including excess cost, nonsupplanting and maintenance of effort, comparable services, information reports and records, public participation, transportation, program coordination, construction and comparability of facilities, program length, health or safety, transition to preschool, aversive interventions, disciplinary exclusions, and citizen's complaint process.

#### **Evaluation.**

The district shall develop procedures for updating, at least annually, the effectiveness of individualized education programs in meeting the educational needs of special education students, including parent/family involvement in the evaluation process. Students eligible for special education and related services shall be re-evaluated every three years in accordance with state and federal requirements.

Cross-References: Board Policy 2162

2163  
3231  
3241  
  
3246

Education of Students with Disabilities  
under Section 504  
Response to Intervention  
Student Records  
Classroom Management, Corrective  
Actions or Punishment  
Restraint, Isolation and Other Uses of  
Reasonable Force

Legal References:

RCW 28A.155  
RCW 28A.600.485

RCW 28A.600.486

RCW 49.60  
WAC 392-172A

20 U.S.C. 1400 et seq.

42 U.S.C. 12131-12133  
28 CFR Part 35

34 CFR Part 99

29 U.S.C. 794

34 CFR Part 104

34 CFR Part 300

34 CFR Part 303

Special Education  
Restraint of students with individualized  
education programs or plans  
developed under section 504 of the  
rehabilitation act of 1973-  
Procedures-Definitions.  
District policy on the use of isolation  
and restraint-Notice to parents and  
guardians of children who have  
individualized education programs or  
plans developed under section 504 of  
the rehabilitation act of 1973.  
Human Rights Commission  
Rules for the Provision of Special  
Education  
Individuals with Disabilities Education  
Improvement Act of 2004  
Americans with Disabilities Act of 1990  
Nondiscrimination on the Basis of  
Disability in State and Local  
Government Services  
Family Education Rights and Privacy  
Act (FERPA)  
Section 504 of the Rehabilitation Act of  
1973, as amended by the  
Rehabilitation Act Amendments of  
1974, Pub. L. 93-516, 29 U.S.C. 794  
Nondiscrimination on the basis of  
handicap in programs and activities  
receiving or benefiting from federal  
financial assistance  
Assistance to States for the Education of  
Children With Disabilities and  
Preschool Grants for Children With  
Disabilities  
Early Intervention Program for Infants  
and Toddlers with Disabilities

Management Resources:

*Policy News*, December 1999

*Policy News*, June 2007

*Policy News*, December 2007

Rule Adoption Leads to Special Education  
Policy

Graduation Ceremonies for Special  
Education Students

Updated Special Education Policy and  
Procedure

**Adoption Date: June 14, 2016**

## **Special Education and Related Services for Eligible Students** Reviewed June 2016

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

The state regulations governing implementation of special education services pursuant to the Individuals with Disabilities Education Act (IDEA) of 2004 are addressed in Chapter 392-172A WAC. These procedures do not address all of the requirements established in the regulations. District personnel who are not familiar with the regulations need to contact the special education department director if there are questions regarding special education. These procedures describe how the district implements its special education program but they do not add rights or services not required by state and federal laws and rules.

### **Free Appropriate Public Education**

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

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

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

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

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

### **Early Intervention**

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

### **Students Covered by Public or Private Insurance**

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

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

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

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

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

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

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

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



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

### **Parent Participation and Meetings**

The district encourages parental involvement and the exchange of information between district and parents to support the provision of appropriate services to its students. As used in these procedures, the term “parent” includes biological and adoptive parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, foster parents, persons appointed as surrogate parents, and adult students.

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

When a meeting is scheduled for matters other than IEP or placement decisions, parents will be:

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

When a meeting involves an IEP or placement, notification procedures described in the previous paragraph apply. In addition to the above notice requirements:

- Meetings shall be scheduled at a mutually agreeable time and place;
- Parents will be notified that the district or the parent may invite others who have knowledge or special expertise of the student. Invitation of others having knowledge or special expertise is at the discretion of the party making the invitation.
- When the meeting involves transition needs or services, the student will also be invited.
- If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited. If the agency representative cannot attend the meeting, district personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision.
- The district shall provide interpreters or accommodations necessary for a parent’s participation in meetings.

### **Special Education**

The child’s case manager (teacher) is responsible for notification in the case of IEP meetings. The school psychologist is responsible for evaluation meetings.

If the parent cannot attend the IEP or placement meeting but wishes to participate, the district will arrange for other means to participate. This can include individual or conference phone calls, home visit or other means of conferencing.

The district may proceed with the IEP or placement meeting if the district is not able to get the parent to attend. In this case, the district will document attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent, and/or other means used to contact the parent.

A meeting does not include informal or unscheduled conversations involving district personnel; conversations on issues such as teaching methodology, lesson plans, coordination of service pro-

visions; or preparatory activities that district personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

The district will ensure parents have access to their child's classroom and school sponsored activities for purposes of observing class procedure, teacher material and class conduct. Such access must not disrupt the classroom procedure or learning activities.

### **Identification and Referral (CHILD FIND)**

#### **Identification**

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

- Children who reside within the school district boundaries, regardless of whether they are enrolled in public schools.
- Highly mobile children (such as homeless and migrant children)
- Children who have a disability and may need special education services even though they are advancing from grade to grade.
- Children both within the school district system and at home, home schooled, or enrolled in private schools and preschools, including religious schools.

The district will consult with representatives of private school students to ensure its activities are comparable in private schools and to make suggested changes necessary to reach private school students. These consultations will occur annually by phone, meetings or letters.

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

- Notification to parents of Child Find activities in its annual informational packet;
- District informational mailings;
- Posting notices regarding screening and referral in schools and public locations including DSHS community service offices, grocery stores, laundromats, and physicians' offices;
- Notifying and coordinating with the designated Part C lead agencies; ARC, Children's Developmental Center.
- Early childhood screenings conducted by the district;
- Coordination with other public and private agencies and practitioners;
- Written information provided to district staff on referral procedures;
- Training teachers and administrators on referral-evaluation-identification procedures;
- Review of student behavior, discipline and absentee information and information gathered from district-wide assessment activities.

When district staff has concerns that a student may have a suspected disability which could result in eligibility for special education services, they will notify the student support team/RTI team in the building who will meet and determine if appropriate interventions have been implemented or if the student should be referred for a special education evaluation.

The district, through its special education department conducts early childhood screenings for ages birth to five at least 3 times per year. When parents or others inquire about screenings, the caller will be referred to the Special Education department secretary.

The screening process involves the following:

- Parents are asked to provide information to assist in assessing their child.
- Children are screened to assess cognitive, communication, physical, social-emotional and adaptive development.

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

### **Referral**

A student, or child whether or not enrolled in school, may be referred for a special education evaluation by any source. Each building principal will designate a person responsible to ensure staff understands the referral process. Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked to either make the referral in writing or go to the main office of the building for assistance in making the referral.

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

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person shall notify a certificated staff. The special education department (a) records the referral, (b) provides written notice of the referral to the parent, and (c) advises the school psychologist to collect and review District data and information provided by the parent to determine whether evaluation is warranted.

During the referral period the school psychologist will collect and review existing information from all sources, including parents. Examples may include:

- Child's history, including developmental milestones;
- Report cards and progress reports;
- Individual teacher's or other provider information regarding the child;
- Assessment data;
- Medical information, if provided;
- Other information that may be relevant to assist in determining whether the child should be evaluated.

If the review of data occurs at a meeting the parent will be invited. The special education department, school psychologist or case manager, provides written notice to the parents of the decision regarding evaluation, whether or not the parents attend the meeting.

Recommendations regarding evaluation are forwarded to the special education department, school psychologist and/or case manager. If the determination is that the child should be evaluat-

ed, the reviewers shall include information about the recommended areas of evaluation. This information will assist the office in providing parents written notice and will assist the district in selecting appropriate evaluation group members. This office is responsible for notifying parents of the results using written prior notice. When the determination is that the child will be evaluated, parent consent for evaluation and consent for release of appropriate records will be sent with the notice.

District staff (in Special Education) will seek parental consent to conduct the evaluation. The school district is not required to obtain consent from the biological parent if:

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

When the parent provides consent, the district shall select an evaluation group. The evaluation group is to complete the evaluation within 35 school days after parent consent, or after consent is overridden in a due process hearing.

If a parent does not provide consent, notify the special education director. District staff will make a determination as to whether it wishes to use mediation to seek agreement to evaluate or file a due process hearing to override the parent's refusal to consent. The district may not override a parent's refusal to consent for an evaluation if the student is homeschooled or is unilaterally placed in a private school.

### **Evaluation of Students Moving from Part C to Part B and Participation in Transition Planning Conferences**

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

1. The district early childhood teacher will serve as the point of contact with the family resource coordinator for timely execution of transition planning conferences that are arranged at least 90 days before the student's third birthday by the designee of the Part C agency;
2. The district early childhood teacher will follow the procedures for obtaining consent and conducting an initial evaluation, if it is determined that the student will be evaluated to determine eligibility for Part B services;

The district will follow the procedures for timelines and evaluation requirements for students moving from Part C to Part B except:

1. Students turning three, who were previously determined eligible for early intervention services under Part C of IDEA, will be evaluated for initial eligibility for special education services under Part B of IDEA. The evaluation must be completed in enough time to develop an initial IEP by the date of the student's third birthday.

### **Evaluation And Eligibility**

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

- The student has a disability that adversely affects educational performance; and
- The student requires special education and any necessary related services, and,
- The nature and extent of special education and related services needed by the student.

Students turning three, who were previously determined eligible for early intervention services under Part C of IDEA, must be evaluated for initial eligibility for special education services. The evaluation must be completed in enough time to develop an initial IEP by the date of the student's third birthday.

All evaluations of students are to be completed within 35 school days after parent consent; or after consent are overridden in a due process hearing. If staff is unable to obtain voluntary parental consent and those reviewing the data believe that the student is appropriately identified for evaluation, the special education department shall arrange an opportunity to ask the parent to agree to mediation or proceed with a due process hearing to request that the school be allowed to conduct the evaluation.

Evaluation activities include:

- Determining the student's eligibility and need for special education and related services.
- Measuring the student's present levels of functioning, needs, abilities, and limitations;
- Drawing conclusions about the significance of findings as they relate to the general education curriculum and instructional programming;
- Providing information that will assist the IEP team in making decisions about the special educational program, including necessary related services, assistive technology needs, extended school year services and supportive services.

The district will evaluate the student in all areas related to the suspected disability and sufficiently comprehensive to identify special education and related service needs, whether or not the needs are commonly linked to a particular disability category. Areas of evaluation should include, if appropriate, health, vision, hearing, social skills, emotional status, general intelligence, academic performance, communication skills, and motor abilities.

The district's special education department shall select the members of the evaluation group. Members selected must be knowledgeable about the student and the areas of his or her suspected disabilities. Qualifications of a group member include having the appropriate professional license or certification, and may include outside practitioners when necessary. If the student requires a medical evaluation in order to determine eligibility, the district will coordinate with the parents to arrange for the evaluation.

When the district suspects the student may have a learning disability, the evaluation group will also include the parent and the general education teacher or, if the student does not have such a teacher, someone qualified to teach a student of that age.

The evaluation group shall use a variety of methods, tools, and strategies designed to gather relevant functional and developmental information. The evaluation does not rely on one source or procedure as the sole criterion for determination and should include:

- Review of existing data; including corresponding response to intervention (RTI) documentation
- Relevant functional and developmental information;
- Information from parents;
- Information from other providers;
- Information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;
- Current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records, and observations;
- Teacher and related service providers' observations;
- Testing and other evaluation materials, which may include medical or other evaluations when necessary.
- All current evaluation data as well as data previously reviewed by the team must be considered. Professional members of the evaluation team need to be familiar with qualifying disability definitions and criteria in federal and state rules.
- This review of existing data may be in the form of a meeting of IEP team members, or may be conducted without a meeting. It could include data provided by parents, data gathered in the general education classroom or from state and district level assessments. The data may provide information about the student's physical condition, social or cultural background and adaptive behavior.
- When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The gathering of additional data in combination with existing data must be sufficiently comprehensive to address all areas of the suspected disability and any special education needs, whether linked to the disability category or not. If the IEP Team determines that no additional data is needed, the IEP team will notify the student's parent of that determination and the reasons for it, and inform them of their right to request additional assessments. The district will follow the evaluation procedures outlined in WAC 392-172A.
- Parents and district staff are encouraged to work towards consensus, but the school district has the ultimate responsibility to determine whether the student has a disability or not. The school district will provide the parent with prior written notice of the eligibility decision, as well as a copy of the evaluation report. If the parent disagrees with the eligibility decision they need to be informed of their dispute resolution options described in the procedural safeguards.

**Specific Learning Disability (SLD)**

The district continues to use the severe discrepancy approach for identifying students with a SLD when insufficient RTI data is available.

### **Evaluation of Transfer Students**

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

### **Determining Needed Evaluation Data:**

The evaluation group members select the specific assessments to be used in the evaluation, based on a review of existing data and the student's particular needs. The review of the existing data should include the evaluation group members, the parents, and other persons who would be members of the IEP team if the student is determined eligible. If it is determined that no additional testing data is necessary to make a decision about eligibility, the parents will be notified that no additional testing is necessary and of their right to request additional assessments.

When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting, and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The evaluation group shall use a variety of methods, tools and strategies designed to gather relevant functional and developmental information. The evaluation will not rely on one source or procedure as the sole criterion for determination. The district will follow the evaluation procedures outlined in WAC 392-172A-03020 through 03030.

### **Evaluation Report**

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

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

- Identify the disability which requires special education and related services, if a disability exists;
- Discuss assessments and review data supporting conclusions regarding eligibility;
- Include the additional information required for the specific learning disability eligibility category;
- Describe how the disability or disabilities affect the student's involvement and progress in the general curriculum;
- Make recommendations to the IEP team with respect to special education and related services needed, materials or equipment, instructional and curricular practices, student management strategies, the need for extended school year services beyond 180 school days and location of services;
- Include other information, as determined through the evaluation process and parent input;

- Include the additional information required for the specific learning disability eligibility category;
- Provide any necessary professional judgments and the facts or reasons in support of the judgments; and
- Be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions shall prepare a statement presenting the conclusion.

The school psychologist or designee is responsible for notifying parents of the date, time and location of evaluation meetings by following the procedures in the parent participation section for inviting parents to meetings.

### **Eligibility**

The evaluation group and the parent will determine whether or not the student is a special education student

- A student is not eligible if the determinant factor is lack of instruction or limited English proficiency.
- Eligibility may be determined by documented professional judgment when
  - Properly validated tests are unavailable, or
  - Corroborating evidence indicates that results were influenced due to measuring a disability.
- Eligibility is not to occur when the determinant factor is a lack of instruction in reading or mathematics. The parent will be provided with a copy of the evaluation report and the documentation of determination of eligibility.

Parents will also be provided with written notice of the eligibility decision within ten school days of the decision. The special education department is responsible for sending the notice.

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

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

When a special education student is expected to graduate prior to age 21, or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. The district will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services no less than 3 months before graduation.

### **Reevaluation**

Every special education student will be reevaluated at least once every three years using the evaluation procedures. Reevaluations may occur more frequently if the student's situation warrants a reevaluation or if requested by the parent or teacher and the district agree.



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

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

The reevaluation process shall be completed within 35 school days after the parent’s consent is received by the school district or within 35 school days after a parent’s refusal to consent is overridden by a due process decision, and not later than three years after the previous determination of eligibility.

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

- Evaluations and information provided by the parents,
- Current classroom-based assessment and observations, and
- Observations by other teachers and related services providers data.

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

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

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

If additional testing is needed, the district will request written parental consent for reevaluation. If the parents do not return the signed consent form the district shall send another letter explaining the need for reevaluation and parent consent, and will enclose another consent form and a copy of the prior written notice. If the parents do not respond to the request for consent, the district can proceed with the reevaluation. If the parents refuse to consent, the district should seek mediation in order to obtain consent, or, if necessary, a request a due process hearing to order reevaluation.

After the reevaluation is completed, the district will both invite parents to the eligibility meeting and will provide prior written notice of the results of reevaluation to parents in their primary language, indicating one or more of the following:

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

This notice will occur within ten school days of the eligibility decision. The special education department and child's case manager are responsible for sending the notice.

### **Independent Educational Evaluations (IEE)**

Parents of students eligible for special education, students referred for special education and determined not to be eligible or students determined not to need an evaluation have a right to obtain an IEE at public expense, each time the district conducts an evaluation of the student.

The following criteria for the selection of an individual to conduct an independent educational evaluation at public expense are established for the purpose of identifying the knowledge, experience and qualifications of individuals selected to conduct the evaluations; guaranteeing the selection of local professionals who can maintain any necessary ongoing contact and consultation with the district; and ensuring that such evaluations are conducted at reasonable fees commensurate with the usual and customary rate in this geographical area. Any individual selected to conduct either a district evaluation or an independent educational evaluation must be:

- Licensed, credentialed or otherwise qualified within the state of Washington or state of residence/practice to perform an evaluation in the specific professional discipline for which an independent evaluation is sought.
- Knowledgeable and experienced in evaluating children with similar disabilities.
- Geographically located within the state of Washington or Oregon.
- Available to the district at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington.

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

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

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

## **Individualized Education Programs (IEP)**

### **Transitions of Birth-to-Three Students to Preschool**

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

- Transitioning planning conferences shall be convened, with the approval of the family of the child, at least ninety calendar days or at the discretion of all parties up to six months before the student's third birthday. Planning conferences should include determinations of the need for re-evaluation, if appropriate.
- The transitioning planning conferences will include representatives of the Part C lead agency, the family, and the district.
- Participants will review the child's program options for the period from the child's third birthday through the remainder of the school year.
- By the student's third birthday, an IEP will be developed and implemented. If the third birthday is not during the school year and when appropriate the IEP may set a start date of the beginning of the school year.

### **IEP Development**

The IEP is the written statement reflecting the implementation of instructional programs and other services for special education students. It is intended as a practical method of addressing from the evaluation results the identified needs of the student which include special education, any necessary related services, and any other services necessary for the student to progress towards meeting his or her goals in the IEP.

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

Additionally, parent consent is required for placement and the provision of special education services before the initial provision of special education services. Parent consent is not required after initial eligibility is established.

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

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

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

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

The district will provide parents/guardians with a copy of the district's Restraint, Isolation and Other Uses of Reasonable Force (*Policy 3246*) with each initial and annual IEP.

The IEP team includes:

- The parents of the student;
- At least one general education teacher (or preschool teacher) of the student if the student is or will be participating in the general education environment; The general education teacher (or preschool provider), as a member of the IEP team, must, to the extent appropriate participate in the development, review and revision of the student's IEP including assisting in the determination of appropriate positive behavioral interventions and strategies for the student and the determination of supplementary aides and services, program modification, and supports for school personnel that will be provided to the student.
- At least one special education teacher, or if appropriate, at least one special education provider of the student.
- A representative of the district, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of district resources. The special education director or designee must be included when district funding issues are requested for approval.
- An individual who can interpret the instructional implications of the evaluation results.
- Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both the district and the parents, at the discretion of the person making the invitation.
- The student, when appropriate, or when required.
- Transition participants when required.

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

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

Sometimes parents do not attend IEP meetings. Additionally, there will be times the parents do not agree with the IEP as proposed, and despite attempts to reach agreement on IEP content, the team does not reach agreement. If a parent attends the IEP meeting and agreement is not reached on the IEP, the team shall determine whether another IEP meeting should be scheduled as soon as mutually possible, or whether there is enough information to complete the IEP.

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

- Have IEP members present sign the IEP (or document participation if any member is unwilling to sign).
- Send a copy to the parent, and provide the parent prior written notice that the district intends to implement the IEP.
- Forward the documentation of actual or attempted contacts to the special education department for processing when parents do not attend the meeting.

**IEP Preparation and Content:**

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

- The strengths of the student and concerns of the parents for enhancing the education of their child;
- Whether a behavior plan, including positive supports and possible aversive interventions should be considered;
- Whether the student with limited English proficiency has language needs;
- Whether Braille instruction is appropriate for a student who is blind or visually impaired;
- Whether a student has other language and communication needs; and
- Whether assistive technology devices or services are needed.

IEP content includes:

- The student's present levels of educational performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or pre-school activities.
- Measurable annual goals for the student including benchmarks or short term objectives that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs. "As measured by..." must be included in the stated goal.
- A statement of special education services, any necessary related services, and supplementary aids and services to be provided to the student and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other special education students and non-disabled students and participate in extracurricular and other nonacademic activities.
- A statement of the extent, if any, that the student will not participate with non-disabled students in general classroom, extra-curricular and non-academic activities.
- A statement of any modification in the administration of state or district-wide assessments of student achievement that are needed to allow the student to participate in the assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why that assessment(s) is not appropriate and how the student will be assessed.
- The date for the beginning of services and the anticipated frequency, location and duration of services and modifications.
- A statement of how the student's progress towards goals will be measured, how the student's parents will be regularly informed of their child's progress towards the annual goals and

whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Information to the parents can be provided through the use of progress reports or report cards or other agreed means, but the information must be provided at least as often as information is provided to students without disabilities.

- Beginning at age 14, or sooner if the IEP team determines it is appropriate, a statement on transition service needs under the applicable components of the IEP that focus on the student's courses of study.
- Beginning at age 16, or sooner if the IEP team determines it is appropriate, a Transition Plan with needed services and any interagency responsibilities or needed linkages.
- Emergency response protocols, if determined necessary by the IEP team for the student to receive FAPE and parents provide consent. Emergency response protocols must meet the requirements stated in WAC 392-172A-02105;
- A behavioral intervention plan (BIP), if determined necessary by the IEP team for a student to receive FAPE. The BIP must meet the requirements stated in WAC 392-172A-01301;
- The procedures by which parents/guardians will be notified of the use of isolation or restraint or a restraint device on their student (see Procedure 3246).
- Extended school year services. The consideration for extended year services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. Extended school year services are not limited by categories of disability, or limited by type, amount or duration of the services. If the need for extended school year services is not addressed in the IEP and extended school year services may be appropriate for the student, the IEP team will meet by April 15 to address the need for ESY Factors for the team to consider when determining the need for ESY may include, but are not limited to:
  - Documentation of regression or difficulty regaining skills during pre and post-school breaks;
  - Acute/chronic health problems negatively impact the student's education;
- A student is beginning to show progress in a critical skill and the team determines that an extended program is appropriate; or
- A student is not making progress despite changing objectives, methods, materials, placement or time.

**Use of isolation, restraint and restraint devices:**

**Definitions**

- **Imminent:** The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.
- **Isolation:** Restricting a student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.
- **Likelihood of serious harm:** A substantial risk that physical harm will be inflicted by a student:
  - upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

- upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm;
  - upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
  - after the student has threatened the physical safety of another and has history of one or more violent acts.
- **Positive behavioral intervention:** Strategies and instruction that can be implemented in a strategic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.
  - **Restraint:** Physical intervention or force used to control a student, including the use of a restraint device. It does not include appropriate use of a prescribed medical, orthopedic or therapeutic device when used as intended, such as to achieve proper body position, balance or alignment or to permit a student to safely participate in activities.
  - **Restraint device:** A device used to assist in controlling a student, including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. Restraint device does not mean a seat harness used to safely transport students. This definition is consistent with RCW 28A.600.485(1)(c), and is not intended to endorse or encourage the use of such devices or techniques with district students.

**Practices presumed to be unreasonable when correcting or restraining any student under the age of 18:**

Under RCW 9A.16.100, the following is a non-exclusive list of acts that are presumed unreasonable when correcting or restraining a child:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under the age of three;
- interfering with a child's breathing;
- threatening a child with a deadly weapon; or
- doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

This non-exclusive list should not be read so as to imply that another, unlisted form of correction or restraint is permissible. Whether or not an unlisted use of force or restraint is presumptively permissible depends upon a balanced consideration of all relevant state laws and regulations, and whether the use is reasonable under the totality of the circumstances.

**Conditions specific to use of isolation:**

- The isolation must be discontinued as soon as the likelihood of serious harm has dissipated;
- The enclosure will be ventilated, lighted and temperature controlled from inside or outside for purposes of human occupancy.

- The isolation enclosure will permit continuous visual monitoring of the student from outside the enclosure.
- An adult responsible for supervising the student will remain in visual or auditory range of the student at all times.
- Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
- Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.

**Conditions specific to use of restraint and restraint devices:**

- The use of restraint or a restraint device must be discontinued as soon as the likelihood of serious harm has dissipated;
- The restraint or restraint device will not interfere with the student's breathing;
- Any staff member or other adults using restraint or restraint devices must be trained and certified by a qualified provider in the use of such restraint or restraint devices, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.
- In the case of a restraint device, either the student will be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.

**Prohibited practices involving restraint, use of force, and discipline:**

The following practices are prohibited with students eligible for special education services:

- District personnel are prohibited from using aversive interventions;
- District personnel are prohibited from physically restraining or isolating a student, except when the student's behavior poses an imminent likelihood of serious harm as defined above;
- No student may be stimulated by contact with electric current, including, but not limited to, tasers;
- A student may not be denied or subjected to an unreasonable delay in the provision of food or liquid as a form of punishment;
- A student may not be the recipient of force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law (see above, for example, for a list of practices presumed to be unreasonable when used in correcting or restraining a child);
- A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care;
- A student must not be denied or subjected to an unreasonable delay in the provision of medication;



- A student may not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110;
- A student must not be forced to listen to noise or sound that the student finds painful;
- A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance;
- A student must not be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration;
- A student's head must not be partially or wholly submerged in water or any other liquid.
- A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172A.02110.

### **Documentation and Reporting Requirements**

Districts must follow the documentation and reporting requirements for any use of isolation, restraint, or a restraint device consistent with RCW 28A.600.485 and the parental notification requirement of RCW 28A.155.210. See Policy and Procedure 3246.

### **Transfer Students**

Students who transfer from one district to another within the state continue to be eligible for special education and any necessary related services. When a special education student transfers into the district, the building principal will notify the special education department. The special education department and school psychologist and case manager will review the student's IEP to determine whether the district is able to implement the services on the IEP, as written, and will notify parents. If implementation of the IEP is not possible, the district will provide services that approximate the services on the old IEP until a new IEP can be developed. If it is necessary to develop a new IEP, the district will convene the IEP team as soon as possible.

When a student who was identified as eligible for special education, transfers from out of state into the district, the building principal will notify the special education department as soon as possible. The school psychologist and special education teacher (case manager) will review the evaluation, eligibility documentation and IEP, to determine whether or not the student meets state eligibility criteria. If the student meets the state eligibility criteria, follow the procedures described in the previous paragraph to provide comparable services until the district develops an IEP for the student. If the student needs to be evaluated to determine eligibility in this state, the school psychologist will notify the parents, obtain consent and evaluate the student for eligibility within 35 school days.

### **Placement**

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

parent or adult student must provide written consent to services before the student receives special education services. Notification to parents, and consent to receive initial services must be obtained before special education services and any necessary related services are provided to an eligible student. If the parents do not consent to the provision of special education and related services, the district will offer and explain the benefits of mediation. If the mediation option is not effective, the district will not provide special education services to the student. The district will notify the parents that the student is eligible for services and that the district is willing to provide the services when the parent provides written consent.

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

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

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

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

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

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

Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students, with no restrictions, opportunities same as non-disabled students, which includes counseling services, athletics, transportation, health services, recreational activities, clubs, etc. Limits on nonparticipation or conditions of participation must be designated in the IEP. WAC 392-171A-03090(1)(e)

The district will also make opportunities available for special education students to participate with non-disabled students in the district's art, music, industrial arts, computer, consumer classes, and home economics classes.

Within the district, a range of placement options exists spanning Birth to 2 through natural environment within-class (K-12), resource room (reading, writing and math instruction), therapy room (speech and motor intervention), self-contained (age 3-21 with more restrictive environment), home-bound (providing service in the home for medical reasons), and out-of-district contracts (vision and deaf). These options are intended to address the individual needs of students, and they are considered according to the following process:

The placement of each student with disability will be determined annually, or sooner if appropriate, by the IEP team.

The appropriateness of placement options will be based upon various decisions, including:

- Data-based judgments in IEP development;
- Judgments (data-based) in determining LRE;
- The reasonable probability of the placement option(s) assisting the student to attain annual goals and objectives and the quality of services needed.
- The reasonable probability of the placement option(s) assisting the student's attainment of annual goals and objectives; and
- The consideration of potentially harmful effects upon the student or on the quality of services needed.

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

#### **Students Unilaterally Enrolled in Private Nonprofit Schools by Parents**

On December 1st each year, the district shall conduct an annual count of the number of private school special education students, residing in the school district boundaries, who are unilaterally enrolled by their parents in a private school even though the district has offered an appropriate special education program. No later than October 30<sup>th</sup>, the district special education director shall consult with appropriate representatives of private school students to decide how to conduct the annual count. The purpose of the child count is to determine the proportionate amount that the district must spend on providing special education and related services, including transportation, to private school or preschool students in the next fiscal year.

The district is required to spend a proportionate amount of federal special education Part B and Section 619 funds to provide special education and related services to private school students. In order to determine which students will receive services, what services will be provided, how and where the services will be provided, and how services provided will be evaluated, the district shall consult with appropriate representatives of private school students. The district shall make the final decision with respect to services to be provided to eligible private school students. The special education office will notify each approved private school or preschool operating in the district seeking recommendations of persons to serve as representatives of special education private school students in consultations with the district. An initial meeting will be called by the district to establish a work plan and schedule with the private school student representatives to discuss how to identify students, which students will receive services, what services will be provided, how and where services will be provided, and how services will be evaluated.

The special education director is responsible for private school involvement and service plan development. A private school student has no individual entitlement to any service or amount of service (s)he would have received if enrolled in the district. However, for each private school student receiving special education or related services, the district shall initiate and conduct meetings to develop, review and revise a service plan describing the specific special education and related services that the district will provide. The service plan must (1) meet the requirements of WAC 392-172A-03090 with respect to the services to be provided, and (2) be developed, reviewed, implemented and revised annually. The district shall make every effort to include a representative from the private school at each meeting. If the private school representa-

tive is not able to attend, the district shall use other methods, including individual or conference telephone calls, to assure the representative's participation.

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

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

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

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

### **Procedural Safeguards**

#### **Consent**

The district will obtain informed, written parental consent before:

- Conducting an initial evaluation;
- Providing initial special education and related services to a special education student; and
- Conducting a reevaluation.

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

Informed consent means that the parent or adult student:

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

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

If the district is unable to obtain a parent's consent, the district will explain the benefits of mediation and ask the parent to mediate. If that is unsuccessful, the district will request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. The district may not request a due process hearing to override a parent's refusal to consent to initial special education services.

### **Revocation of Consent**

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

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

- Will provide prior written notice before ceasing services;
- Stop providing SE and related services after the effective date contained in the district's prior written notice'
- Will not use mediation or the due process procedure to obtain agreement.

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

### **Notice of Procedural Safeguards**

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

- Upon initial referral for evaluation;
- Upon each notification of a IEP meeting;
- Upon reevaluation of the student;
- Upon receipt of request for due process; and
- Upon a change of placement for disciplinary action.

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

### **Prior Written Notice**

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

The prior written notice will include:

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

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

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

The district will document in writing the attempts to explain this information so that the parent understands the content of the notice.

### **Transfer of Educational Rights to an Adult Student**

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

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

The district will also notify the student and the parent, of the transfer of rights when the student turns 18.

### **Appointment of an Educational Representative**

A student over the age of eighteen is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be "incapacitated" through a legal guardianship proceeding. If a parent, another interested party, or the district believes that the student over the age of eighteen is unable to provide informed consent or to make educational decisions, and the student does not have a legal guardian, the parent or other interested party may ask the district to appoint an educational representative. This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student, and conclude the student is incapable of providing informed consent. The district will inform the student of the decision and appoint either, the spouse, the student's par-

ents, another adult or surrogate educational representative to represent the student. The appointment of the educational representative will continue for one year.

The student or other adult may challenge the certification at any time. If a challenge occurs, the district will not rely on the education representative, until the representative is recertified.

### **Confidentiality and Records Management**

The superintendent, special education director, and each building principal are responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The special education director will maintain, for public inspection, a current list of the names and positions of district employees who have access to personally identifiable information of special education students. The district will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained, or used by the district.

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

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

If parents believe that information in an education record is inaccurate or misleading, or violates the privacy or rights of the student, they may request that the district amend the information. Policy and Procedure 3231, Student Records, describes the process and timelines for challenges to and hearings regarding student records.

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

Records management is also governed by Policy and Procedure 4040, Public Access to District Records.

### **Surrogate Parents**

A surrogate parent is a person appointed by the school district to act on behalf of a student to

help ensure the rights of the student to a Free and Appropriate Public Education when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state.

The special education director or designee is responsible for determining the need for appointment of a surrogate parent.

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

When a child is in foster care, the district must determine, when a parent can be identified or the whereabouts of the parent are known, whether or not the parent still has rights to make educational decisions on behalf of their child.

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

- In cases where the student is in foster care the district must determine the legal custodial status of the child.
- Parents who have voluntarily placed their child in foster care still retain legal custody of the child and retain the right to make educational decisions.
- Parents whose children are placed in foster care, pending a determination of "dependency" still retain rights to make educational decisions unless otherwise ordered by the court.
- When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency.
- Parent's whose parental rights are terminated no longer have the right to make educational decisions on behalf their child.

When a student is placed in foster care, the district will work with the parents, case-worker(s), foster parents, and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate. When a child's relative is the foster parent, and the parent does not have the right to make educational decisions, the district may consider that person acting in place of the parent and does not need to appoint a surrogate.

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

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

The person selected as a surrogate:

- (1) Must have no interest that conflicts with the interests of the student he or she represents;
- (2) Must have knowledge and skills that assure adequate representation of the student; and
- (3) May not be an employee of a school district and/or other public agency which is involved in the education or care of the student. Public agencies include OSPI, DSHS in addition to district employees.



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

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

### **Mediation**

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

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

A request for mediation services from the school district will be made in writing to OSPI's contracted agent by the district's special education director. If a parent requests mediation, notify the director, and the director will respond to the parent and file appropriate requests with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process shall be confidential.

WAC 392-172A-05075. The district has established procedures to require parents to understand the benefits of mediation. The district contracts with a parent resource center or an alternative dispute center to explain the benefits of mediation.

### **Due Process Hearing**

Each school will have due process hearing forms, available from OSPI, available for parents' use to request a due process hearing. Parents will be informed of the need to notify the school district of requests for due process hearings and informed that the request for hearing should include: 1) the name of the student 2) address of the residence of the student 3) the name of the school the student is attending 4) a description of the nature of the problem, including facts relating to the problem and 5) a proposed resolution of the problem to the extent known based on the information available to the parent. The district will inform parents that failure to provide the notice will hamper the district's availability to assist the student and could ultimately result in a reduction of attorney fees.

Parent requests for hearing should immediately be forwarded to the special education director. If the parent has not filed the request for hearing with OSPI legal services, the district will forward the parent request to OSPI Legal Services. The district may not delay or deny a parent's due process hearing request.

The district special education director is responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

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

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

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

### **Discipline**

Students eligible for special education may be disciplined consistent with the disciplinary rules that apply to all students. The district shall determine on a case by case basis whether discipline that is permitted under WAC 392-400 should occur. However, students eligible for special education must not be improperly excluded from school for disciplinary reasons that are related to their disability or related to the district's failure to implement a student's IEP. The district shall take steps to ensure that each employee, contractor and other agents of the district responsible for education or care of a student is knowledgeable of special education disciplinary rules.

### **Removal Up to Ten Days**

The building principal may order the removal of a special education student from a current placement. The district need not provide services to a special education student removed from the current placement for ten school days or less in any school year, if services are not provided to a student without disabilities.

### **Removal for More than Ten Days**

Once a student has been removed from placement for a total of ten school days in the same school year, and if the district determines that the removal is not a change of placement, the district must, during subsequent days of removal, provide appropriate services to the extent necessary to enable the student to participate in the general ed curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP, the building principal in consultation with one or more of the student's teachers, shall make the determination of such necessary services.

If the IEP team members described in the manifestation determination section determine that the behavior is not a manifestation of the student's disability and the removal is a change of placement, the district may apply the same disciplinary measures that apply to students without disabilities. However, the student must continue to receive services to the extent necessary to enable the student to participate in the general ed curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The relevant IEP team members, selected by the parent and the district, shall determine appropriate services.

### **Change in Placement**

A change of placement occurs when a special education student is

- Removed from his/her current placement for more than ten consecutive school days in a school year, or
- Subjected to a series of removals cumulating to more than ten school days in a school year and which constitute a pattern of removal because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another.

If a disciplinary action constituting a change of placement is contemplated, the district shall notify the student's parents of that decision, provide the procedural safeguards notice described in Chapter 392-172A WAC, and provide any other notices required under Chapter 180-40 WAC, not later than the date on which the decision to remove the student is made. The district shall also conduct a "manifestation determination" of the relationship between the student's disability and the behavior subject to the disciplinary action immediately, if possible, but in no case later than ten school days after the date on which the decision to remove the student is made.

To the extent hearing processes available to all students under Chapter 180-40 WAC are invoked by a special education student and his parents, the district shall transmit the student's special education and disciplinary records for consideration of the person(s) making the final determination in said hearing.

### **Manifestation Determination**

The review of the relationship between a student's disability and the behavior subject to the disciplinary action shall be done in a meeting by the IEP team and other qualified personnel within 10 school days after the date on which the decision to change the placement is made. This may be the same meeting as that convened for the IEP team to address a functional behavioral assessment and behavioral intervention plan.

The review of the relationship between a student's disability and the behavior subject to the disciplinary action will occur at a meeting that includes the parent and relevant members of the IEP team who are selected by the parent and the district. The school psychologist is responsible for contacting the parent in order to determine relevant IEP team members and providing notice of the meeting. The team will review all relevant information in the student's file, including the IEP, teacher observations and information provided by the parent to determine:

1. If the conduct was caused by or had a direct and substantial relationship to the child's disability; or
2. If the conduct in question was the direct result of the district's failure to implement the student's IEP.

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student's disability. The district will take immediate action to remedy the deficiencies, and will:

1. Conduct a functional behavioral assessment (unless already completed) and implement a behavioral intervention plan if one is not already in place; or
2. Review the existing behavioral intervention plan and modify it to address the behavior; and
3. Return the child to the placement from which he or she was removed from unless the parents and the district agree a change is necessary as part of the behavioral intervention plan, or unless the infraction involves drugs, weapons or serious bodily injury.

If, however, the results of the manifestation determination review indicate that the behavior was not a manifestation of the student's disability, the special education student may be disciplined in the same manner as a student without disabilities, subject to the requirement that a FAPE shall continue to be made available to special education students consistent with Chapter 392-172A WAC. The determination of the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP, during the period of disciplinary removal constituting a change of placement, shall be made by the IEP team.

Within ten business days after first removing a special education student for more than ten school days in a school year, the district shall take the following action:

- If a functional behavioral assessment was not previously conducted and a behavioral intervention plan implemented for the student before the behavior occurred that resulted in the removal, an IEP meeting shall be convened to develop an assessment plan.
- If the student already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and modify it, as necessary, to address the behavior.

As soon as possible after developing the plan described above and completing the assessments required by the plan, the district shall

- Convene an IEP meeting to develop appropriate behavioral interventions to address the behavior that resulted in the removal, and
- Implement those interventions.

In the event of any subsequent removal that does not constitute a change of placement for a student who has a behavioral intervention plan and who has previously been removed for more than ten school days during the school year, the IEP team shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more team members believe that modifications are necessary, the IEP team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

### **Special Circumstances**

School personnel may order a change in placement to an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 days, if a special education student:

- Possesses a "dangerous weapon," as defined in WAC 392-172-05145(9)(d), or carries such a weapon to school or to a school function; or
- Knowingly possesses or uses "illegal drugs," as defined in WAC 392-172- 05145(9)(b), while at school or a school function; or
- Sells or solicits the sale of a "controlled substance," as defined in WAC 392-172-05145(9)(a), while at school or a school function.
- Inflicts serious bodily injury upon another person while at school or a school function. Serious bodily injury means a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Any interim alternative educational setting in which the student is placed is determined by the student's IEP team and will:

- Be selected so as to enable the student to continue to progress in the general curriculum and to continue to receive services and modifications, including those specified in the student's IEP, that will enable the student to meet the goals in the IEP; and
- Include services and modifications designed to address the behavior, to prevent the behavior from recurring.

The district may ask a hearing officer, or seek injunctive relief through a court having jurisdiction of the parties, to order a change in placement to an appropriate interim alternative educational setting, for not more than 45 school days, or seek injunctive relief through a court having jurisdiction of the parties, when:

- The district can demonstrate beyond a preponderance of the evidence that maintaining said student's current placement is substantially likely to result in injury to the student or others;
- The district has made reasonable efforts to minimize the risk of harm in the current placement, including the use of supplementary aids and services; and
- The proposed interim alternative educational setting has been proposed by school personnel in consultation with the student's special education teacher and meets the requirements of WAC 392-172A-05145(3), (4)(f) and (7).

Unless the parent and the district agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the interim alternative educational setting, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five day period, whichever occurs first.

If the district proposes to change a student's placement, after expiration of a forty-five day interim alternative educational setting ("IAES"), and the parent requests a hearing to challenge the proposed change in placement, the student's "stay put" placement is his/her placement prior to the IAES, unless the district requests an expedited due process hearing in accordance with WAC 392-172-A-05160 and proves that it is dangerous for the student to return to said placement.

### **Basis of Knowledge**

A student who has not been determined eligible for special education services may assert the protections under WAC 392-172A-05170 if the district had knowledge that the student was a special education student before the behavior that precipitated disciplinary action occurred.

The district is deemed to have knowledge if:

- The parent expressed concern in writing (or orally, if the parent does not know how to write or has a disability that prevents a written statement) to personnel that the student is in need of special education,
- The behavior or performance of the student demonstrates the need for special education services,
- The parent requested that the student be evaluated for special education services, or
- The teacher or other school personnel has expressed concern about the behavior or performance of the student to the director of the special education department or to other special education personnel responsible for the district's childfind system.

If instituting disciplinary action that would exceed ten days, and the principal believes that one or more of these events applies to the student, he or she will notify the special education department to determine the appropriate disciplinary procedures.

The district is not deemed to have knowledge if as a result of receiving the information described above, the district either:

- Conducted a special education evaluation of the student and determined that the student was not eligible for services; or
- The parent of the student has not allowed an evaluation of the child or has refused services,
- Determined through the referral process that evaluation was unnecessary; and
- Provided prior written notice to the parents of its determination.

If the district is not deemed to have knowledge that a student is a special education student, (s)he may be disciplined as a student without disabilities who engages in comparable behaviors. The district shall conduct an evaluation, which is requested during the time period such a student is subjected to disciplinary measures, in an expedited manner. Until the evaluation is completed, such a student shall remain in the educational placement determined by the district, which can include suspension or expulsion without educational services.

Notwithstanding the foregoing, the district may report a crime committed by a special education student to appropriate authorities. In the event of such a report, the district shall ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, to the extent transmission of the records is permitted by the Family Educational Rights and Privacy Act (FERPA).

### **Staff Qualifications**

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

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

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

In the event a special education teacher does not have a certificate endorsed in special education, a district may apply for a pre-endorsement waiver through the special education section of the OSPI. A teacher must hold a valid general teaching certificate, and have completed twenty-four credit hours or sixteen semester credit hours of required special education course work and complete the remaining credit and endorsement requirements within three years of service as a special education teacher.

If the district must temporarily assign a classroom teacher without a special education endorsement to a special education position, the district special education director will document in writing that:

- The district is unable to recruit a teacher with the proper endorsement who was qualified for the position; and/or
- The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or

- The reassignment of another teacher within the district would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

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

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

### **Personnel Development**

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

- Special education concerns will be identified through a staff needs assessment completed by administrators, teachers, educational staff associates, program assistants, parents and volunteers;
- All personnel who use restraint, restraint devices and/or isolation must be certified and annually trained in the use of such restraint, restraint devices and/or isolation;
- In-service training schedules will be developed based upon the results of the district assessment and in support of needs identified.
- Training for classified staff in the state recommended core competencies will occur through annual sessions.

### **Public Participation**

The district will:

- Invite teachers to participate in planning at least annually at the school or district level.
- Invite parent advisory group annually, public notice annually, and regular scheduled staff meetings.

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