

SPECIAL EDUCATION

Special Education and Related Services for Eligible Students

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

The state regulations governing implementation of special education services pursuant to the Individuals with Disabilities Education Improvement Act (IDEA) of 2004 are addressed in Chapter 392-172A WAC. These procedures do not address all of the requirements established in the regulations. 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.

Free Appropriate Public Education (FAPE)

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

The superintendent, or designee, 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 a general education environment.

Services to eligible special education students' age three to 21 will be provided without charge to the student. This does not include incidental fees that are normally charged to all students. Special education services will include preschool, elementary and secondary education and are provided in conformance with the student's 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 FAPE, as permitted by the public insurance program. However, the district shall not:

- Require parents to sign up for or enroll in public benefits or 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 public or private insurance proceeds to provide FAPE to an eligible student only if the parent provides informed consent to the district. Whenever the district proposes to access the parent's public benefits or private insurance proceeds, the district shall:

- Obtain parent consent in accordance with Chapter 392-172A WAC each time the district uses benefits for a new procedure; and
- Inform the parents that their refusal to permit the district to access their insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents.
- To avoid financial cost to parents who would otherwise consent to use private insurance, or public benefits 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 in Meetings

The district encourages parental involvement and sharing 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 FAPE.

When a meeting is scheduled parents will be:

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

When the meeting is to address the IEP or placement, the parent will be:

- Notified that the district or the parent may invite others who have knowledge or special expertise of the student; and
- Meetings shall be scheduled at a mutually agreeable time and place
- The district shall take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English
- The staff person responsible for inviting the parents to meetings will keep documentation of the information provided and the methods used to notify the parents of the meeting. The district may proceed with the IEP or placement meeting if the district is not able to convince the parent to attend. In this case, the district will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent and/or other means used to contact the parent
- This documentation will be kept in the student's special education file

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, video, or other means of conferencing.

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

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

Identification and Referral (Child Find)

Identification

The purpose of child find is to locate, evaluate, and identify children with suspected disabilities in need of special education services including those who are not currently receiving special education and related services and who may be eligible for those services. Activities are to reach:

- Children residing in the school district boundaries including preschool-aged children
- Children attending private elementary and secondary schools located within the district boundaries. Elementary or secondary schools include public schools, non-profit institutional day or residential schools and private schools.
- Highly mobile children (such as homeless, foster care and migrant children)
- Children who have a disability and may need special education services even though they are advancing from grade to grade; and
- Children at home or home schooled

The district will consult with parents and representatives of private school students to ensure its child find activities are comparable in private schools located within district boundaries. These consultations will occur annually by phone, meetings, letters, etc.

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
- Information regarding child find on the district's Web site
- Notification to private schools located in the district's boundaries
- District informational mailings
- Posting notices regarding screening and referral in school buildings and public locations including DSHS community service offices, Employment Security offices, day cares, community preschool sites and physicians' offices
- Notifying and coordinating with the designated Part C lead agencies
- 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

When district staff has a concern that a student may have a suspected disability which could result in eligibility for special education services, they will notify either of the following, building's school psychologist, counselor, or administrator.

The district's special education department conducts early childhood screenings for ages birth to five. These occur monthly at the special education department offices or at the birth to two center. When parents or others inquire about screenings, the caller will be referred to the district preschool child find coordinator.

The screening process involves the following:

- Parents are asked to provide information to assist in assessing their child; and
- 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 written notice of the results within ten days of the screening. If the screening supports evaluation, obtain written consent for evaluation at the exit interview if possible, or include consent forms with the written notice notifying the parents of the results. If the screening results indicate that the child does not need an evaluation, written notice shall be sent to the parents within 10 days of the screening explaining the basis for the district's decision not to evaluate. Evaluation occurs in accordance with evaluation procedures.

Referral

A student whether or not enrolled in school, may be referred for a special education evaluation by parents, district staff or other persons knowledgeable about the student. Each building principal will designate a person responsible for ensuring that district 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, the district must act within a 25 school-day timeline to make a decision about whether or not the student will receive an evaluation for eligibility for special education services.

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person shall notify the guidance team coordinator. The special education department (a) records the referral; (b) provides written notice of the referral to the parent; and (c) advises the building's 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 building's guidance team 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's information regarding the child including observations
- 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 guidance team school psychologist 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. After the building guidance team reviews the request for evaluation and supporting data and does not suspect that the child has a disability, the district may deny the request. In this case written notice, including the reason for the denial and the information used as the basis for the denial, must be given to the parent.

If the determination is that the child should be evaluated, the reviewers shall include information about the recommended areas of evaluation, including the need for further medical evaluation of the student. This information will assist the district in providing parents prior written notice and will assist the district in selecting appropriate evaluation group members. The building psychologist is responsible for notifying parents of the results using prior written 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.

The building school psychologist/special education department 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 with 35 school days after parent consent, unless
 - The parents and district agree in writing to extending the timeline
 - The parent fails or refuses to make the student available for the evaluation; or
 - The student enrolls in another school district after the evaluation is begun but before completion and the parent and new district have an agreement for completion of the evaluation

If a parent does not provide consent, notify the district's special education coordinator. District special education administrative staff will make a determination as to whether the district 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.

Eligibility – Part C students

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.

Evaluation Requirements

The purpose of the 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 to develop an IEP. This includes information provided by the parent. All information gathered in this process is reviewed by the IEP team or other group of qualified professionals.

The evaluation must be an individual assessment designed to determine:

- Whether the student is eligible for special education and any necessary related services; and
- The nature and extent of special education and related services needed by the student, including information related to enabling the child to be involved in and progress in the general education curriculum

The building's guidance team shall select the members of the evaluation group. Members selected must be knowledgeable about the student and the areas of suspected disabilities. Qualifications of a group member include having the appropriate professional license or certification and may include outside practitioners when necessary. When assessing for specific learning disabilities, the parent and a group of qualified professionals must be part of the group. If the student requires a medical evaluation in order to determine eligibility, the district will coordinate with the parents to arrange for the evaluation at district expense or through the use of public or private insurance if the parent consents to the use of the insurance.

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

Specific areas to be included in the evaluation are determined by the guidance team and other qualified professionals, as appropriate, as part of a review of existing data concerning the student. 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.

Evaluation of Transfer Students

If a student transfers into the school district while an evaluation process is pending from the other district, the building 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.

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 appropriate instruction in reading or math, based upon the state's grade level expectations 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.
- 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 prior written notice of the eligibility decision within ten school days of the decision. The special education department is responsible for sending the notice.
- Students remain eligible for special education services until one of four events occur:
 - The student is determined through a reevaluation to no longer be eligible for special education;
 - The student has met the district's high school graduation requirements; or
 - The student has reached age 21. A special education student, whose 21st 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. The district will also provide the parents and student with a summary of academic achievement and functional performance and recommendations to assist the student with postsecondary goals.

District procedures for granting high school graduation credits for students with disabilities can be found in IKF-R.

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 evaluation team leader 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.

Reevaluations

A reevaluation of a student receiving special education or related services is conducted if academic achievement and functional performance has improved to warrant a reevaluation, if the IEP team suspects that the student may no longer be a student with a disability or if the child's parent or teacher requests a reevaluation. A reevaluation does not occur more than once per year, unless parent and school agree otherwise. A reevaluation must occur at least once every three years.

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.

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

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

- Evaluations and information provided by the parents
- Current classroom-based assessment, local or state assessments and classroom based observations; and
- Observations by other teachers and related 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 with or without 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. Parent consent is not required if the reevaluation does not require additional testing:

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 to the reevaluation, the evaluation group will notify the special education director/coordinator so that the district can determine whether it will seek mediation in order to obtain consent or request a due process hearing to ask an administrative judge to override the parent’s refusal to consent

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 is responsible for sending the notice

Reevaluation and Graduation

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

Independent Educational Evaluations (IEE)

Parents of students eligible for special education, students referred for special education and determined to not be eligible or students determined not to need an evaluation have a right to request an IEE at public expense, each time the district conducts an evaluation of the student. When parents request an IEE the district must decide within 15 calendar days whether or not it agrees to provide it. Any parent request for an independent evaluation should be immediately referred to the special education coordinator. 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, arrangements will be made promptly. If the district denies the request to pay for an IEE, it must file for a due process hearing within 15 calendar days of the parent's request. The district may request mediation as an option after filing the due process hearing. If the parents withdraw their request for an IEE the due process hearing can be dismissed.

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

If the parent obtains an IEE at either public or private expense, any results of the IEE must be considered by the district if providing FAPE. The IEE may also be presented as evidence at a hearing regarding the student.

The following criteria are established for the selection of an individual to conduct an IEE at public expense. These criteria are established in order to identify the knowledge, experience and qualifications of individuals selected to conduct the evaluations. Any individual selected to conduct either a district evaluation or an IEE 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 (districts may wish to specifically expand the criteria to include practitioners in other states/British Columbia); and
- Available to the district at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington

- 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

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.

- The special education department/preschool coordinator is responsible for coordinating with the Regional Family Resource coordinator for timely execution of transition planning conferences, that are arranged at least 90 days before the student's third birthday;
- Participants will review the child's program options for the period from the child's third birthday through the remainder of the school year;
- If a student is determined eligible for special education services, an IEP will be developed and implemented by the student's third birthday. 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 based on the evaluation and student needs. An IEP must be in effect before initiation of special education services. The IEP must be developed within 30 calendar days after the student's initial determination of eligibility for special services. IEPs must be updated annually, or revised more frequently if needed to adjust the program and services.

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

The district will maintain a copy of the current IEP which 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 is 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 and IEP manager are responsible for coordinating interpreters and making arrangements for the meeting location.

The IEP team includes:

- The parents of the student
- Not less than one general education teacher (or preschool teacher) of the student if the student is, or will be, participating in the general education environment
- Not less than one special education teacher, or if appropriate, not less than one special education provider of the student
- A representative of the district, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of district resources
- An individual who can interpret the instructional implications of the evaluation results
- Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both the district and the parents, at the discretion of the person making the invitation
- The student, when appropriate, or when required
- Students must be invited when the purpose of the meeting includes discussion of transition needs or services
- If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited, with the parent's consent. If the agency representative can not attend the meeting, district personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision

Parents will be notified of the participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead educational agency for Part C at the initial IEP meeting for a child previously served under Part C of IDEA.

The parents and district must agree in writing before any of the above team members are excused from all or part of a meeting. If a team member's area of the IEP is being discussed or modified, then the parent and district must consent to his/her excusal. That specific team member must provide advance written input for their part of the IEP prior to the meeting. IEP teams will only use the excusal process with prior notice and approval of the parents and administrative designee. The parent(s) will be given the excusal notification prior to the scheduled IEP meeting to ensure the parent(s) are informed and are able to agree or disagree with the IEP team's request.

Existing team members may fill more than one of these roles if they meet the criteria for the role. The requirements for inviting parents to IEP meetings are found in the Parent Participation in Meetings section above.

Sometimes parents do not attend IEP meetings. There will also 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 decision is made that the IEP will be implemented the district must send prior written notice of the decisions reached to the parent, including the date the IEP will be implemented.

When the parents do not attend the IEP meeting, 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

When making changes to an IEP after the annual IEP meeting for a school year, the parent and the district may agree not to convene an IEP meeting for the purpose of making changes. The parent and the district must complete a written document indicating the changes and inform IEP team members and appropriate individuals of the changes. This is to be done by the IEP manager. If the parent requests that the district revise the IEP to include the amendments, the IEP manager will revise the IEP.

IEP Preparation and Content

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

- The strengths of the student including the academic, developmental and functional needs of the student and the 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 academic and functional performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or preschool activities
- Measurable academic and functional annual goals for the student (including benchmarks or short term objectives if the student is participating in alternate assessments) that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs
- A statement of special education services, any necessary related services, and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the student and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other special education students and 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 individual appropriate accommodations in the administration of state or district-wide assessments of student achievement that are needed to measure academic achievement and functional performance of the child on state assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why the student cannot participate in the regular assessment(s) and why the particular alternative assessment is appropriate for the child
- 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
- The projected beginning date for the special education and related services. Measurement of the students programs will be based on data
- With an IEP that is in effect when the child turns 16, or sooner if the IEP team determines it is appropriate, a statement of needed transition services and any interagency responsibilities or needed linkages. Transition services description must include appropriate measurable postsecondary goals based on age appropriate transition and assessments related to training, education, employment, independent living skills where appropriate; and transition services (including course of study) needed to assist the child in reaching those goals

- Aversive interventions, if required, any interventions considered must be provided by trained staff and only considered after the determination has been made that positive interventions alone are not effective. Any questions about the need for or use of aversive interventions should be referred to the special education IEP case manager/IEP team. When aversive interventions are considered the IEP team will include a certificated employee who understands the appropriate use of interventions and concurs with the need and shall include a person who works directly with the student. The district will establish a process for evaluating the effects of use of aversive therapy, at least every three months during the school year.
- A statement regarding transfer of rights at the age of majority. The IEP manager will provide prior written notice to the student one year prior to student turning 18 years of age
- Extended school year (ESY) services. The consideration for ESY services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. ESY services are not limited by categories of disability, or limited by type amount or duration of the services. If the need for ESY services is not addressed in the IEP and ESY services may be appropriate for the student, the IEP team will meet by April 25th 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: 1) Evidence of regression or recoupment time based on documented evidence; or 2) A documented determination based on the professional judgment of the IEP team including consideration of the nature and severity of the student's disability, the rate of progress and emerging skills

Transfer Students

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

When a student who was identified as eligible for special education transfers from out of state into the district, the building principal will notify the special education department as soon as possible of the student's enrollment into the district. The school psychologist 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. 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. The district, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP, pending the results of the evaluation.

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

Placement

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes a special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes. 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 for services before the student receives special education services. If the parents do not consent to the provision of special education and related services, the district will not provide special education services to the student. The district will notify the parents that the student is eligible for services and that the district is willing to provide the services when the parent provides written consent. The notification will also inform parents that the district has no FAPE obligation to the student when parents refuse to provide consent.

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

- In the school the disabled student would normally attend;
- 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 full-time placement 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; and
- 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 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, and may include counseling services, athletics, transportation, health services, special interest groups and clubs, etc. Limits on nonparticipation or conditions of participation must be designated in the IEP.

The district will also make opportunities available for students eligible for special education 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 continuum of alternative placement options exists spanning within a class, resource room, self-contained, home-bound and out-of-district provisions. These options are intended to address the individual needs of students and they are considered according to the following process:

- The placement of each student with a disability 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; 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 or before December 1st of each year, the district shall conduct an annual count of the number of private elementary and secondary school students eligible for special education who are unilaterally enrolled by their parents in a private school located within district boundaries and who do not wish to enroll in a public school to receive special education and related services. The district special education director shall have timely and meaningful consultation with appropriate representatives and parents of private school students and make determinations about who will receive services and what services will be provided. 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 elementary or secondary school 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 and parents of private school students. The district shall make the final decision with respect to services to be provided to eligible private school students.

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

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

Procedural Safeguards

Consent

The district will obtain informed, written parental consent before:

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

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

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 educational 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

- a. will provide written notice before ceasing services,
- b. stop providing special education and related services after the effective date contained in the district's prior written notices, and
- c. will not use mediation or the due process procedures 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 requirements to convene an IEP meeting or develop an IEP.

Notice of Procedural Safeguards

The school district shall provide a copy of the procedural safeguards notice to the parents of eligible special education students and students referred for special education and adult students one time a year and:

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

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

Prior Written Notice

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

The district will provide prior written notice to the parent of an eligible student or of a student referred for a special education evaluation whenever the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of a FAPE 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 how this information was provided and that the parent understands the content of the notice. The special education department will send the parent the prior written notice after an evaluation; the IEP case manager will send the parent the prior written notice for an IEP team decision.

Transfer of Educational Rights to an Adult Student

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

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

Appointment of an Educational Representative

The district may determine that a student over the age of eighteen and not legally incapacitated is unable to provide informed consent or make educational decisions and appoint an educational representative. This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student and concluded the student is incapable of providing informed consent. The district will inform the student of the decision and appoint either the spouse, the student's parents, 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 or designee is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The secretary for the superintendent 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 (through an annual guidance team training) 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 FAPE to the student. The district shall comply with the request promptly and before any meeting regarding an IEP 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 department.

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 JO and JO-R, Student Records, describes the process and timelines for challenges 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 KBA and KBA-R, 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 FAPE when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state and does not have a foster parent.

The special education office is responsible for determining the need for appointment of a surrogate parent.

Natural or adoptive parents, foster parents, persons acting in the place of a parent such as stepparents or relatives and persons with legal custody or guardianship are considered parents. Students who are homeless and not living with a parent may need a surrogate parent.

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

- In cases where the student is in out of home care the district must determine the legal custodial status of the child
- Parents who have voluntarily placed their child in state placement still retain legal custody of the child and retain the right to make educational decisions. In this situation the student is not a ward of the state
- Parents whose children are placed in group care, pending a determination of "dependency" may still retain rights to make educational decisions unless otherwise ordered by the court
- When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency
- Parents 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 foster parent may act as the parent. When a student is placed in group care, the district will work with the parents, case-worker(s), foster parents and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate

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

If a student is referred for special education or a 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 agency which is involved in the education or care of the student. This includes OSPI, DSHS, district employees and group care providers.

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, and the district parent group in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

Mediation

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

The primary participants are the parents, school district representatives and mediator. The process is voluntary, confidential and informal. It is a collaborative process, conducted in a nonadversarial manner. Mediation services will be provided by the Office of Superintendent of Public Instruction (OSPI) at no cost to either party.

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

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

Due Process Hearing

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

If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to the special education director. If the parent has not filed the request for hearing with OSPI, the district will forward the parent request to OSPI Administrative Resources Section. The district may not delay or deny a parent's due process hearing request. Parents are

entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The district special education office 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 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 special education director will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent request for hearing or seven days if the hearing request involves an expedited hearing regarding discipline. The special education director 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

A building administrator 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, the district must, during subsequent days of removal, provide appropriate services to the extent necessary to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The student's IEP case manager, 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 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 current placement for more than ten consecutive school days in a school year; or
- Subjected to a series of removals in a school year and which constitute a pattern of removal because:
 1. The series of removals total more than ten school days in a year.
 2. The student behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 3. 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

Whether a pattern of removal constitutes a change in placement is determined on a case-by-case basis by the building principal and special education director and is subject to review through due process and judicial proceedings. The building administrator will notify the special education director by email or in writing.

Manifestation Determination

Within ten school days after the date on which the decision to change the placement is made the district shall conduct a "manifestation determination" of the relationship between the student's disability and the behavior subject to the disciplinary action.

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 parent and relevant members of the IEP team who are selected by the parent and the district. The special education coordinator and IEP case manager will arrange the meeting and send notice to the parent. The team shall 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.
3. 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 and the contemplated disciplinary action shall not proceed.

If the team determines, specifically, that the conduct was the direct result of the district's failure to implement the IEP, the district must take immediate action to remedy the deficiencies.

If the IEP team determines that the conduct was a manifestation of the student's disability, the team must:

1. Conduct a functional behavioral assessment (unless already completed) and implement a behavioral intervention plan; or
2. Review the existing behavioral intervention plan and modify it to address the behavior; and
3. Return the child to the placement 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 bodily harm.

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 school days, if a special education student:

- Possesses a "dangerous weapon" or carries such a weapon to school or to a school function; or
- Knowingly possesses or uses "illegal drugs" while at school or a school function; or
- Sells or solicits the sale of a "controlled substance" while at school or a school function; or
- 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 participate in the general curriculum, although in another setting and to progress toward meeting the goals set out in the student's IEP; and
- Include services and modifications designed to address the behavior or to prevent the behavior from recurring.

The district may ask an administrative law judge, 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 calendar 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.

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 45 day period, whichever occurs first.

Basis of Knowledge

A student who has not been determined eligible for special education services may assert the protections if the district had knowledge that the student was eligible for special education 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 district supervisory or administrative personnel or a teacher that the student is in need of special education and related services
- The parent requested that the student be evaluated for special education services; or
- The teacher or other school personnel has expressed specific concern about a pattern of behavior demonstrated by the student to the director of the special education department or to other supervisory staff
- If instituting disciplinary action that would exceed ten days and the principal believes that one or more of these events applies to the student, the principal 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

If the district is not deemed to have knowledge that a student is a special education student, the student 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 (SBE) and defined in WAC 392-172-A-02090.

All employees will hold such credentials, certificates, or permits as are now or hereafter required by the SBE 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. To qualify for the special education pre-endorsement waiver, the teacher must meet SBE criteria.

If the district must temporarily assign a classroom teacher without a special education endorsement to a special education position, the district's Human Resources department will document in writing that:

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

If one or more of these criteria can be documented and 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
- Training must be provided annually to all personnel who may be providing aversive interventions under a student's IEP
- In-service training schedules will be developed based upon the results of the district assessment and in support of needs identified
- Training activities will be conducted for regular general and special education staff, staff of other agencies and organizations and private school staff providing services for special education student; and
- Classified staff will be considered to have been trained in the state recommended core competencies after having been employed by the district for 30 days

Public Participation

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through the district's special education office and the office of the superintendent. A notice regarding the availability of such documents will be placed in the Parent Information Booklet that is sent home at the beginning of each school year.

**EDUCATION OF STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**

It is the intent of the district to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may be disabled under this policy even though they are not eligible for services pursuant to the Individuals with Disabilities Education (IDEA). Section 504 of the Rehabilitation Act of 1973 is a civil rights law which protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. A child is a "qualified disabled person" under Section 504 if he or she (1) has a physical or mental impairment that substantially limits one or more major life activities (such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working), has a record of such an impairment, or is regarded as having such an impairment; and (2) is (i) of an age during which students without disabilities are provided educational services by the District, (ii) of any age during which it is mandatory under state law to provide such services to disable students, or (iii) to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act. A physical or mental impairment means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures. A non-exhaustive list of mitigating measures are as follows: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

The District shall comply with the federal policies that require free appropriate public education, childfind, equal educational opportunity, confidentiality of information, parent involvement, participation in least restrictive environment, evaluations, placement, reevaluation, programming to meet individual needs, placement procedures, nonacademic services, preschool and adult education programs, disciplinary exclusion, transportation, procedural requirements, appropriate funding, accessibility, special issues related to drug or alcohol addicted students, special considerations for students having AIDS or HIV infection, and special issues related to ADD/ADHD students.

A. Free Appropriate Public Education

The District shall provide a free appropriate public education (regular or special education and related aids and services) to school-age children with disabilities in the District's jurisdiction. Instruction shall be individually designed to meet the needs of the disabled students as adequately as the needs of the non-disabled students are met.

B. Childfind

The District shall annually undertake to identify and locate every qualified disabled student residing in the District's jurisdiction who is not receiving a public education, and take appropriate steps to notify disabled children and their parents or guardians of the District's responsibilities under Section 504.

C. Equal Educational Opportunity

The District shall provide students with disabilities an equal opportunity to participate in and benefit from the educational services it provides to non-disabled students. The teachers of disabled students shall meet comparable standards for certification that teachers of non-disabled students meet. Facilities shall be of comparable quality and appropriate materials and equipment shall be available.

D. Confidentiality Of Information

The confidentiality of student records will be maintained throughout the period of time when such records are collected, stored, disclosed, or destroyed by the District.

E. Parent Involvement

The District shall obtain the informal consent of parents or guardians before conducting an initial evaluation of a student. The District will notify parents or guardians of the evaluation results and any programming and placement recommendations. The District will notify parents or guardians before initially placing a disabled student, conducting subsequent evaluations of the student, or implementing a significant change in the student's placement. The District shall notify parents or guardians of their right to review and challenge the District's program and placement decisions if they disagree with them. Section 504 does not give parents the right to participate in a meeting during which their child's program is designed and placement is determined, as does the IDEA. However, this practice is strongly recommended.

F. Participation in the least restrictive environment

1. **Academic setting.** To the maximum extent appropriate to the needs of disabled students, the District shall educate disabled students with non-disabled students. In order to remove a child from the regular educational environment, the District must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily for the disabled student. Whenever the District places a student in a setting other than the regular education environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the student's home.
2. **Non-academic setting.** In providing or arranging for the provision of non-academic and extra-curricular services and activities, including meals, recess periods, and the services and activities set forth in 34 CFR 104.37, the District shall ensure that disabled students participate with non-disabled students in such activities and services to the maximum extent appropriate to the needs of the disabled student in question.

G. Evaluations

1. If a student needs or is believed to need special education or related services, the District shall evaluate the student prior to placement and before any subsequent "significant change in that placement."

Examples of significant changes in placement include:

- a. Expulsion;
- b. Suspensions which exceed 10 consecutive days in a school year;
- c. Cumulative short-term suspensions which create a pattern of exclusion;
- d. Transferring a student to home instruction;
- e. Graduation from high school; and/or
- f. Significantly changing the composition of the student's class.

2. The District shall establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:
 - a. Have been validated for the specific purpose for which they are used are administered by trained personnel in conformance with the instructions provided by their producer
 - b. Are tailored to assess educational need and are not merely based on IQ scores
 - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits)
 - d. Consider information from a variety of sources including any relevant and/or suspected information submitted by the parent(s), guardian(s), physician(s), or other sources that have knowledge of the child.
 - e. Consider episodic conditions or conditions in remission that substantially limit a major life activity when active
 - f. Consider temporary health conditions that substantially limit a major life activity

H. Placement Procedures

In interpreting evaluation data and in making placement decisions, the District shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options, and (4) ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate.

Residential placements will be provided by the District if necessary to provide a free appropriate education to a disabled student.

In regard to out-of-district placements, if the District affords a free appropriate education to a student but the parent chooses to place the child elsewhere, the District is not responsible to pay for the out-of-district placement.

I. Re-Evaluations

The District shall provide for periodic reevaluation of disabled students. No time frame is specified in Section 504; however, the every 3 years requirement of the IDEA will be encouraged. A reevaluation is also required before any "significant change of placement," as defined above in Part "G."

J. Programming To Meet Individual Needs

The District recognizes that to be appropriate, educational programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of non-disabled students are met. To adequately meet individual needs, academic and related services for students with disabilities may need to be significantly different in character from those offered to students without disabilities. A documented procedure such as the development of an individualized accommodation plan by a knowledgeable team of educational professionals is recommended.

K. Non-Academic Services

The District shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford disabled students an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreation athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to disabled persons, and employment of students, including both employment by the District and assistance in making available outside employment. The reasonable health and safety standards for all students shall be observed.

1. Counseling Services. In providing personal, academic or vocational counseling, guidance, or placement services to its students, the District shall provide these services without discrimination on the basis of disability. The District shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.
2. Physical education and athletics. In providing physical education courses and athletics and similar programs and activities to any of its students, the District shall not discriminate on the basis of disability. As the District offers physical education courses and operates or supports interscholastic, club, or intramural athletics, it shall provide an equal opportunity for qualified students with disabilities to participate in these activities. The District may offer to disabled students physical education and athletic activities that are separate or different from those offered to non-disabled students only if separation or differentiation is consistent with the requirements of 34 CFR § 104.34 and only if no qualified disabled student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

L. Preschool and Adult Education Programs

In the operation of preschool education, or day care program or activity, or an adult education program or activity, the District shall not, on the basis of disability, exclude qualified students with disabilities from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

M. Disciplinary Exclusion

1. Students with disabilities are protected from being improperly excluded from school for disciplinary reasons. Certain disciplinary exclusions of disabled students from school constitute a significant change in the student's educational placement. Such disciplinary exclusions cannot be implemented until the District has satisfied the required change of placement procedures.

2. Qualified disabled students should be recognized as having a disabling condition before discipline is imposed on them, especially before imposing long-term suspension (a suspension of more than five days duration) or regular expulsion upon a qualified disabled student that could constitute a significant change of placement. The school principal or educational staff person responsible for the imposition of discipline must ensure that a group of qualified professionals determine whether or not there is a causal relationship between the student's misconduct and his or her disability. They are also to consider the appropriateness of the student's current placement and program. This determination will take into account the student's current evaluation and Individualized Accommodation Plan (IAP), under Section 504. For students considered disabled under Section 504, there is no obligation to provide educational services during periods of long-term suspension or expulsion when the student's misconduct has been properly determined not to be disability-related or due to an inappropriate placement or program. When a student's misconduct is determined causally related to his/her disabling condition, procedures at #4 below shall be instituted in lieu of either long-term suspension or expulsion.
3. When a student poses an immediate and continuing danger to him or herself and/or others (see WAC 180-40-295), an emergency expulsion of up to ten (10) days may be used to alleviate immediate risk on the condition that procedures at WAC 180-40-300, be modified to require the regular disciplinary hearing be held within ten (10) school business days whether the student or parent/guardian requests a hearing or not. The purpose of this regular disciplinary hearing is to determine the nature of, and consequences for, the misconduct.

In the event the student is covered by or believed to be covered by Section 504, the Section 504 Compliance Officer (or designee) must attend and participate in this hearing. The Section 504 Compliance Officer (or designee) shall advise the hearing officer on Section 504 restrictions. Even if the student and/or parent/guardian refuse to attend this hearing, the hearing shall be held.

4. When a student has engaged in misconduct which is causally related to his or her disability, aside from emergency expulsion (see #3 above), expulsion and/or long term suspension should not be imposed which results in more than ten (10) lost school days (cumulative for the entire school year, considering earlier short term suspension [if any] as counting toward the cumulative total).

Instead, the need for additional evaluation and/or a change of placement should be considered. In this circumstance, the principal or designee responsible for the imposition of discipline, the Section 504 Compliance Officer, and a team of professionals from the school who are knowledgeable about the student will meet to determine if there is a need for further evaluation or a change of program or placement. If further evaluation is recommended, it will be conducted as soon as possible. If the student poses an immediate risk to him or herself or others, the procedure at 3. above may be instituted by the principal or designee.

5. Students and their Parent/Guardian shall be notified of the results of the decision regarding the causal relationship of the misconduct and the student's disability and of

their right to challenge this decision. Students/Parents/Guardians objecting to procedures outlined at a. through d. above shall be entitled to exercise their rights under Section 504 to file a grievance or initiate a due process hearing. *See "Section O. Procedural Requirements, sub-section 7.c."*

6. Students who are considered disabled under Section 504 are subject to the same disciplinary processes and results as non-disabled students for misconduct regarding the use, sale, or possession of drugs or alcohol at school. The extra due process requirements regarding change of placement do not apply.

N. Transportation

If the District places a student in a program not operated by the District, the District shall assure that adequate transportation to and from the program is provided at no cost to the parent.

Since the District provides transportation to all its students within a certain geographic area, it shall not discriminate in its provision of transportation to students with disabilities.

If the District proposes to terminate a qualified disabled student's bus transportation for inappropriate bus behavior, the District shall first determine the relationship between the student's behavior and his or her disabling condition, the appropriateness of the related service of transportation, and the need for reevaluation. The parent or guardian shall be provided with notice of the results of such determinations and of their right to challenge such determinations.

The length of the bus rides for qualified disabled students should not be longer than that of non-disabled students.

O. Procedural Requirements

The District shall ensure compliance with the requirements of Section 504 by doing the following:

1. Provide written assurance of non-discrimination whenever the District receives federal money.
2. Designate an employee to coordinate the District's Section 504 compliance activities. The Section 504 Coordinator for the District is the Director of Special Education.
3. Provide grievance procedures to resolve complaints of discrimination; students, parents, or employees are entitled to file grievances. (The grievance procedures for the District are set out in the Procedure for Policy 3210, Nondiscrimination.)
4. Provide notice to students, parents, employees, unions, and professional organizations of nondiscrimination in admission or access to, or treatment or employment in, its programs or activities. Notice shall also specify the section 504 coordinator for the district. Notice shall also be included in the student/parent handbooks.
5. Annually identify and locate all Section 504 qualified disabled children in the District's geographic area who are not receiving a public education.
6. Annually notify disabled persons and their parents or guardians of the District's responsibilities under Section 504.
7. Establish and implement procedural safeguards to be provided to parents or guardians with respect to actions regarding the identification, evaluation, or educational placement

of persons who, because of disability, need or are believed to need special instruction or related services, that includes:

- a. Notice of their rights;
- b. An opportunity to examine relevant records;
- c. An impartial hearing may be initiated by either the parents/guardian or the school district, with opportunity for participation by the student's parents or guardian. The student/parent is entitled to have representation by legal counsel; and
- d. A review procedure.

P. Appropriate Funding

The District recognizes that the regular education funding of the District is the funding source for serving students who are qualified as disabled under Section 504 only. However, if students are dual identified as Section 504 and IDEA eligible, state and federal special education funds can be used. The District shall not use money appropriated by the IDEA to serve students found disabled under Section 504 but not the IDEA. The District may use the IDEA money to evaluate a student if the District believes that the student may also be eligible under the IDEA.

Q. Accessibility

1. District's responsibility to make buildings accessible: facilities which were constructed prior to June 3, 1977, need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities.
2. District's options other than major modifications: the District can redesign equipment, reassign classes or other services to accessible buildings, assign aides to students, deliver services at alternate accessible sites, or alter existing facilities. So long as there are other methods which are as effective in achieving compliance, a District need not undertake structural changes to a building.
3. District recognition of unacceptable accommodations: carrying a student upstairs; segregating all students with mobility impairments due to inaccessibility of other buildings; having disabled students eat on a separate floor due to an inaccessible cafeteria; denying certain programs such as music, art, or assemblies because these programs are inaccessible.
4. District obligation for new buildings and additions: buildings or additions constructed since 1980 must be designed and constructed to allow disabled persons the ability to access and use them readily.
5. District's obligation when a building is altered: to the maximum extent feasible, all facilities which are altered after 1980 must be altered to allow accessibility and usability by persons with disabilities.

6. District recognition of the meaning of the phrase “to the maximum extent possible:” this provision covers the occasional instance where the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate in a manner that results in its being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility feasible.

R. Special Issues Related To Drug Or Alcohol Addicted Students

If a District suspects that the drug or alcohol problem of a student may be substantially limiting a major life activity, such as learning, the District is obligated to recommend an evaluation. If the evaluation verifies the existence of a disabling condition which substantially limits a major life activity, the student is considered disabled under Section 504 and should be planned for appropriately.

With the passage of the Americans with Disabilities Act in 1990, Congress specifically amended Section 504 to exclude persons who are “currently engaging in the illegal use of drugs” from the definition of individuals with disabilities. Therefore, the school district is not required to consider whether a current illegal drug user could successfully participate in the District's education programs. Furthermore, the District is not required to make accommodations for the student if he or she is currently using drugs. The District can treat the student as it treats non-disabled students.

Congress did not amend Section 504 with respect to students with alcoholism in so far as their coverage as qualified disabled persons. Unlike students addicted to drugs, students whose alcoholism constitutes a disabling condition under Section 504 and who continue to use alcohol, are protected by Section 504, although these protections are limited as follows: for purposes of programs and activities providing educational services, the District may take disciplinary action pertaining to the use, sale, or possession of illegal drugs or alcohol at school against any disabled student who currently is engaged in the illegal use of drugs or in the use of alcohol at school to the same extent that such disciplinary action is taken against non-disabled students. Furthermore, the due process procedures at 34 CFR ñ 104.36 shall not apply to such disciplinary actions.

S. Special Considerations For Students Having Aids Or HIV Infection

Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC), or otherwise infected with Human Immunodeficiency Virus (HIV-infected) are individuals with disabilities under Section 504. They either qualify as actually having a physical impairment which substantially limits a major life activity, or are regarded as having such a disabling condition. Depending on the nature of the disease and the student's other conditions, the student may also qualify for services under the IDEA.

Placement of the student must be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and placement options. A public health representative should be on the team. Unless currently presenting a risk of contagion due to the stage of the disease (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or parents and school agree on an alternative, a student with AIDS should remain in the regular classroom.

T. Special Considerations For ADD/ADHD Students

If a District suspects or has knowledge that a student has an Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) that may be substantially limiting a major life activity, such as learning, the District is obligated to recommend an evaluation.

Evaluation of the student, and service and placement recommendations should be made by a group of persons knowledgeable about the child, the meaning of the evaluation and medical information, and service and placement options. A qualified medical practitioner's assessment should be considered as well as the impact the student's ADD/ADHD has on his or her ability to learn or to otherwise benefit from his or her educational program. The District shall ensure that the student's educational program meets the full range of his or her individual educational needs.

U. Special Consideration Regarding Audio or Video Recording

A student's related aids and services may include the authorization to make audio and/or video recordings of classroom instruction. Before offering this accommodation, a representative from the district must review other alternatives for meeting the student's individual needs. The district will authorize the student to record classroom instruction only if an appropriate team decides that no other accommodation will adequately meet the student's individual needs and allow the student to receive FAPE and access to some educational benefit. The district will take appropriate steps to ensure that any recordings approved as a 504 accommodation under this section are used only for their intended purpose.

Approved: 06/23/08
 Revised: 08/03/10
 11/29/10
 12/06/10
 01/31/11
 08/29/11
 09/01/11
 10/24/11

CROSS REFS.: IGB Education of Students with Disabilities
 AC Nondiscrimination

LEGAL REFS.: 34 CFR Part 104 Section 504 of the Rehabilitation Act of 1973
 45 CFR Part 99 Family Education and Privacy Act
 PL 101-336 Section 512 Americans With Disabilities Act
 of 1990
 WAC 392-168-120 Hatch Amendment

**EDUCATION OF STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**

<u>STEP</u>	<u>DESCRIPTION OF ACTIVITY</u>
1. Concern	Student, parent, teacher, counselor, or administrator believe they are observing in a student substantially limited performance in one or more major life activities that is believed to be caused by a physical or mental impairment.
2. Referral	The concerned individual should complete the Referral Form and give it to the designated building team.
3. Screening	The designated building team reviews the referral, completes an appropriate student's files review, and consults with teachers, parents/guardians, peers, professionals, and/or student.
Decision to be made: Does this student appear to have disability under Section 504?	
If yes:	<ul style="list-style-type: none"> • Provide the parent/guardian with a copy of the Section 504 rights. • If further information is needed, provide notice to parents for evaluation and obtain their consent in writing. Also obtain written consent for a mutual exchange of information from parent/guardian as appropriate.
If no:	<ul style="list-style-type: none"> • Provide screening results to source of referral with accompanying recommendations. • Provide written notice to parents that student does not qualify.
4. Evaluation	Conduct all evaluations deemed appropriate and for which the parent/guardian have given written permission.
5. Eligibility	A Section 504 MDT is recommended to be composed of one of the student's teachers (and/or the student's counselor), a building administrator, and persons knowledgeable about the student's disability and the meaning of the evaluation data and service options. The MDT convenes to review all evaluation results, determine eligibility as a student with a disability under Section 504, and document the meeting in writing. The team composition may vary according to the needs of the student.
If no:	<ul style="list-style-type: none"> • Consider other referral sources or options for the student and/or school. Provide written notice to parents that student doesn't qualify.
If yes:	The Second Decision to be Made Does the student also seem to have a disability under one of the IDEA conditions?
If yes:	<ul style="list-style-type: none"> • Refer to IDEA MDT for appropriate disposition.
If no:	<ul style="list-style-type: none"> • Proceed to step 6.
NOTE: Whatever the disposition of the case at step 5, the MDT should complete a written Section 504 eligibility statement.	

{Steps continued on next page}

<u>STEP</u>	<u>DESCRIPTION OF ACTIVITY</u>
6. Develop Accommodation Plan	Once eligibility under Section 504 has been determined, the process moves to ACCOMMODATION. Accommodation is the development of a student accommodation plan. This plan is to be developed by PLAN a professional team that may or may not be the same individuals who were involved at the ELIGIBILITY step 5, but a similar minimum team composition is recommended.
7. Parent Permission	Provide parents with a copy of the student accommodation plan and get their written permission to initiate the plan.
8. Educational Services	The educational services are implemented as outlined in the student SERVICES accommodation plan. One individual should be designated as the case manager to monitor the implementation of the plan and the progress of the student.
9. Periodic Review	Each student accommodation plan should be reviewed by the team periodically. Three issues which should be addressed at the review are as follows: (1) the need for additional evaluation information, (2) the continued eligibility as a student with a disability under Section 504, and (3) the contents of the plan and service provider.

NOTE:

Due Process hearing or mediation requests must be made directly to the District 504 Compliance Officer. If a parent requests a due process hearing or mediation, districts should contact the Office of State Superintendent of Public Instruction; Special Services Department; Old Capitol Building; PO Box 47200; Olympia, Washington, 98504-7200; (360) 753-6733 to obtain a list of qualified hearing officers or mediators and a sample hearing officer or mediator contract.

Districts are responsible for hearing officers or mediators. Districts are responsible for arranging for hearing officer and mediator expenses. When contacting OSPI, be sure they understand that the dispute is under §504 and that the district is just obtaining information, not seeking to have a special education hearing set up with a state administrative law judge. OPSI encourage districts to first utilize mediation as a method to resolve disputes.