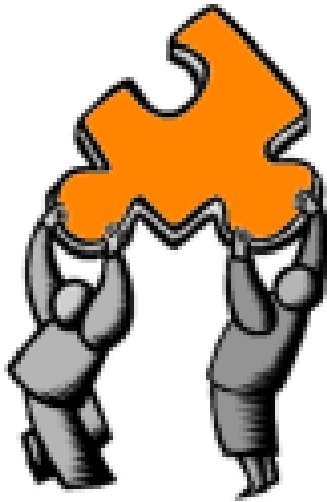


# Special Education Policy and Procedures Manual



## **UXBRIDGE PUBLIC SCHOOLS** **DEPARTMENT OF PUPIL PERSONNEL SERVICES**

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## **REFERRAL FOR AN EVALUATION TO DETERMINE ELIGIBILITY FOR SPECIAL EDUCATION**

A referral for an evaluation to determine eligibility for special education services can be made by a variety of parties. Under the regulations, school districts must ensure a responsive school environment that meets the needs of all students and should implement and document the use of attempted instructional strategies on a case-by-case basis. A parent's right to refer for a special education evaluation, however, is not limited and should never be delayed because the school district has not fully explored and/or attempted some or all of the available instructional support programs or any other type of interventions. In any case where the parent or person making a referral has concerns about the student's development or a suspicion that the student may have a disability, school districts must promptly send notice and seek permission to conduct an initial evaluation to determine if the student is eligible for special education.

### **I. INITIATING A REFERRAL FOR SPECIAL EDUCATION ELIGIBILITY**

1a. **School Referral** - After reviewing the student data through the Student Review Council (SRC), the Principal determines that all documented efforts have been made to meet the needs of the student within the regular education program, and these efforts have not been successful, a student should be referred by school personnel for an evaluation to determine eligibility for Special Education. The Principal shall ensure that documentation of the use of instructional support services for the student is provided as part of the evaluation information reviewed by the Team when determining eligibility.

The LEA is considered to have knowledge that child has a disability if the parent has expressed concern in writing that the child is in need Special Education and related services, if the parent has requested an evaluation, or if school personnel has expressed specific concerns about the pattern of behavior demonstrated by the child to an administrator. Proceed to #2.

1b. **Referral by a parent concerned with the student's development** - If someone outside of the District requests a Team evaluation, the Principal of the child's school should immediately arrange for a meeting with the parent to discuss concerns and offer general education instructional support services. The parent (including foster parent, guardian, an individual with whom the child lives, or an individual legally responsible for the child's welfare) should complete the *Parent or Other Caregiver Request for An Initial Team Evaluation (SPED-2)* prior to this meeting, and the form should serve as the basis for discussion. If this meeting results in a request for an evaluation proceed to #2.

The District is required by law to do a complete evaluation of students in private school at private expense. The District has 45 school working days from the date of the parent's consent to conduct an evaluation including all required assessments and to convene a Team and determine if the student is eligible for special education. The public school that the child would be enrolled in if attending the Uxbridge Public Schools is responsible for completing the evaluation.

1c. If an **outside evaluation** has been completed and submitted to the District, the Chairperson should contact the Director of Pupil Personnel Services. The results of the outside evaluation will be considered in determining the need for a referral for a Team evaluation. A meeting with the parents should be scheduled within ten days of receipt of the report. If it is determined that an evaluation is necessary, proceed to #2.

2. **To refer a student for a Special Education Team Evaluation**, the Principal (through the Student Review Council) must complete the *Referral for An Initial Team Evaluation (SPED-1) (N1)* and send the completed form to the Director of Pupil Personnel Services for review. In cases where a *SPED-2* has been completed, it too should be forwarded.

3. **The Director of Pupil Personnel Services will notify the Chairperson of the referral.** The Chairperson will be the contact person for the entire evaluation process. The parents will be contacted by the Chairperson to discuss the reasons for referral and the nature of the proposed evaluation.

4. **Within 5 working school days** of receiving the completed *Referral for An Initial Team Evaluation (SPED-1) (N1)* and the *Parent or Other Caregiver Request for Evaluation (SPED-2)* when appropriate, **the Chairperson will send out a Parent Consent Packet** consisting of the following:

- *Proposal to Conduct An Initial Team Evaluation (SPED-8) (N1)*
- *Evaluation Consent Form (SPED-9)\* (N1A)*
- *Development/Family History (SPED-10)\**
- *Notice of Procedural Safeguards*

\*Parent must complete and return

5. If the **parent does not return the Evaluation Consent Form** within 30 days, the Special Education Secretary will ask the Chairperson to call the parent to discuss any concerns. If after 10 additional days, the parent still does not respond, the secretary will send the parent an *Evaluation Consent Form/Second Notice (SPED-9A) (N1A)*. If parental consent is not received within 30 days of the second attempt, the Chairperson will notify the Director of Pupil Personnel Services.

Additional efforts to obtain parental consent will be made and documented. If the parent revokes consent or refuses to any evaluation, and the District determines that such action will deny the student an appropriate education, the District shall seek resolution through the Bureau of Special Education Appeals.

6. Upon **receipt of the signed *Evaluation Consent Form (SPED-9) (N1A)***, the Chairperson will notify the evaluation Team members that they may begin to assess the student. The Chairperson will schedule the Team Meeting and send to parent(s) the following:

- *A Notice of Team Meeting (SPED-11) (N3)*
- *Attendance Sheet (N3A)*
- *Parent Questionnaire (SPED-29)*

In the event that the parent calls to change the meeting time/date, the Chairperson must send out the *Notice of Team Meeting Date/Change (SPED-11) (N3)*. If the student is 14 years of age or older, the Chairperson will review the evaluation process, give the student an invitation to the team meeting and obtain a signature on the *Notice of Team Meeting (SPED-11) (N3)*. In the case of a student attending a private or parochial school, the Chairperson shall invite a representative from the student's school to the Team meeting.

## GUIDELINES FOR THE EVALUATION PROCESS

Evaluations of the student must be made in all areas of suspected disability in order to determine eligibility for Special Education. Eligibility must not be based on lack of reading or math instruction or on LEP. Evaluation activities should be tailored to the specific referral questions for the individual student and need to address whether or not there is a disability, and if the disability effects the student's learning. Evaluations must provide information to determine present levels of academic achievement and related developmental needs. No single test should be used as the sole criterion for determining eligibility. Rather, a variety of techniques (both formal and informal assessments), including information provided by parents, observation of the student in the classroom, work samples/portfolios, interviews, and review of the record should be used.

An observation of the student must be made by at least one Team member other than the student's teacher to determine a specific learning disability. Consent for an initial evaluation for wards of the state is not required if the LEA cannot, after reasonable efforts, locate the parent or the parent's rights have been terminated under state law or a judge has subrogated the parent's rights to make educational decisions. The District is obligated to seek a surrogate parent, through the Dese, for wards of the state. A ward of the state includes foster children (except if child has a foster parent) and a child in the custody of a public child welfare agency.

Evaluations are required prior to a finding that a student is no longer eligible, except for graduation with a regular diploma or aging out. For those children, the LEA must provide a summary of academic and functional performance, including recommendations on how to assist the child to meet post secondary goals.

Evaluation must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide and administer.

### **Required Assessments for An Initial Evaluation:**

- *Educational Status Assessment Report (SPED-3) (28R/1)* Completed by the Principal or Guidance Counselor through the Student Review Council.
- *Teacher Assessment (SPED-4) (28R/1)*
- *Specialist Assessment(s)* should include assessments in all areas of the child's suspected disability. Functional behavioral assessments (FBA) must be conducted if the student's behavior interferes with learning.

### **Optional Assessments:**

The following assessments can be recommended by the Team or requested by parents:

- *Psychological*
- *Home Assessment (SPED-5)*. The Team should request this only if there are significant concerns related to the home or family environment as they affect student's school performance.
- *Health Assessment (SPED-6)*

### **Evaluation Process Procedures**

1. Team members should coordinate their assessments with the student's teacher(s) and other evaluators so that the child is not over-tested on any given day. The persons conducting the assessments should ensure that the child is notified in advance of any pullout from class.
2. The Chairperson will ensure that the assessments are completed within 30 school working days of the parent's signed consent. If consent is received within thirty (30) to forty-five (45) school working days before the end of the school year, the District ensures that a Team meeting is scheduled so as to allow for the provision of the proposed IEP or written notice of the finding that the student is not eligible no later than fourteen (14) days after the end of the school year.
3. Evaluation Team members must give the Chairperson two copies of their final, "word processed" evaluation report **four** days prior to the Team meeting. This allows the Chairperson to be well prepared for the Team meeting and also allows the Chairperson to collate a set of reports for the parents to pick up two days prior to the Team meeting.

### **Evaluation Reports**

All evaluation reports should be written in clear, jargon-free language. Assessors should interpret and summarize results and diagnostic impressions to help the Team determine eligibility including the student's present levels of educational performance and areas of need arising from the student's disability. Educationally relevant accommodations and modifications should be identified to ensure the student's involvement and progress in the general education curriculum.

**"Outside" evaluation reports submitted by parents**

All efforts will be made to avoid duplication of assessments. If a decision is made to waive any assessment, the Chairperson will send a request for *Waiver of Assessment (SPED-7) (28R/2)* to the parent for signature with the Evaluation Consent Form. It is important to note that **any time the Uxbridge Public Schools waives its right of assessment, it places the District in the position of accepting any recommendation(s) made by the evaluator(s).**



## **GUIDELINES FOR THE REEVALUATION PROCESS**

A reevaluation will be conducted for each student with a current IEP every three years or more frequently if requested or recommended. Reevaluations occur not more frequently than once a year unless both parents and LEA agree that evaluation is needed. When a student is referred for a reevaluation, existing evaluation data should be reviewed first. If no additional information is needed to determine whether the student continues to be eligible, the District may request that a parent waive particular types of assessment(s). The parent may either consent to waive the assessment(s) or may choose to have the assessment completed regardless of the recommendation for waiver. Evaluations are required prior to a finding that a student is no longer eligible, except for graduation with a regular diploma or aging out. For those children, the LEA must provide a summary of academic and functional performance, including recommendations on how to assist the child to meet post secondary goals.

### **Required assessments for Reevaluation:**

- *Educational Status Assessment Report (SPED-3) (28R/1)* completed by the Principal or Guidance Counselor.
- *Teacher Assessment (SPED-4) (28R/1)*
- *Specialist Assessment(s)* should include assessments in all areas of the child's suspected disability. Functional behavioral assessments (FBA) must be conducted if the student's behavior interferes with learning.
- *Developmental/Family History (SPED-10)*

### **Optional Assessments**

The following assessments can be recommended by the Team or requested by parents:

- *Psychological*
- *Home Assessments (SPED-5)*. The Team should request this only if there are significant concerns related to the home or family environment as they effect student's school performance.
- *Health Assessment (SPED-6)*

Reevaluation activities should be tailored to the specific questions for the individual student in order to help the Team determine whether the student would continue to make progress in the general education curriculum without the continued provision of special education services. Evaluations must provide information to determine present levels of academic achievement and related developmental needs. No single test should be used as the sole criterion for determining eligibility. Rather, a variety of techniques (both formal

and informal assessments), information provided by parents, observation of the student in the classroom, work samples/portfolios, interviews, and review of the record should be used. Please note that an observation of the student must be made by at least one Team member other than the student's teacher to determine a specific learning disability.

Evaluation must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide and administer.

### **Reevaluation Procedures**

1. The Chairperson will send out a **Parent Consent Packet** consisting of:

- *Proposal to Conduct A Reevaluation (SPED-16) (N1)*
- *Evaluation Consent Form (SPED-9)\* (N1A)*

*\* Parent must complete and return.*

2. If the **parent does not return the *Evaluation Consent Form (SPED -9) (N1A)* within 30 days**, the Chairperson will call the parent to discuss any concerns. If after an additional 10 days, the parent still does not respond, the secretary will send the parent an *Evaluation Consent Form/Second Notice (SPED-9A) (N1A)*. If parental consent is not received within 30 days of the second attempt, the Chairperson will notify the Director of Pupil Personnel Services.

Additional efforts to obtain parental consent will be made and documented. If the parent revokes consent or refuses to consent to any reevaluation and the District determines that such action will deny the student an appropriate education, the District shall seek resolution through the Bureau of Special Education Appeals.

3. Upon **receipt of the signed *Evaluation Consent Form (SPED-9) (N1A)***, the Chairperson will notify the evaluation Team members that they may begin to assess the student. Simultaneously, the Chairperson will schedule the Team Meeting and send to parent(s) the following:

- *A Notice of Team Meeting (SPED-11) (N3)*
- *Attendance Sheet (N3A)*
- *Parent Questionnaire (SPED-29)*

In the event that the parent calls to change the meeting time/date, the Chairperson must send out the *Notice of Team Meeting Date/Change (SPED-11) (N3)*. If the student is 14 years of age or older, the Chairperson will review the evaluation process, give the student an invitation to the team meeting and obtain a signature on the *Notice of Team Meeting (SPED-11) (N3)*. In the case

of a student attending a private or parochial school, the Chairperson shall invite a representative from the student's school to the Team meeting.

4. The **Chairperson will ensure that the assessments are completed within 30 school working days** of the parent's signed consent. If consent is received within thirty (30) to forty-five (45) school working days before the end of the school year, the District ensures that a Team meeting is scheduled so as to allow for the provision of the proposed IEP or written notice of the finding that the student is not eligible no later than fourteen (14) days after the end of the school year. Team members should coordinate their assessments with the student's teacher(s) and other evaluators so that the child is not over-tested on any given day. The persons conducting the assessments should ensure that the child is notified in advance of any pullout from class.

5. Reevaluation Team members must give the Chairperson two copies of their final, "word processed" evaluation report **four** days prior to the Team meeting. This allows the Chairperson to be well prepared for the Team meeting and also allows the Chairperson to collate a set of reports for the parents to pick up two days prior to the Team meeting.

### **Evaluation Reports**

All evaluation reports should be written in clear, jargon-free language. Assessors should interpret and summarize results and diagnostic impressions to help the Team determine eligibility including the student's present levels of educational performance and areas of need arising from the student's disability. Educationally relevant accommodations and modifications should be identified to ensure the student's involvement and progress in the general education curriculum.

### **"Outside" evaluation reports submitted by parents**

If a parent submits an evaluation conducted by an independent evaluator in lieu of a District reevaluation, the Chairperson should contact the Director of Pupil Personnel Services to review the report prior to scheduling a meeting with the parent to review the report. A meeting with the parents should be scheduled within ten days of receipt of the report. The results of the outside evaluation will be considered in determining the need to revise the existing IEP and/or conduct a District reevaluation. If it is determined that a District reevaluation is necessary, the steps outlined above should be followed.

All efforts will be made to avoid duplication of assessments. If a decision is made to waive any assessment, the Chairperson will send a request for *Waiver of Assessment (SPED-7)(28R/2)* to the parent for signature with the *Evaluation Consent Form (SPED-9) (NIA)*. It is important to note that **any time the Uxbridge Public Schools waives its right of assessment, it places the District in the position of accepting any recommendation(s) made by the evaluator(s).**

## THE IEP TEAM PROCESS

### The Team consists of the following members:

- the student's parent(s);
- at least one regular education teacher familiar with the student;
- at least one special education teacher familiar with the student;
- a representative of the district who has the authority to commit resources;
- an individual who can interpret evaluation results;
- other individual(s) who have knowledge or expertise regarding the student;
- if appropriate, the child.

IDEIA 2004 permits members being excused if parent and LEA agree (written agreement from parent – SPED Form 34). If excused member has input it must be provided in writing. If parent and LEA agree, amendments and revisions can be made via written documentation without a Team meeting. Alternative to “physical meetings” are explicitly allowed including video conferencing, telephone conferencing, or virtual meetings.

Please note: when IEPs are forwarded to the Directors for signature, required elements are reviewed. If it is noted that required members of the Team were not present, Directors request an explanation for the absence. The Directors of Special Education, Principals and Chairpersons have the authority to commit District resources. The Team is charged with **managing three important activities:**

- **Eligibility Determination/Initial and Reevaluation**
- **Development of the IEP**
- **Placement Decision**

### **Eligibility Determination**

The Special Education Eligibility Flowchart has been designed to assist Teams in making eligibility determinations. The flowchart is a worksheet and not a notice/form. This worksheet should become part of the student record but does not need to be mailed to parents and, if the student is determined eligible for services, it should not be attached to the IEP.

**To be eligible for Special Education Services a student must first be found to have a disability that is causal to an inability to make effective progress in school.**

*The Special Education Eligibility/Initial and Reevaluation Determination (SPED-22)* **(ED1)** should be used to assist the Team in making an eligibility determination according to State and Federal SPED regulations.

**Team members should identify the type of disability from the list below before taking the next step in the eligibility process:**

**Autism** - A developmental disability significantly affecting verbal and nonverbal communication and social interaction. The term shall have the meaning given it in federal law at **34 CFR 300.7**:

(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affect a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (b)(4) of this section.

(ii) A child who manifests the characteristics of "autism" after age 3 could be diagnosed as having "autism" if the criteria in paragraph (c)(1)(i) of this section are satisfied.

**Developmental Delay** - The learning capacity of a young child (3-9 year old) is significantly limited, impaired or delayed and is exhibited by difficulties in one or more of the following areas: receptive and/or expressive language; cognitive abilities; physical functioning; social, emotional, or adaptive functioning; and/or self-help skills.

**Intellectual Impairment** - The permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired and is exhibited by more than one of the following: a slower rate of learning; disorganized patterns of learning; difficulty with adaptive behavior; and/or difficulty understanding abstract concepts. Such term shall include students with mental retardation.

**Sensory Impairment** - The term shall include the following:

1. **Hearing** - The capacity to hear, with amplification, is limited, impaired, or absent and results in one or more of the following: reduced performance in hearing acuity tasks; difficulty with oral communication; and/or difficulty in understanding auditorally-presented information in the education environment. The term includes students who are deaf and students who are hard-of-hearing.
2. **Vision** - The capacity to see, after correction, is limited, impaired, or absent and results in one or more of the following: reduced performance in visual acuity tasks; difficulty with written communication; and/or difficulty with understanding information presented visually in the education environment. The term includes students who are blind and students with limited vision.
3. **Deaf-Blind** - Concomitant hearing and visual impairments, the combination of which causes severe communication and other developmental and educational needs.

**Neurological Impairment** - The capacity of the nervous system is limited or impaired with difficulties exhibited in one or more of the following areas: the use of memory, the control, and use of cognitive functioning, sensory and motor skills, speech, language, organizational skills information processing, affect, social skills, or basic life functions. The term includes students who have received a traumatic brain injury.

**Emotional Impairment** - As defined under federal law at 34 CFR §300.7, the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The determination of disability shall not be made solely because the student's behavior violates the school's discipline code, because the student is involved with a state court or social service agency, or because the student is socially maladjusted, unless the Team determines that the student has a serious emotional disturbance.

Emotional disturbance is defined as follows:

- (i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
  - a) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
  - b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
  - c) Inappropriate types of behavior or feelings under normal circumstances.
  - d) A general pervasive mood of unhappiness or depression.
  - e) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

**Communication Impairment** - The capacity to use expressive and/or receptive language is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: speech, such as articulation and/or voice; conveying understanding, or using spoken, written, or symbolic language. The term may include a student with impaired articulation, stuttering, language impairment, or voice impairment if such impairment adversely affects the student's educational performance.

**Physical Impairment** - The physical capacity to move, coordinate actions, or perform physical activities is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: physical and motor tasks; independent movement; performing basic life functions. The term shall include severe orthopedic impairments or impairments caused by congenital anomaly, cerebral palsy, amputations, and fractures if such impairment adversely affects a student's educational performance.

**Health Impairment** - A chronic or acute health problem such that the physiological capacity to function is significantly limited or impaired and results in one or more of the following: limited strength, vitality or alertness including a heightened alertness to environmental stimuli resulting in limited alertness with respect to the educational environment. The term shall include health impairments due to asthma, attention deficit disorder or attention deficit with hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle



cell anemia, if such health impairment adversely affects a student's educational performance.

**Specific Learning Disability** - The term shall have the meaning given in federal law at **34 CFR §300.7 and §300.541**. Specific learning disability is defined as follows:

- (i) General. The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.
- (ii) The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Sec.300.541 Criteria for determining the existence of a specific learning disability:

A Team may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in one or more key areas if provided with learning experiences appropriate for the child's age and ability levels. If the Team finds that a child has a severe discrepancy between his/her intellectual ability and achievement in one or more of the following areas, the Team may determine that the child has a specific learning disability.

- Oral expression.
- Listening comprehension.
- Written expression.
- Basic reading skill.
- Reading comprehension.
- Mathematics calculation.
- Mathematics reasoning.

The District has authority to use a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures (See NCLB for definition of “scientific, research-based intervention”). The Response to Intervention Model (RTI) is endorsed and utilized by the Uxbridge Public Schools in conjunction with our Student Review Council.

**Extra steps are required when a specific learning disability is suspected.** Federal regulation requires additional steps in the evaluation process if the Team suspects a student of having a specific learning disability. The District must take the following steps in such cases:

- At least one Team member other than the student's teacher must complete a classroom observation of the student's academic achievement
- The Team Chairperson with the assistance of the school psychologist, if necessary, must complete a written report answering the following questions:
  - Does the child have a specific learning disability?
  - What basis was used or making the determination?
  - What relevant behavior was noted during the observation and how does that behavior relate to the student's academic functioning?
  - What educationally relevant medical findings, if any, were found?
  - Is there a severe discrepancy between achievement and ability (-1.6 standard deviation)?
  - Does the severe discrepancy between achievement and ability require specially designed instruction?
  - What was the Team's determination concerning the effects of environmental, cultural or economic disadvantage and does the Team agree that the need for special education is not a result of such disadvantage?

Team members must certify in writing whether the written report reflects their conclusion of a finding of a specific learning disability (*SPED-25*). Any individual who disagrees with the written report must submit a separate statement to express their differing conclusions.

The Team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of a visual, hearing, or motor impairment:

- Mental Retardation;
- Emotional disturbance; or
- Environmental, cultural, or economic disadvantage.

### **Teams judge whether a student is making effective progress in school.**

The Team must make a judgment as to whether the student is making effective progress in the general education program. To do so, the Team must determine whether the student has:

- made documented growth, with or without accommodations, in knowledge and skills acquisition including social/emotional development, the learning standards set forth in the Massachusetts Curriculum, and the curriculum of the District.
- made growth according to the chronological age, the developmental expectations, and the individual educational potential of the child.

When considering if the student has made effective progress, the Team must specifically look at whether the disability is causal to an inability to make progress.

**Teams judge whether the lack of progress is a result of the disability.** Teams must look at the evaluation results to see whether the lack of progress is a result of the disability or a result of other factors. Only if the Team determines the lack of progress is connected to a disability may the Team continue to discuss a possible finding of special education eligibility. According to state and federal regulation, **a student may not be found eligible solely because the student is unable to follow the school discipline code, has limited English proficiency, social maladjustment, or has lacked reading or math instruction.** *These reasons may become part of the Team's deliberations, but the essential finding of the Team must be that the lack of progress is, at least in part, a result of the disability (ies).*

After there has been a determination of a disability, Teams must remember that the final question is to ask is: *Does the student require specially designed instruction in order to make progress?* Specially designed instruction is a modification not regularly provided for students in the general education program. Specially designed instruction includes modifications that affect content, delivery of instruction, methodology and/or performance criteria and are necessary to assist the student in participating and learning. Specially designed instruction is an absolute requirement for students found eligible for special education. Related services necessary to access the general curriculum are considered special education and may be provided alone, or in combination with specially designed instruction. If the student only requires accommodations, then that student is not eligible for special education. Accommodations are typically provided by general educators within the general education environment. Preferential seating, pencil grip use, or cooperative learning strategies are some examples of these kinds of typical accommodations. Accommodations do not involve modifying the material content, but do allow students to receive information in a more effective manner.

**A 504 Accommodation Plan may be appropriate.**

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance. This law protects a person who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities include learning. Teams that convene to consider special education eligibility are often composed of members who may be able to develop an appropriate plan under Section 504 - such an action could expedite services for a student in need.

**A Team may find a student eligible for special education services.**

If a student is found eligible for special education, an IEP must be developed. In most cases, development of the IEP will occur within a single meeting after the determination of eligibility has been made (see section titled "Development of the Individualized Education Program").

**A Team may also make a finding of no eligibility.**

If the student does not have a disability, if the student does not show a lack of progress, if the student does show a lack of progress but it is not due to a disability, or if the student does not require special education, then the Team should make a finding of no eligibility (*SPED-14*). However, as a matter of good educational practice, the Team should reasonably discuss the appropriate next steps to ensure that the District, through regular education options, addresses any identified problem or concern.

Parents also have the right to appeal any eligibility determination to the Bureau of Special Education Appeals, including a finding of no eligibility. Parents may contact the Bureau directly.

**Parents should be asked if they agree with the evaluation findings.**

Team members should check a parent's understanding of the evaluation data and their agreement with it. If parents disagree with a particular school assessment, parents may have a right to an Independent Educational Evaluation (IEE). The Chairperson should immediately notify the Director of Pupil Personnel Services of any request for an IEE. A response to the request will be generated through the Special Education Office. When a student is referred for an evaluation, the school district must assess the student in all areas related to suspected disability as well conduct a comprehensive educational assessment. Parents have the opportunity to request publicly funded independent educational evaluations (IEEs) of their child if they disagree with the results of a district evaluation. If the parent requests an IEE at public expense, the district must either pay for the IEE or, within five days, request a determination from the BSEA that the district's evaluation was comprehensive and appropriate. The federal standard for IEEs is not time limited.

Under Massachusetts law, districts are required to provide publicly funded IEEs on a sliding fee scale for students whose families meet certain income criteria and contest the evaluation within 16 months of the school's evaluation. Within 10 school days from the time the district receives the report of the IEE, the Team must reconvene and consider the IEE and whether a new or amended IEP is appropriate. If the parent requests an IEE more than 16 months after the district evaluation, the best practice would be for the district to seek consent to conduct its own updated assessments of the student first, within the regulated timelines. If a parent requests an IEE in an area not assessed by the district, the best practice would be for the district to review its evaluation

and determine whether the requested assessment would provide needed additional or new information about the student's disability and if so, conduct the requested assessment with parent consent. Parents may obtain an IEE at their own expense at any time.

**The Director of Pupil Personnel Services should be notified immediately of any parental request for an IEE. It is imperative that the District makes a determination on the appropriate course of action within 5 school days.**

The Federal regulation (Sec. 300.502 ) reads as follows:

(a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this part--

(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.301.

(b) Parent right to evaluation at public expense. (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--

(i) Initiate a hearing under Sec. 300.507 to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under Sec. 300.507 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation--

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) Agency criteria. (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

### **Extended Evaluation is an option if evaluations prove inconclusive.**

If evaluation information is inconclusive and the Team has found the student eligible, the Team may want to consider an Extended Evaluation (*SPED-27*) (EE1, EE2). An Extended Evaluation may be used to gather further information needed to write an IEP. An Extended Evaluation may only be used if a parent agrees.

Immediately following a Team meeting, at which an Extended Evaluation is proposed, a new Evaluation Consent Form must be sent to parents for any additional recommended assessments.

Teams must be aware of the state regulatory restrictions placed on the use of the Extended Evaluation. Extended Evaluations **cannot** be used for the following purposes:

- to extend the evaluation timeliness for required assessments
- to deny programs or services to a student
- to constitute a temporary placement

The Team should write a partial IEP or full IEP in conjunction with an Extended Evaluation Form. This action will ensure, with parental acceptance of the IEP, that a student is not denied services determined necessary at a Team meeting.

An Extended Evaluation may run from one to eight weeks. The Team may decide to meet during that evaluation period. However, the Team must reconvene as soon as the additional evaluation data is available in order to review assessment data and/or complete the writing of the IEP.

## Sample Team Meeting Agenda

**Team Meeting: (Student Name)**

**School: (School Name)**

**September 29, 2008**

### **AGENDA**

- Introductions
  
- Statement of Purpose of Meeting
  
- Parents share concerns
  
- Eligibility Determination
  
- If Not Eligible, Other Alternatives
  
- If Eligible, Development of IEP
  
- Determination of Placement

### **Development of the Individualized Education Program (IEP)**

Writing the Individualized Education Program (IEP) is the second step in the process. After finding a student eligible for special education services, the Team develops the IEP. All IEP sections need to be considered by all IEP Teams. No section should be skipped.

### **IEP development is a student driven process.**

The IEP must be tailored to the individual student needs as determined through the evaluation process. Good IEPs will be responsive to parent concerns and the student's vision and will assist the student as much as possible in moving towards independence.

The IEP helps educators and parents to understand the student and how best to work with that student. The IEP should describe how the student learns, how the student best demonstrates that learning, and how the school staff and student will work together to help the student learn better.

The IEP is not intended to be a lesson plan but should provide a clear picture of the student's current abilities and needs, and should identify key goals and objectives that provide a direction and focus for the student's learning over the next IEP period.

Although IEP development is a student driven, individualized process, there are some central concepts that should be adhered to during a well-managed Team meeting. A well-managed Team meeting will:

- Obtain parent/student input.
- Think about the student's future dreams and goals.
- Understand how the student's disability affects the student's learning.
- Know how the student performs today.
- Address only the areas that are affected by the disability.
- Provide a focus for the student's learning during this year.
- Reflect high expectations for the student.
- Stay as close as appropriate to what the student's peers are learning and doing.
- Identify supports and services the student needs for success.
- Ensure that the recommended services contain, at a minimum, some specially designed instruction.

**Team meeting should be used as a communication vehicle.**

During an IEP Meeting, Team members share information and discuss the needs of the student in order to gain a comprehensive understanding of the student. The discussion should connect one IEP element to the next and ensure internal consistency within the produced document.

A Team meeting works best if:

- the meeting remains focused on the student.
- its members are knowledgeable about the District, special education law, and the student.
- parents are respected participants, giving and receiving information.

Sending evaluation reports to parents in advance of a meeting should ensure that the Team discussion is more focused and can immediately start with a common base of



information **rather than a lengthy recitation of evaluation results**. This strategy allows for more time to brainstorm and write the IEP itself enabling parents to leave the meeting with a more solid understanding of their child and how the school system plans to help their child improve.

The IEP should reflect the decisions made at the Team meeting and should serve as a contract between the school system and parent(s) which clearly communicates to parents the needs of their child, the steps the District will take to address these needs and the progress their child is expected to make during the IEP period.

The IEP does not serve as a guarantee of progress. However, IDEIA-2004 clearly states that a District must make a good faith effort to assist the student in making progress towards the IEP goals.

**The IEP should serve to focus the special education services.**

The IEP will better serve the student if it focuses on what will make the biggest difference for that student and not on every aspect of every school day. The IEP should concentrate on offsetting or reducing the problems resulting from the student's disability that interferes with learning and educational performance.

**Parents and/or students need to give input into IEP development.**

Parent and/or student input becomes the first indicator for defining the IEP focus. The placement of this item as the first order of business is deliberate and in keeping with the importance given to parent input in IDEIA-2004.

Using the *Parent Questionnaire (SPED-29)*, parents are provided an opportunity to share their concerns regarding their child. The parent perspective is unique and important to the Team's work as they have a view of the student that cannot be duplicated by even experienced evaluators.

**Teams should keep a whole child perspective.**

The Team must next review the student's strengths, interests, personal attributes, and personal accomplishments as well as key evaluation results to enable Team members to keep a whole child perspective when writing the IEP. Teams should avoid a segmented look at the student where individual skills or problems are identified in isolation. The Team should keep the big picture in mind and plan to use the student's strengths in planning steps for the next IEP period.

When developing an IEP for a student with an existing IEP, the Team should always review the content of the existing IEP as they begin developing a new IEP. The new IEP should be revised and updated as needed to shift goals and services and to demonstrate a progression of learning. Each year's measurable annual goals should clearly show a step-by-step increase in a student's learning outcomes. Also, if necessary, any lack of expected progress needs to be discussed and addressed.

**The general education curriculum must be addressed in all students' IEPs.**

The IEP should be considered a primary tool for enhancing a student's involvement and progress in the general curriculum. As defined by federal regulation, the general curriculum is the curriculum used with non-disabled children. All students, regardless of the nature or severity of the disability or their educational setting, must have access to and progress in the general curriculum.

Within Massachusetts, the general curriculum is defined as the Massachusetts Curriculum Frameworks in the following areas: English Language Arts, Mathematics, History and Social Sciences and Science and Technology. Other curriculum areas can and should be discussed if the student's disability affects progress in those areas.

School districts must maintain high standards for children with disabilities. These standards should be consistent with the expectations for all students in the educational system.

General educators play a critical role in the Team process as the experts on the general education curriculum and classroom environment. Their participation in the Team process is required under Federal Regulation.

**The IEP must also address areas of other educational need.**

The Team must also look at the student's overall involvement within the school including participation in extracurricular and other nonacademic activities and, for preschool students, participation in appropriate activities to ascertain other areas of need. The Team may consider how students communicate with others, how the students' behavior effects their learning or the learning of others, how assistive technology could support effective progress or how the students' disabilities effect transition to post-secondary activities.

Parents must leave the meeting with either a draft of a proposed IEP or a Team meeting summary. In the case of a Finding of No Eligibility, parents must leave the meeting with a completed Team meeting summary.

## **NOTES REGARDING CERTAIN IEP ELEMENTS:**

### **Vision Statement - IEP 1:**

A vision statement is required for all students. The character of the statement will change based on the age of the student.

The intent of the vision statement is to look forward to future goals, usually 1-5 years in the future. For younger students, periods of transition from one grade to the next or from elementary to middle school may provide a time focus for these statements. The Team steps back from the here and now to take a broader, long-range perspective as it looks to where this student is headed in the future. Knowing where the student is headed makes it easier for the Team to eventually determine what progress needs to be made this year. The following example is given to assist in the development of vision statements.

When Chris begins first grade, we can see him working well with his non-disabled peers for the entire school day.

As the student becomes older and more involved in transition planning, the vision statement becomes the hopes and dreams of the student and not the parent and Team. Also, the statement for older student must conform to federal regulation and be based on the student's preference and interests and include desired outcomes in adult living and post-secondary and work environments.

### **Present levels of Educational Performance:**

#### **A. General Education Curriculum - IEP 2:**

Teams must consider for each student how the student's disability (ies) affects performance in general education curriculum area(s). However, the discussion of the Team need only center on those areas of the curriculum where the student's performance is adversely affected by the student's disability (ies). Clear descriptions of how the disability (ies) impact progress will better assist Teams in determining the most appropriate and individualized accommodations and specially designed instruction.

The Team will also use the assessment information and their discussion of the student's levels of educational performance (PLEP) to focus the direction of the IEP goals and services. The PLEPs must be based on current, relevant information about the student obtained from a variety of sources.

**B. Other Educational Needs - IEP 3:**

Teams must ensure that they review the considerations listed on IEP 3. These lists are not exhaustive in nature. Therefore, Teams should describe other identified area(s) of educational needs that affect progress, but may not be listed.

**Current Performance Levels/Measurable Annual Goals - IEP 4:**

Most IEPs should contain no more than an average of three to four goals. Goals should relate directly to those areas where the student's disability affects performance and should reflect a focus on those areas that make the biggest difference in the student's performance. Goals should not identify multiple curricular standards in a single curriculum area nor qualify as a detailed weekly or monthly lesson plan.

Current performance levels and goals should relate directly to the previously written Present Levels of Educational Performance.

**Teams must connect current performance to measurable annual goals.**

The IEP should be written with a direct connection between the current performance levels and the measurable annual goals. The current performance levels state what the student can currently do and identify key stumbling blocks. The goals state what the student will accomplish by the end of the IEP period. The current performance levels become the starting points for determining the goals and the goals become the end points for student accomplishment for the IEP period.

**Service Delivery - IEP 5**

Indirect services represent services that are provided to someone other than the student. Consultation or training for school staff and/or parents should be listed in Section A. Direct services to student should be listed in Section B if the service(s) will occur in the general education environment and in Section C if the service(s) will occur in any other type of setting. Although Teams are identifying service needs that they believe should take place outside of the general education classroom, Teams are not, at this point, determining the student's final placement. The final type of placement is determined after the entire IEP is developed. There is an exception to this general rule: if the Team has, in the course of its discussions, determined that this student will need a longer school day or school year, then the service delivery information may reflect services beyond the standard school day and, in some circumstances may reflect a need for residential services. In all cases, if extended educational services are required, the goals and objectives developed for the student should reflect the comprehensive nature of the student's program.

Start dates should be included for all services; however, end dates should be entered only as appropriate. For instance, if speech therapy is recommended for four months and not for the entire IEP period, then a start and end date should be entered.

### **Non-participation, Length of School Day/Year, Transportation - IEP 6**

**Teams must justify non-participation in general education program.** To reinforce IDEA's strong preference for involvement in the general education environment, the law requires a clear statement justifying why removal is considered critical to the student's program and the basis for the Team's conclusion that education of the student in a less restrictive environment, with the use of supplementary aids and services, could not be achieved satisfactorily. Given reasons should focus on the benefit the student will receive from being outside of the general education environment. An eligible child should not be removed from the general education classroom solely because of needed modification of the curriculum. The justification should refer to any special education and related services recommended to occur in other settings during the service delivery discussion and not to potential placements.

**Teams must describe when a student's school day or year is modified.** Most students with disabilities will attend school on the same daily and yearly schedule as their non-disabled peers. However, in rare circumstances, a Team will recommend a schedule modification. The Team may decide the student requires a shortened school day, shortened school year, longer school day, longer school year or residential services. In each case, the IEP must describe the modification and the reasons for such modification. An extended day or year program may be identified if the student has demonstrated or is likely to demonstrate a loss of acquired skill and/or substantial difficulty in relearning skills if an extended program is not provided.

**Transportation is a related service.** Transportation is considered a related service under the Federal statute and needs to be provided to ensure that students receive educational benefit from their IEP services. A recommendation for a student to receive transportation, as with other IEP decisions, relates back to the effect of the student's disability (ies) on transportation. Team members must ascertain whether the disability (ies) prevents the student from getting to the local school in the same manner as the student's non-disabled peers would get to the local school. On the IEP under Transportation Services, only check "yes" if the student requires modifications or specialized equipment.

**State or District-Wide-Assessment - IEP 7:**

Teams continue to be responsible for deciding how all students will participate in state and district-wide assessments. However, if no assessments are planned during a particular IEP period, the Team should note that no testing will occur and leave the remainder of the page blank. All students participate in MCAS testing with accommodations outlined in the IEP. MCAS accommodations must be consistent with accommodations students regularly receive in their curriculum.

**Notes Regarding Special Populations:****Children Ages 3 to 5:**

The Massachusetts Curriculum Frameworks begin at the Pre Kindergarten level and children age 3 to 5 may have a disability (ies) that affect their progress in the general curriculum. Teams should not hesitate to use IEP 2 to reflect the developmental skills for each of the curriculum areas. Young children's disabilities also affect their participation in appropriate activities or may affect other educational needs. Therefore, a Team may need to describe these students' Present Levels of Educational Performance on IEP 3.

**Transition Aged Youth:**

Transition elements are incorporated throughout the IEP for a more integrated approach to transition planning. Transition planning is required under Federal law and becomes a major Team focus when a student reaches fourteen years of age.

The vision statement, included as part of IEP 1, aids Team Members in determining the student's transition needs that may be reflected on IEP 2 and/or IEP 3. Transition goals should be recorded on IEP 4 and transition services should be recorded on IEP 5. As a student approaches graduation, the Team must also consider the student's graduation status, the need for a Chapter 688 referral and the involvement of adult service agencies. As the student nears or reaches age seventeen, the Team must discuss the transfer of rights at age of majority. These last items would be documented under Additional Information on IEP 8. In the event a student does not attend the Team meeting prior to the student's seventeenth birthday, written notification will be sent to both the parent(s) and student explaining the transfer of rights options at age eighteen.

Transition plans must be discussed and documented when the child is 15 years old. If the child requires services or courses necessary to reach the goals, IEPs must have measurable post-secondary goals related to training, education, employment, and as necessary, independent living.

**Eligible Students with Behavior Problems:**

If an eligible student's behavior affects performance in the general curriculum, then the interfering behavior should be reflected on IEP 2. If an eligible student's behavior affects other areas of educational need, then the interfering behavior should be reflected on IEP 3. If an eligible student's behavior affects performance in the general curriculum and in other areas of educational need, then the interfering behavior should be reflected in both locations on the IEP. Teams are reminded that IDEA-2004 requires pro-active steps in behavior management and in the provision of positive behavioral supports for eligible students whose behavior impedes their learning or the learning of others.

## **PLACEMENT DECISION**

The third and final step in the IEP process is determining the appropriate placement. The type of placement should be discussed immediately after an IEP is developed. The IEP forms the basis for the placement decision. The placement decision must be based on a careful reflection of the IEP, including the services that the Team has identified as necessary, and the impact of the disability on the student's learning. Finally, the Team must be mindful of the requirement related to FAPE (free appropriate public education) in the LRE (least restrictive environment). Only after the needs of the child and the types of services have been discussed by the Team and agreed to in an IEP can the type of placement be effectively chosen by the Team.

**The first type of placement option considered for all eligible students will be the general education classroom with the use of supplemental aids and services.**

Students may not be denied education in age-appropriate general education classrooms because the students' education requires modification to the general curriculum. Other options should be considered only when the nature and severity of the disability would prevent satisfactory achievement within the general education environment.

The IEP, under no circumstances, should be written "to fit" a particular placement. Teams must remember this critical fact when moving through the Team process to ensure that the IEP is written to address the unique needs of the student.



## GUIDELINES FOR THE ANNUAL REVIEW PROCESS

### Sample Review Team Meeting Agenda

**Review Team Meeting: (Student Name)**

**School: (School Name)**

**September 29, 2008**

#### **AGENDA**

- Introductions and Statement of Purpose of Meeting
  
- Parents share concerns
  
- Review of Student's Progress
  
- Developing new goals/objectives
  
- Service Delivery/Placement

### **Purpose of the Review Meeting**

The purpose of this meeting is to review the student's progress toward meeting the goals and objectives of the IEP. The participants in the Review Team Meeting will develop a new IEP that reflects student growth and current educational needs, as related to the general education curriculum. If the District suspects that the student may no longer require special education services, then a **reevaluation** must be initiated, since no decision to remove eligibility can occur without current and complete evaluation information.

### **Timelines for Annual Reviews**

1. A review must be conducted within ten months of the Initial Evaluation and, thereafter, every twelve months on or before the expiration of the current IEP. Other Review Meetings may be requested at any time by any Team member. When a Team Member is not satisfied with the progress of his/her child or with the child's program and requests to meet with school personnel, the Liaison will arrange for a meeting to be held within five school days. The Liaison must inform the Principal and the Administrator of Special Education of this unscheduled review.

2. The Liaison will be responsible for ensuring that the review is held in a timely manner.

### **Annual Review TEAM Meetings-Scheduling**

At least 30 days prior to the review, the Liaison will send two documents home:

- *Notice of Annual Review Team Meeting (SPED-17) (N3)*
- *Parent Questionnaire (SPED-29)*

The Liaison is also responsible for inviting all other participants.

### **The Meeting**

1. The Review Team Meeting should have a printed Agenda to facilitate effective communication and help the Team reach consensus. The Chairperson/Liaison will review the purpose of the meeting, outline the process/format, introduce Team members and present a draft of the student's new IEP to the parents.
2. The Liaison/service providers/classroom teachers will review the student's progress and determine:
  - a) The appropriate goals and objectives for the upcoming 12-month period.
  - b) The necessary modifications and specially designed instruction needed to allow the student to access the general education curriculum.
3. If the student requires an increase in services, which will require a more restrictive setting, or if the participants cannot explain why the student does not appear to be meeting the goals outlined, or if the student requires services in areas in which testing has not been completed, the review Team will recommend a reevaluation.
4. If the student is referred for a reevaluation, the Liaison will write an amendment to extend the current plan. The amendment will be sent to the parent/guardian immediately following the review meeting along with a *Evaluation Consent Form (SPED-9) (N1A)* and *Proposal to Conduct an Unscheduled Reevaluation (SPED-16A) (N1)*.
5. If the student is not referred for a reevaluation, the final copy of the new IEP for the student will be processed in the usual manner.
6. Parents must leave the meeting with either a draft of a proposed IEP or a Team meeting summary (SPED-33-not available on CaseE, see copy at end of Manual).

## **INDIVIDUALIZED EDUCATION PROGRAM (IEP) AMENDMENT**

The Individualized Education Program (IEP) Amendment is designed to be a stand-alone document or to be used in conjunction with other IEP pages. The form should be used for minor IEP adjustments that do not change the type of placement.

The explanation of a proposed change should include the IEP section(s) that the change will affect. Team members might choose to attach an IEP page to the amendment to help clarify the recommended adjustment. For instance, if an IEP goal is being altered, IEP 4 with the reworded goal should be attached or if service delivery is being altered, IEP 5 with the adjusted services should be attached. Attach the Administrative Data sheet to the amendment before sending it to the Director for signature.

### **DOCUMENTING MEETINGS**

#### **Team Meeting Summary and IEP Procedure**

Any formal meeting among TEAM members, including parents, should result in either:

- a completed IEP or
- a Summary of the Meeting in lieu of the completed IEP (if changes are made to the IEP)

#### **DRAFTING THE IEP**

On August 14, 2006, the official copy of the final Part B regulations of the IDEA 2004 was published in the Federal Register. With respect to drafting IEPs, the following regulation must be implemented in accordance with **Federal Register / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations (page 46678)**:

*With respect to a draft IEP, we encourage public agency staff to come to an IEP Team meeting prepared to discuss evaluation findings and preliminary recommendations.*

*Likewise, parents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs. We do not encourage public agencies to prepare a draft IEP prior to the IEP Team meeting, particularly if doing so would inhibit a full discussion of the child's needs.*

*However, if a public agency develops a draft IEP prior to the IEP Team meeting, the agency should make it clear to the parents at the outset of the meeting that the services proposed by the agency are preliminary recommendations for review and discussion with the parents. The public agency also should provide the parents with*

*a copy of its draft proposals, if the agency has developed them, prior to the IEP Team meeting so as to give the parents an opportunity to review the recommendations of the public agency prior to the IEP Team meeting, and be better able to engage in a full discussion of the proposals for the IEP. It is not permissible for an agency to have the final IEP completed before an IEP Team meeting begins.*

#### **Procedure for Providing IEP or Summary at the end of a Team Meeting:**

- At the end of each Team Meeting, whether Evaluation , Annual Review, or Amendment, the Chairperson of the meeting should provide either:
  - a copy of his/her corrected proposed IEP to the parents, or
  - a completed Meeting Summary, retaining a copy for the school record.
- If a copy of the proposed IEP is provided, the corrected IEP and SPED 13 (N1) letter must be forwarded to the Special Education Director within one day of the meeting in order to insure prompt review and mailing. (changes are made to the IEP within one day of the meeting)

#### **Timelines for processing the IEP:**

- Where the district does not provide a fully completed IEP at the conclusion of an IEP Meeting, the district will provide the parent with a written summary of the decisions and agreements reached during the Team meeting which includes (1) a completed IEP service delivery grid describing the types and amount of special education and/or related services proposed by the district, and (2) a statement of the major goal areas associated with these services. If this summary is provided, the district should issue the full IEP within a reasonable period of time (no longer than 2 calendar weeks) from the date of the IEP meeting.
- If the summary is not provided, then no later than three calendar days from the conclusion of the Team meeting (and five calendar days where weekend days intervene) the district should issue the fully developed IEP. (from the Program Quality Assurance Services and the DOE's Office of Special Education Planning and Policy Development, 2006)
- If the Meeting Summary is provided, the corrected IEP and SPED 13 (N1) letter must be forwarded to the Special Education Director within 3 school days of the meeting in order to insure prompt review and mailing.

**SUMMARY OF MEETING**  
**CIRCLE: Initial, Reeval, Review, Other**

Student's Name: \_\_\_\_\_ School: \_\_\_\_\_

Grade: \_\_\_\_\_ Date: \_\_\_\_\_

Parent's Name: \_\_\_\_\_ Parent's  
Name: \_\_\_\_\_

IEP Liaison: \_\_\_\_\_ Phone#: \_\_\_\_\_

Person completing this form: \_\_\_\_\_

Parent and Team Concerns: \_\_\_\_\_

Student Strengths: \_\_\_\_\_

**Eligibility Determination (INITIAL AND REEVALS ONLY)**

**Eligible** for Special Education services because of a disability that impedes effective progress in regular education. Please check primary disability area:

_____ Developmental Delay	_____ Communication Impairment
_____ Intellectual Impairment	_____ Physical Impairment
_____ Sensory Impairment	_____ Specific Learning Impairment
_____ Neurological Impairment	_____ Health Impairment
_____ Emotional Impairment	_____ Autism

\_\_\_\_\_ **Not Eligible** for Special Education services because the student does not have a disability.

\_\_\_\_\_ **Not Eligible** for Special Education services because the student has a disability but it does not interfere with his/her ability to make effective progress in regular education.

Specialized Instruction Area(s) of need:

\_\_\_\_\_

\_\_\_\_\_

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**Service Grid Delivery (IF ELIGIBLE FOR SERVICES, REVIEW, AMEND. ONLY):**  
**Service(s)** \_\_\_\_\_ **Time per week** \_\_\_\_\_

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Major Goal Areas:

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Accommodations: \_\_\_\_\_

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Comments: \_\_\_\_\_

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## **ADDITIONAL REQUIREMENTS**

### **Exception for Attendance at the TEAM Meeting**

MA regulations and Uxbridge School District requires attendance at the TEAM Meeting of the following staff members:

1. Regular Education Teacher
2. Special Education Teacher
3. A representative of the district who is able to commit the resources of the district
4. An individual who can interpret the instructional implications of evaluation results, who may be a member described above.

When one of these members, who has been listed on the Attendance Sheet, is not able to attend a TEAM Meeting, in whole or in part, parents must be informed of this absence, and consent to it, by the beginning of the TEAM Meeting. The Chairperson or Liaison should contact the parent to determine whether the meeting can go forward as planned, as soon as the absence is known.

A written summary should be provided by the missing service provider prior to the Team Meeting, if they will not be in attendance. Parent may agree to waive this written input if a Team member has attended part of the Meeting, but needs to be dismissed prior to its conclusion.

Please complete the EXCEPTION FOR ATTENDANCE OF REQUIRED TEAM MEMBER (SPED 34) form that follows at the end of the Policy Manual.

### **When Parents and Staff Disagree**

Every attempt is made on the part of the Team Chairperson/Liaison to resolve any differences of opinion that might arise. However, if there is no resolution, the Chairperson/Liaison should propose an IEP based on the school's recommendations, making it clear to the parents that they can exercise their rights of due process.

## **TIMELINES FOR THE IEP**

### **Parent Response to IEP**

1. The parent has thirty days to respond to the IEP. If there is no response after twenty-five days, the Chairperson/Liaison will be asked to call the parent. **Until parental consent is received, the old IEP remains in effect.**
2. When the parent/guardian returns the IEP, the Secretary will notify the Liaison of the return.
3. If the parent/guardian accepts the IEP, the Secretary will then make copies of the IEP and forward them to the persons responsible for service delivery under the IEP. **The entire IEP should be implemented immediately.**

4. **No student will be placed in a special education program without an IEP signed and accepted by his/her parent/guardian.**

## **REJECTED IEPS**

1. If a parent/guardian returns an IEP or Amendment rejected partially or fully, the Secretary will notify the Administrator of Special Education.
2. The Administrator of Special Education will discuss the rejection with the Chairperson/Liaison and, if necessary, contact the parent/guardian in an attempt to resolve the dispute within four days. **Any mutually accepted elements of the IEP will be implemented immediately.**
3. If the dispute cannot be resolved, a copy of the rejected IEP or Amendment is sent by the secretary to the Bureau of Special Education Appeals no later than five days from the notification from the parent/guardian of the rejection of the IEP.
4. For Initial IEPs: Until the dispute regarding the IEP is resolved, the child will remain in his/her current placement. No special education services can be provided.
5. For Review/Reevaluations: Until the dispute regarding the IEP is resolved, the goals, objectives and services of the last accepted IEP will continue to be implemented.

## **Administrative Data Sheet**

The Administrative Data Sheet has been designed to capture necessary student data, parent contact information, meeting information and school-related data on one sheet. The data sheet should be completed or updated at any meeting that produces an IEP, an IEP Amendment or an Extended Evaluation Form. Once completed, it should be attached to the aforementioned forms before they are sent to parents. **The Administrative Data Sheet becomes the first page** of these documents.

## **Administrative Placement Information**

The Administrative Placement Information Form is for District record keeping only. The requested information is self-explanatory or can be answered by reading the directions included on the form itself.

The form centralizes information required for certain federal and state reports. Send the Administrative Placement Information Form with the IEP to be filed in the central office file. **Do not send home to parents.**



## **Progress Reports**

The Progress Report is designed to report the progress of each IEP goal individually. Service providers must comment on whether they anticipate the student being able to meet the goal by the end of the IEP period. If after two reporting periods, the service provider believes that the student will be unable to meet the goal, that must be indicated on the Progress Report and a Team Meeting must be held to amend the IEP. Multiple copies of the form should be used as required to report on each and every IEP goal. Progress reports must answer two questions for each goal: (1) What is the student's progress toward the annual goal and (2) Is the progress sufficient to enable the student to achieve the goal by the end of the IEP period? Completed progress reports are sent to the special education office and filed. Progress reports are reviewed for content and frequency by the Director of Pupil Personnel Services.

Progress reports are required to be sent to parents at least as often as parents are informed of non-disabled children's progress. A Team meeting does not take the place of a written progress report.

## **Emergency Evaluations**

When a student exhibits multiple dangerously assaultive or self-abusive behaviors, the Director of Special Education will refer the student for an emergency evaluation. The Director of Special Education will contact the parents to: 1) inform the parents of the student's behavior; 2) invite the parents to a meeting to be held the same day (or the following day if the parents are unavailable); 3) obtain parental permission for the evaluation; and 4) discuss an emergency placement. All reasonable efforts will be made to contact the parents before the close of the school day. All efforts to reach parents will be documented.

A temporary emergency placement (not to exceed 15 days) will be proposed by the District no later than the day following the emergency meeting. No student will be placed in an emergency placement without parental consent.

No later than 15 days after receiving written parental consent, a Team meeting will take place to review the results of the evaluation and determine appropriate placement.

## DISCIPLINE

**Functional behavioral assessment (FBA)** is a process for addressing student problem behaviors, the settings under which the problem behaviors may or may not be observed, and the function (the why) of the problem behaviors. This information is obtained by collecting data from direct observation and is used to develop an effective plan to reduce the frequency or severity of the problem behavior. A behavior intervention plan (BIP) is developed and implemented, if appropriate. Functional behavioral assessment should be integrated, as appropriate, throughout the process of developing, reviewing, and, if necessary, revising a student's IEP.

In the case of a student with a disability a suspension of more than 10 days (or a suspension that would, with previous suspensions that year, total more than ten days) or expulsion (which is viewed as a change of placement) requires an emergency Team meeting. The purpose of this Team meeting is to make a **manifestation determination**. Relevant members of the Team shall review all relevant information in the student's file, including the IEP, teacher observations, and any information provided by the parents to determine if the conduct in question is caused by or had a direct and substantial relationship to the child's disability or was the direct result of the LEA's failure to implement the IEP. If any of those circumstances are found, long-term suspension or expulsion may not be imposed.

The IEP Team must determine if there is a relationship between the school discipline policy violation and the student's disability in order to make decisions about the consequence for the misconduct as well as the student's continuing educational and behavioral needs. If the behavior in question is not a manifestation of the student's disability, the student may be disciplined under the general conduct code of the school. The IEP Team considers all relevant information, including evaluation/diagnostic results, observations of the student, and the student's IEP and placement.

The Team must determine:

- Is the IEP appropriate, including the BIP?
- Is the IEP implemented as written, including appropriate behavior management procedures?
- Did the disability prevent the student from understanding the impact and consequences of the behavior in question?
- Did the disability prevent the student from controlling the behavior in question?

In summary, the behavior is not a manifestation of the disability if the Team determines that:

1. The current IEP and placement are appropriate
2. The student has the ability to understand the consequences of the behavior
3. The student has the ability to control of behavior

### **Student Violates School Discipline Code 45 School Day Rules**

School personnel may remove a student to an appropriate interim alternative educational setting for not more than 45 calendar days if the student:

- carries a weapon
- possesses or sells illegal drugs or controlled substance
- serious bodily injury upon another person at school, on school premises, or at a school function

The Team must conduct a Functional Behavioral Assessment and Manifestation Determination. The Hearing Officer can extend the 45-day period.

The Hearing Officer may order a 45 calendar day placement in an interim alternative educational placement if the District proves that the presence of the student poses a danger. Danger is considered as:

- Likelihood to result in injury to the student or others
- Appropriateness of the student's current placement
- Reasonable efforts made to minimize risk of harm
- The interim Alternative Education Placement meets requirements – access to curriculum and program designed to address behavior

The Team must conduct a Functional Behavioral Assessment and Manifestation Determination. The Hearing Officer can extend the 45-day period.

The District uses interim alternative educational settings when students are removed from their current placement. The District has used collaborative programs and approved private schools.

When a student with a disability is reported to the police for an alleged crime, special education and disciplinary records must be furnished to the police.

The **Individuals with Disabilities Education Act Regulations** at 34 CFR § 300.529 state the following:

Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Right and Privacy Act. (Authority: 20 U.S.C. 1415(k)(9))

## TRANSITION PLANNING GUIDELINES

What are “transition services?”

Transition services means a coordinated set of activities that:

1. Is designed with an outcome process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living or community participation
2. Is based on the student’s needs, taking into account the student’s preferences and interests
3. Includes instruction, related services, community experiences, the development of employment and other post-secondary adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

When are transition plans required?

Beginning at age 15, IDEIA 2004 requires a student’s IEP to include a statement of the transition service needs of the child under the applicable components of the child’s IEP. The statement should focus on the child’s course of study and include a statement of interagency responsibilities or any needed linkages.

Who plans transition services?

The Team determines transition activities. The IDEIA 2004 requires that the District invite the student to the Team meeting, regardless of age, if one of the purposes of the meeting is to discuss the student’s transitional service needs. If the student does not attend the Team meeting, the District must ensure that the student’s preferences and interests are considered.

Discussion about needed transition services must take place at Team meetings for all students age 15. All necessary services will be recorded in the appropriate sections of the IEP.

## Transition Plan

STUDENT: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_ ANTICIPATED DATE OF EXIT FROM SCHOOL: \_\_\_\_/\_\_\_\_/\_\_\_\_

**The following are the four fields identified by IDEIA 2004 that the Team must discuss as part of transition planning for all students beginning not later than at the first IEP to be in effect when the child is 16, and updated annually thereafter. This form should be placed in the Student's file and revisited each year.**

### I. Post-Secondary Course of Study

- College
- Adult Education
- Technical School
- Vocational Training
- Adult Day Program (community based)
- Other: \_\_\_\_\_

#### Related Services

- Counseling
- Physical Therapy
- Occupational Therapy
- Speech Language Pathology
- Audiology
- Recreational Therapy
- Orientation & Mobility Services
- School Health Services
- Social Work Services
- Other: \_\_\_\_\_

### II. Employment

- Competitive Employment
- Supported Job Placement
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

### III. Community Experiences

- Identifying Residency Options
- Recreational Experiences
- Social Relationships
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

### IV. Daily Living Skills and Needs

- Self Care
- Money Management
- Agency Linkages-688 Referral
- Guardianship
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

### ACTION PLAN

Completed by: \_\_\_\_\_

## COLLEGE TESTING INFORMATION

The College Board has recently changed its eligibility requirements for testing accommodations. Districts and parents are reporting that the College Board is rejecting many requests for accommodation because the documentation supporting the request is not sufficient under its new eligibility standards. As a result, parents and students are asking Districts to conduct additional evaluations or eligibility assessments to support students' requests for accommodation.

### **What is the District's responsibility to provide supporting documentation to the College Board when a student has requested accommodations on College Board tests (e.g., PSAT/NMSQT, SAT or AP)?**

The District provides the College Board with documentation supporting the student's request for accommodation when such documentation is available, consistent with the Massachusetts Student Records Regulations (see 603 CMR 23.00),

In some cases, the College Board is asking that the student provide documentation of specific additional assessments or updated assessment information that the District does not need in order to deliver appropriate special education services to the student. **The District is not obligated to provide or pay for updated or additional assessments to support a student's request for accommodation on College Board examinations if such assessment information does not already exist and is not necessary for the appropriate special educational program for the student at the time of the request.** The parent is responsible for paying for additional assessments that are needed for the sole purpose of supporting the student's request for accommodation on the College Board examinations.

If the parent requests an evaluation or assessment, whether or not the request describes the reason for the request, the District must respond in accordance with the requirements of state and federal special education law. The District may either agree or disagree to conduct such an assessment and provide notice to the parent of the decision. The District's decision not to conduct the assessment is subject to the due process requirements of the law.

If a request for an evaluation is made for the purpose of demonstrating a need for accommodations on College Board tests, and the school District has no reason to believe the student has a disability or needs special education services, then the District can deny the request for an eligibility evaluation; the District must notify the parent of the decision.

## **PARENT/ADVOCATE VISITATION GUIDELINES**

Each year parents exercise their rights to visit classes. Sometimes parents solicit the assistance of an independent evaluator and/or advocate visiting our schools to conduct observations of special needs students, interview teachers and attend TEAM Meetings.

The district welcomes requests for visits by parents and their representatives. The visits and co-observations provide an opportunity for sharing our knowledge and skills regarding a particular student and his/her program.

Most often, the Special Education Liaison will accompany the observer. However, there may be times when it is appropriate for either the building Principal/Assistant Principal, Chairperson or Special Ed. Director to accompany the observer. The Liaison should talk with the aforementioned staff to determine who should co-observe.

If a parent requests a school visitation/observation for either him/herself or an educational evaluator or advocate, please provide the PARENT GUIDELINES FOR ARRANGING OBSERVATIONS IN SCHOOLS as well as the REQUEST FORM to the parent. By completing this FORM and submitting it to the student's liaison, the district will be better able to accommodate the specific request of the parent.

The designated Co-observer should accompany the visitor(s) and observe concurrently. Please document your observation, so that the district has a record what was observed.



**UXBRIDGE PUBLIC SCHOOLS**  
**DEPARTMENT OF PUPIL PERSONNEL SERVICES**  
**21 SOUTH MAIN STREET, SUITE 207 • UXBRIDGE, MASSACHUSETTS • 01569**  
**Telephone (508) 278 - 8654 • Fax (508) 278 - 8612**

**PARENT GUIDELINES FOR ARRANGING**  
**OBSERVATIONS IN SCHOOLS**

1. Requests for observations should be made to your child's special education liaison. The Special Education Liaison will provide a "Request for Observation" form for you to complete and return to the liaison.
2. Upon receipt of the request form, the liaison will make a copy of the form and pass it to the building principal and special education chairperson.
3. The observation will be scheduled at a mutually convenient time, whenever possible.
4. The district requests that observations be limited to one hour (or one class period at the secondary level), whenever possible, to minimize disruption to children and staff.
5. A Uxbridge Public School staff person will accompany the observer during the observation period. Conversation with teachers or therapists will not usually be possible during or after the observation period.

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PARENT REQUEST FOR OBSERVATION

Student's Name: \_\_\_\_\_

Parent's Name: \_\_\_\_\_

Phone: Home \_\_\_\_\_ Other: \_\_\_\_\_

Email: \_\_\_\_\_

Classroom Teacher: \_\_\_\_\_ Grade: \_\_\_\_\_

Observer's Name: \_\_\_\_\_

Observer's Affiliation: \_\_\_\_\_

Contact Information for Observer: Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Purpose of Observation: \_\_\_\_\_

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Is there a particular part of your child's school day that you wish to have the observe see?

\_\_\_\_\_

---

Signature of parent/guardian                      Date

NAME OF SPECIAL ED LIAISON:

DATE RCVD:

DATE COPIED TO PRINCIPAL AND SPED CHAIR:

**TEACHER REQUEST FOR OCCUPATIONAL THERAPY  
OBSERVATION AND/OR SCREENING**

Occasionally, a teacher may determine, through the Teacher Support Team process, that an Occupational Therapist observation or screening would be helpful to determine classroom strategies to address handwriting, fine motor and/or sensory processing difficulties that are impacting the student's performance in school. In such a case, the teacher should complete the Occupational Therapy Observation/Screening Request form and return this to the Special Education Chairperson. The Chairperson will convey the request to the Occupational Therapist, who will meet with the teacher to determine the best means for gaining information about the student (SPED-32 not available on CaseE, see copy at end of Manual).

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**OCCUPATIONAL THERAPY OBSERVATION/SCREENING REQUEST**

Child's Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ Teacher: \_\_\_\_\_ Date: \_\_\_\_\_

1. What problem(s) is the student experiencing? How does the problem(s) impact the student's ability to make progress in school?
  - a.
  - b.
  - c.
2. How long has the problem(s) existed?
3. What has been helpful in dealing with the problem(s)? List all the strategies used.
  - a.
  - b.
  - c.
4. What has been tried that has not proven successful?
5. Does the student receive any support services, such as remedial reading or special education?

Please list (on the reverse side) any additional information that may be helpful.

Signature of person making the referral: \_\_\_\_\_

### EXCEPTION FOR ATTENDANCE OF REQUIRED TEAM MEMBER

Date of Attendance: \_\_\_\_\_  
 Student Name: \_\_\_\_\_  
 TEAM Meeting Date: \_\_\_\_\_

School Districts are generally required to arrange for the attendance of an individual filling each of the following roles at each team meeting. For the Team meeting listed above, the District and Parent(s) have agreed/consented to make an exception for such attendance, as checked below.

- A regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- A special education teacher of the child, or where appropriate, a special education provider of the child;
- A representative of the District who:
  - is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - is knowledgeable about the general curriculum; and
  - is knowledgeable about the availability of resources of the District.
- An individual who can interpret the instructional implications of evaluation results, who may be a member described above.

The District and Parent(s) have agreed/consented to the exception for the reason checked below:

- ATTENDANCE IS NOT NECESSARY – A member of the IEP TEAM shall not be required to attend an IEP meeting, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- THE MEMBER WITH NECESSARY INPUT, THAT HAS BEEN PROVIDED IN WRITING PRIOR TO THE MEETING, HAS BEEN EXCUSED – A member of the IEP TEAM may be excused from attending an IEP meeting, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if:
  - a) the parent and the local educational agency consent to the excusal; and
  - b) the member submits, in writing to the parent(s) and the IEP TEAM, input into the development of the IEP prior to the meeting.

\_\_\_\_\_  
 Parent Signature Denotes Agreement/Consent

\_\_\_\_\_  
 Date

## **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE SPECIAL EDUCATION INFORMATION**

The Uxbridge Public Schools protects the confidentiality of personally identifiable special education information at collection, storage, disclosure, and destruction stages. The Administrators of Special Education are the designated officials of the school district and have the responsibility for ensuring the confidentiality of all personally identifiable information. All persons collecting or using personally identifiable information receive initial and annual training and instruction regarding confidentiality procedures.

A Log of Access is maintained in the Department of Pupil Personnel Services. This Log includes the name of the party accessing the records, the data access was given, and the purpose for which the party was authorized to access the records.

Copies of personally identifiable information are made only upon written parents consent. Parents are provided with copies of students records at no cost.

Five years after the termination of special education services, parents are informed that the personally identifiable information is no longer needed. Parents are given the opportunity to pick up this material prior to it being destroyed.

## **EDUCATIONAL DECISION MAKING**

When voluntary custody has been given to DSS or a CHINS petition is in effect and no specific legal action has been taken to remove decision-making rights from the parent, the parent retains educational decision-making rights.

If the natural parent is unwilling or unavailable for a period of time and the student is in a foster placement, the foster parent may automatically serve as the educational decision-maker. If the student is in a placement other than a foster placement, DSS may request assignment of an Educational Surrogate Parent.

If a child is living with extended family members (“kinship” home) such persons can be considered “foster” parents for the purposes of educational decision-making.

If the student is referred for an evaluation for special education services, or already receiving special education services, it is assumed that the parent, foster parent or extended family member with whom the child lives is the educational decision-maker.

## SUMMARY OF REGULATIONS

### Pertaining to Student Records

The Student Record Regulations adopted by the Board of Education apply to all public elementary and secondary schools in Massachusetts. (They also apply to private day and residential schools that have state approval to provide publicly-funded special education services.) The regulations are designed to insure parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records, and to assist school authorities in carrying out their responsibilities under state and federal law.

The regulations apply to all information kept by a school or school district on a student in a way that the student may be individually identified. The regulations divide the record into two parts: the transcript and the temporary record. The transcript includes only the minimum information necessary to reflect the student's educational progress. This information includes name, address, course titles, grades, credits, and grade level completed. The transcript is kept by the school district for at least sixty years after the student leaves the system.

The temporary record contains the majority of the information maintained by the school about the student. This may include such things as standardized test results; class rank; school-sponsored extracurricular activities; evaluations and comments by teachers, counselors, and other persons; disciplinary records; and other information. The temporary record is destroyed within five years after the student leaves the school system.

The following is a summary of the major provisions of the Student Record Regulations concerning the rights of parents and eligible students. Under the regulations, "eligible students" are at least 14 years old or have entered the ninth grade; they may exercise these rights just as their parents may:

#### **Inspection of Record**

A parent or an eligible student has the right to inspect all portions of the student record upon request. The record must be made available within two days after the request, unless the parent or student consents to a delay.

The parent and eligible student have the right to receive a copy of any part of the record, although the school may charge a reasonable fee for the cost of duplicating the materials.

The parent and eligible student may request to have parts of the record interpreted by a qualified professional from the school, or may invite anyone else of their choice to inspect or interpret the record with them.

#### **Confidentiality of Record**

Except where the regulations specifically authorize access by third parties, no individuals or organizations other than the parent, eligible student and school personnel working directly with the student are allowed to have access to information in the Student record without the specific, informed, written consent of the parent or eligible student.

### **Amendment of Record**

The parent and eligible student have the right to add relevant comments, information, or other written materials to the student record. In addition, the parent and eligible student have a right to request that information in the record be amended or deleted. They are entitled to meet with the principal (or the principal's designee) to discuss their objection to information that is in the record, and to receive a written decision. A parent or eligible student who is not satisfied with the principal's decision may appeal to higher authorities in the school district.

### **Destruction of Records**

The regulations require school authorities to destroy a student's temporary record within five years after the student transfers, graduates or withdraws from the school system. School authorities are also allowed to destroy misleading, outdated, or irrelevant information in the record from time to time while the student is enrolled in the school system. In each case, the school must first notify the parent and eligible student and give them the opportunity to receive a copy of any of the information before it is destroyed. The above is only a summary of some of the more important provisions of the Student Record Regulations that relate to the rights of parents and eligible students. The Student Record Regulations are included in the Code of Massachusetts Regulations at 603 CMR 23.00. For more detailed information, please review the regulations (copies of which should be available in every public school) and the Questions and Answers guide published by the Massachusetts Department of Elementary and Secondary Education (DESE) in 1995.



## **PHYSICAL RESTRAINT OF STUDENTS**

Maintaining an orderly, safe environment conducive to learning is an expectation of all staff members of the Uxbridge School District. Further, students of the District are protected by law from the unreasonable use of physical restraint.

Physical restraint shall be used only in emergency situations after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

1. To administer a physical restraint only when needed to protect a student and/or a member of the school community from immediate, serious, physical harm; and
2. To prevent or minimize any harm to the student as a result of the use of physical restraint.

The following definitions appear at 603CMR 46.02:

1. Extended Restraint: A physical restraint the duration of which is longer than twenty (20) minutes.
2. Physical escort: Touching or holding a student without the use of force for the purpose of directing the student.
3. Physical restraint: The use of bodily force to limit a student's freedom of movement.

The use of mechanical or chemical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent/guardian. The use of seclusion restraint is prohibited in public education programs.

Mechanical restraint – The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered a mechanical restraint.

Seclusion restraint – Physically confining a student alone in a room or limited space without access to school staff. The use of “Time out” procedures during which a staff member remains accessible to the student shall not be considered “seclusion restraint”.

Chemical restraint – the administration of medication for the purpose of restraint.

The Superintendent will develop written procedures identifying:

- Appropriate responses to student behavior, that may require immediate intervention;
- Methods of preventing student violence, self injurious behavior, and suicide;
- Descriptions and explanations of the school's method of physical restraint;
- Descriptions of the school's training and reporting requirements;
- Procedures for receiving and investigating complaints.

Each building Principal will identify staff members to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. These staff members will participate in an in-depth training program in the use of physical restraint, which the Department of Elementary and Secondary Education (DESE) recommends be at least 16 hours in length.

Only school personnel who have received training pursuant to 603CMR 46.00 shall administer physical restraint on students. Whenever possible the administration of physical restraint shall be administered in the presence of at least one adult who does not participate in the restraint. A person administering physical restraint shall only use the amount of force necessary to protect the student from injury or harm.

In addition, each staff member will be trained regarding the school's physical restraint policy. The Principal will arrange training to occur in the first month of each school year, or for staff hired after the beginning of the school year, within a month of their employment.

Physical restraint is prohibited as a means of punishment, or as a response to destruction of property, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious physical harm to the student or others.

A member of the School Committee or any teacher or any employees or agent of the School Committee shall not be precluded from using such reasonable force as is necessary to protect pupils, other persons or themselves from an assault by a pupil.

The program staff shall report the use of physical restraint that lasts longer than five minutes, or results in injury to a student or staff member. The staff member shall inform the administration of the physical restraint as soon as possible, and by written report, no later than the next school day. The Principal or director or his/her designee shall maintain an ongoing record of all reported instances of physical restraint, which, upon request, shall be made available to the Department of Elementary and Secondary Education (DESE).

When a restraint has resulted in serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the required report to the Department of Elementary and Secondary Education (DESE) within five (5) school working days of the administration of the restraint.

In special circumstances waivers may be sought from parents either through the Individual Education Plan (IEP) process or from parents of students who present a high risk of frequent, dangerous behavior that may frequent the use of restraint.

SOURCE: MASC

LEGAL REF.: 603 CMR 46.00  
M.G.L. 71:37G