

Special Education  
in  
Washington State

A Handbook for Parents and Educators

September 2019  
Washington Education Association

## INTRODUCTION

The Individuals with Disabilities Education Act (IDEA) is a federal law that governs special education services for eligible students.

Some children who are having problems in school may be in need of special education services because:

1. the student has a disability, and
2. the student's disability adversely affects their education (functional, academic and/or behavioral performance) and
3. the student requires specially designed instruction (SDI)

This handbook is intended to help parents, school professionals and others understand the special education process.

This handbook contains references to **WAC** numbers. The term "WAC" is short for the "Washington Administrative Code." The WAC contains Washington State's regulations/rules governing special education. These rules are listed in the WAC under the number 392-172A. These state rules are developed following the IDEA federal rules. The numeric extension *after* 172A refers to a specific special education rule. For example, WAC 392-172A-05010 is the rule that explains Prior Written Notice.

An electronic copy of WAC 392-172A (Special Education regulations) can be accessed at <https://www.k12.wa.us/student-success/special-education/laws-and-procedures>. You may also request a printed copy from the Office of Superintendent of Public Instruction. This handbook does not contain a reference to every regulation that is included in the Washington State Rules for provision of Special Education and it is not intended to substitute for legal advice. It is intended to provide parents and educators with a basic framework and understanding of special education.

### How To Use This Handbook

**Part I** Contains explanations and definitions of basic terms.

**PART II** through **PART IV** of this handbook explains the law. There are three columns in the handbook for each topic area.

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| Column 1 | <b>Topic</b> indicates the special education subject being explained.   |
| Column 2 | <b>What the Law Says/Mean</b> s is an explanation of the regulatory language.*  |
| Column 3 | <b>What the School Needs to Do</b> outlines the required activities related to the special education topic.                                   |
| Column 4 | <b>What Parents/Caregivers Need to Know or Do</b> provides families with ideas and points to consider related to the special education topic. |

**PART V** discusses problem solving and ways to address disputes.

**PART VI** is a glossary of terms.

\*Please note: "What the Law Says/Mean" include excerpts from the Washington Administrative Code (WAC) for each section discussed. It does not contain the full text of sections or all of the regulations. You will find the complete text of the WAC at <https://www.k12.wa.us/student-success/special-education/laws-and-procedures>.

This handbook is intended to provide educators and families with a basic framework and understanding of special education services. It is not intended to substitute for legal advice or a substitute for reviewing the regulations.

## **PART I**

### **The Language of Special Education**

Special education has its own language. This “language” contains many abbreviations and acronyms, which can make special education challenging for professionals and non-professionals to understand. Below are a few “must know” acronyms and abbreviated terms, along with their definitions. These are terms you want to know, as they are used often in special education. (For additional special education terms, please see the glossary at the end of the/this handbook.)

**FAPE** (Free Appropriate Public Education.): School districts are required to provide all the services a child needs (FAPE) at no cost to the parent.

**IEP** (Individualized Education Program): A written document developed at least yearly by the student’s IEP team which identifies the student’s special education program and services.

**IEP Team** (Individualized Education Program Team): A team, including school district staff, parents and sometimes others knowledgeable about the child that develops the student’s IEP.

**LRE** (least restrictive environment): An individually determined educational placement maximizing a student’s opportunity to be with their typically developing peers, based on the student’s unique needs.

**LEA** (local education agency): LEA means school districts. Most LEAs are public school districts in the local community. However, other agencies may be assigned responsibility for ensuring the provision of FAPE.

#### **Which Children Qualify For Special Education Services?**

[WAC 392-172A-01035](#)

Children who qualify *for special education services* are children between ages three and 21 who are evaluated and found eligible for services under one of the following disability categories:

- **Autism**
- **Deaf-Blindness**
- **Deafness**
- **Developmental Delay (DD) for ages 3-8**
- **Emotional/behavioral disability (EBD)**
- **Hearing impairment (HI)**
- **Intellectual Disability**
- **Multiple Disabilities**
- **Orthopedic Impairment (OI)**
- **Other Health Impairment (OHI)**
- **Specific Learning Disability (SLD)**
- **Speech or Language Impairment**
- **Traumatic Brain Injury (TBI)**
- **Visual Impairment (VI)**

Students who are eligible for services continue to be eligible until they: are reevaluated and found not to need special education services; meet graduation requirements; have not yet met graduation requirements but exceed age requirements (21)\*; or a parent revokes consent for continued special education services.

\*A student who turns 21 after August 31 remains eligible through the school year.

**What is a “Parent”?**  
**[WAC 392-172A-01125](#)**

For purposes of special education, the word “parent” means”

- A biological parent;
- An adoptive parent;
- A foster parent;
- A guardian authorized to act as the child’s parent; but not the state when there is a dependency;
- An individual acting in the place of a biological or adoptive parent; including grandparent, stepparent or other relative with whom the student lives, or an individual who is legally responsible for the student’s welfare;
- A surrogate parent who has been appointed because a parent can not be identified or located; the student is a ward of the state and not residing with a foster parent; or a student is homeless and not with a parent;
- Adult students whose rights have transferred to them because they have reached the age of majority (age 18) and they do not have a guardian or an educational representative.

**Child Find**  
**[WAC 392-172A-02040](#)**

School districts must have ways to find all students who live in their district (or attend private k-12 schools within the district) who may have a disability and might be eligible for special education services. The purpose of child find is to evaluate and identify students who need special education and related services, regardless of the severity of their disability. This includes homeless children, students who are struggling in school but passing from grade to grade, and children not enrolled in the schools.

School districts must have policies and procedures in place outlining how they will find children with disabilities in their districts. The child find activities might, but are not required to, include activities such as newspaper announcements, flyers in public places or mailings to doctors and hospitals in the area. Most, but not all, districts choose to conduct scheduled screening programs for pre-school aged children as part of their child find activities.

**Prior Written Notice**  
**[WAC 392-172A- 05010](#)**

The district must notify a parent in writing after it makes a decision, but before it implements that decision. The district must also notify a parent in writing when it refuses to make a change requested by a parent. This written notice is called “Prior Written Notice.” The prior written notice must be written in language understandable to the general public. It must be provided in the parent’s native language or other mode of communication unless it is clearly not practical to do so.

School districts must provide parents with written notice before the district can:

- change the identification, evaluation, or educational placement of a child;
- refuse to change the identification, evaluation or placement of a child;
- start or make a change to the provision of a free appropriate public education to the child; or
- refuse to start or change the provision of a free appropriate public education to the child.

Prior written notice must include:

- a description of the action the district wants to take or refuses to take;
- an explanation of why the district wants to take the action or refuses to take the action;
- a description of any evaluation, assessment, record or report used in deciding to take the action or refusing to take the action;
- a description of other options the district considered and why those options were rejected; and
- a description of any other factors that were a part of the district’s decision.

The prior written notice must also inform parents of their rights to procedural safeguards and how to obtain a copy if one is not required to be included with the notice. The notice must also contain information about who parent can contact for assistance understanding the procedural safeguards and the information contained in the prior written notice.

### **Consent**

**[WAC 392-172A- 01040](#); [WAC 392-172A-03000](#)**

Parent consent is required before a district may conduct an evaluation or provide a student with special education services for the first time. Parent consent is required in other situations as well, such as asking for permission to obtain records from a medical provider. The request for consent must describe the activity for which the district is asking for consent. Consent means the parent has been fully informed in the parent's native language of all information related to the area for which the district is seeking consent, unless it is not practical to do so. Consent means that the parent fully understands all the information, and agrees in writing to allow the district to carry out the activity.

#### **Consent is voluntary.**

Consent may be revoked at any time. However, if consent is revoked it does not undo work that has already been completed. For example, if a parent consents to an evaluation, and the district completed the evaluation, a revocation does not undo the evaluation.

#### **Consent for initial evaluations and reevaluations.**

Consent is required for initial evaluations. It is required for reevaluations if a district is going to conduct additional testing as part of the reevaluation. If a parent refuses to give consent for an evaluation, the district may, but is not required to ask the parent to participate in mediation, or request a due process hearing or ask an administrative law judge to override the parent's refusal to provide consent. For reevaluations only, if a parent does not respond to the district's reasonable efforts to obtain consent, the district may proceed with the reevaluation.

#### **Consent for Initial Services.**

Districts must obtain written parent consent before it may begin to provide special education services. If a parent does not consent to initial services, a district may not provide special education services. The district may not ask a parent to participate in mediation and it may not request a due process hearing to override consent. If a parent does not provide consent, a district is not in violation of its obligation to provide special education services (FAPE) to a student.

#### **Revocation of Consent for Special Education and Related Services.**

A parent may revoke (withdraw) consent, in writing, for the continued provision of special education and related services. Parents are not required to use a specific form for their revocation. If the parent revokes consent in writing, the district must honor the revocation and provide the parent with prior written notice identifying the date the district will stop providing services. The district may not use due process or mediation procedures to challenge the parent's revocation.

Beginning the effective date indicated in the prior written notice, the district will stop providing special education and related services to the child. The district will not be considered in violation of the requirement to make FAPE available to the child. The district is not required to amend the child's education records to remove references to the child's receipt of special education and related services before the revocation of consent.

This means the child will be provided general education services, and subject to all rules, including discipline, which apply to general education students. The child will no longer have special education protections. While the parent or other parties can always request special education services in the future, the child will need to be evaluated and found eligible for special education again.

**Educational Records**  
**[WAC 392-172A-05180 through 05245](#)**

Parents are permitted to review and inspect any education records relating to their child during school business hours. Parent representatives, with parent consent, have the same right to review records as the parents. If the record contains information on more than one child, parents only have access to the information specifically about their child.

Districts must respond to parental requests for to review their child's educational records within 45 calendar days. However, when the request is made prior to any meeting about an IEP, a hearing or resolution session regarding the identification, evaluation or placement of a child, the district must provide parents with access to the records prior to the meeting.

The right to review records does not mean a right to a copy of the records. A district may charge a fee for copies of the records made if the fee does not prevent the parents from their right to inspect and review the records. Districts may not charge a fee for the time used to identify and locate records. The district is not required to provide copies of test records if it would violate copyright or test security. However, a parent is allowed to review those test records and is entitled to a reasonable explanation of those record

**Procedural Safeguards**  
**[WAC 392-172A-05015](#)**

Both state and federal special education laws give parents and schools certain rights. The law says that the school must tell parents about their procedural safeguards (rights). The school is required to provide parents a written explanation of these rights at least once a year, but also at certain times. Included in the notice of procedural safeguards is information about parent rights related to the following:

- Independent educational evaluations
- Prior written notice
- Parental consent
- Access to educational records
- Information about mediation, citizen complaints, and due process hearings including timelines, and the differences between citizen complaints and due process hearings
- The child's placement during due process proceedings
- Civil actions (court appeal of a due process hearing), including when a civil action can be filed and information on attorney's fees
- Procedures for children who are disciplined including placement in interim alternate educational settings
- Requirements for the unilateral placement by parents of children in private schools at public expense.

**Meetings**  
**[WAC 392-172A-05001](#)**

The district must invite parents to all meetings involving their children. For any meeting, the district must invite parents early enough so that they have an opportunity to attend and indicate the purpose, time and location of the meeting. They must also inform the parent who will be attending. If it is an IEP meeting or placement meeting, the meeting must be scheduled at a mutually agreeable time and place for the parent and district. Districts must document their efforts to ensure parent participation.

A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. This means that districts may prepare for an upcoming meeting and develop proposals, however, districts may not have already made decisions, before considering parent and other input at the meeting.

**Special Education Process Timeline**

State law sets the timelines a district must meet for determining if a student qualifies for special education and the development of the IEP. A district must make a decision about a special education referral within twenty-five school days of receiving the written referral. The decision is addressed in the district's prior written notices. If the district wishes to evaluate a student, the district's evaluation must be completed within thirty-five school days of receiving a parent's written consent to evaluate the student. The evaluation can take more than thirty-five school days, if the parent does not make the child available for testing, or if the child moves to another school district before the evaluation is completed. An IEP must be developed within thirty days of deciding a child is eligible for special education.

## **PART II**

### **Evaluation Process**

**Three types of evaluation** are a part of the special education system:

1. An **initial evaluation** is conducted for students who are not yet eligible for services (or who are no longer eligible) because they are suspected of having a disability and are being considered for special education services.
2. A **reevaluation** is conducted for students who are currently in special education and are in need of a new evaluation. Students must be reevaluated at least every three years. It may be done more frequently when requested by the parent or the district. However, a reevaluation may not occur more than once a year, unless the parent and school district agree otherwise. The reevaluation may consist of a review of existing records or it may consist of additional testing. A reevaluation addresses whether the student continues to meet eligibility criteria for special education. A reevaluation also addresses the student's current educational performance and whether changes should be made to the student's services. Any substantial or material changes to a student's IEP or placement require a reevaluation.
3. Parents may request an **independent educational evaluation (IEE)** if they disagree with the results of the district evaluation, after it is completed. Parents may request the IEE one time per evaluation completed by the school district. If districts disagree with the parent's request there is a process for them to contest the disagreement.

#### **Consent**

The school district must obtain informed parental consent before it begins an initial evaluation. It must also request parent consent for a reevaluation, if the district is conducting new testing as part of a reevaluation. If a parent does not respond to a district's request for consent for a reevaluation and it can document its efforts to obtain parent consent, it may conduct the reevaluation without parent consent.

#### **Timeline**

The district has 35 school days to complete the evaluation once it receives parent consent or, the parent's refusal to provide consent is overridden by an administrative law judge through a due process hearing or the parent and district reach an agreement through mediation.

#### **Prior Written Notice**

The district must send prior written notice to the parent informing them of:

- the decision whether or not the district will evaluate the student;
- whether the evaluation will be conducted using existing data, or, if new testing will be conducted what testing will be done; and all other information regarding the bases for their decisions.

A student's initial evaluation and subsequent reevaluations provide the foundation for a student's individualized education program (IEP). IEP goals and objectives must be based on evaluative data gathered through an initial evaluation or reevaluation.

#### **Initial Evaluations**

In order to be considered for special education, the student must be referred for an initial evaluation. A student may be referred for an evaluation for special education by school staff, parents or any person knowledgeable about the student. The referral must be in writing, unless the person is unable to write. In that case, the person may ask school personnel to record the request in writing. Under a school's child find responsibilities, districts have a responsibility to make a referral if they believe the student should be evaluated for eligibility for special education services.

The parent and the group will review data as part of the referral process. If the group determines that an evaluation is necessary, the district must have parental consent to proceed with the initial evaluation.

The purpose of an evaluation is to determine the student's eligibility for special education services. The evaluation process should be sufficient in scope to determine:

- whether the student has a disability,
- whether the disability adversely affects his/her performance in the general education curriculum, and
- the nature and extent of the student's need for specially designed instruction and any necessary related services.

When the evaluation is complete, the evaluation group must write an evaluation report. The evaluation report must include:

- background information such as the reason for the referral, relevant medical/developmental information, grade retention, previous interventions and their results, parent concerns and other information provided by the parent;
- current levels of performance, based on existing data and/or additional assessments;
  - eligibility determination which includes the results of assessments, a description of any adverse educational impact and a statement of how the disability affects a student's involvement in the general education curriculum (or for pre-schoolers, in appropriate activities). When making the eligibility determination, the team must state:
    - the disability category in which the student qualifies,
    - recommended specially designed instruction,
    - necessary related services, and
    - any other information needed to develop an individualized education program (IEP).

### **Reevaluation**

Students must be reevaluated at least once every three years, unless the parent and the district agree that a reevaluation is not needed. Students are reevaluated when the student's needs warrant changes to the services the student is receiving. Reevaluations occur not more than once a year unless the parent and district agree that a reevaluation should occur sooner.

The first step in a reevaluation is a review of the existing information on the student. This includes school records, classroom performance, information provided by the parents and any other relevant information. If the district believes that it can complete the reevaluation without additional testing, the district must notify the parent of its decision using prior written notice. The notice must also tell the parent of his or her right to request additional testing to determine eligibility. If the parent disagrees and believes additional testing is needed to determine eligibility, they have the right to request that the district conduct additional assessments.

If the district believes additional testing is necessary, they must proceed with prior written notice and ask for the parent's consent. If the parent does not respond to the district's reasonable efforts to obtain consent, the district may proceed with the reevaluation.

If a parent refuses to provide consent for an evaluation, the district may, but is not required to file a due process hearing request to override parent consent. They can also ask a parent to participate in mediation. (See Problem Solving Part V) The district is not in violation of childfind or evaluation procedures if the parents do not provide consent.

After the reevaluation, the evaluation group must complete an evaluation report as described above under initial evaluation.

### Initial Evaluation

Topic	What the Law Says/Mean	What The School Needs To Do	What Parents Need To Know/Do
Who can make a referral for evaluation	<p>School staff who think a child may have a disability, are required to make a referral to the school. Other persons, including the parents, may make a referral if they believe the child may have a disability.</p> <p><a href="#">WAC 392-172A-02040</a>  <a href="#">WAC 392-172A-03005</a></p>	<p>The school district must document the referral, notify the parent(s) and provide the parent with a copy of the procedural safeguards. In order to determine the need for an evaluation the district must examine existing school, medical and other records in the possession of the parent and the school district.</p>	<p>Provide input to the school regarding your child. The evaluation team is more likely to make an accurate determination of the need to evaluate if they have access to relevant medical history and developmental information.</p> <p>Describe your child’s strengths and areas where he/she has difficulty. Be as specific as possible, giving examples of what you see at home.</p>
Decision to evaluate <i>Review of records</i>	<p>Within twenty-five school days after receipt of the referral, the district must review the existing records, including input from the parent, to determine if there is a need to evaluate the student. The school district will provide prior written notice of the decision.</p> <p><a href="#">WAC 392-172A-03025</a></p>	<p>The school must notify (prior written notice) the parent in writing of their decision to evaluate or not. The notice must include an explanation of why the school made the decision and the information they used to make the decision. If the district is intending to conduct tests, it should describe the types of testing it will conduct.</p>	<p>The prior written notice should give you enough information so that you can understand what the district is doing. If you do not understand the information provided within the prior written notice, you should contact the school and ask for clarification of the information.</p> <p>You have the right to have the information translated into a language that you understand, or provided in an alternate format, if needed and feasible.</p>

Topic	What the Law Says/Meanings	What The School Needs To Do	What Parents Need To Know/Do
Consent required	<p>When the student is to be evaluated the school district shall provide prior written notice to the parent and obtain parental consent. The school evaluation team must evaluate the student and determine if the student is eligible for special education services within thirty-five school days of receiving consent. <a href="#">WAC 392-172A-03005</a>.</p>	<p>The school district must obtain written informed consent before conducting an initial evaluation. The notice you provide the parents should clearly explain what testing the district is conducting and why it needs the information. If the parent refuses consent, the district may but is not required to request a due process hearing to override the parent's refusal, or ask the parent to meeting in order to obtain the parent's agreement. <a href="#">WAC 392-172A-03000</a></p>	<p>You have the right to either consent to an initial evaluation or refuse consent. If you have questions about the assessment process, talk to the members of the evaluation group about the assessment process so that you can make a decision about providing consent. Whether you provide consent or refuse to provide consent you should indicate your choice, sign the form and return it to the school. If you do refuse consent, the district does not have an obligation to evaluate your child and your child will not have protections under IDEA. It may, however ask for a hearing to override your refusal, or it may ask you to mediate.</p>
General Procedures	<p>The district is responsible for creating the evaluation group.</p> <p>The evaluation group must use a variety of assessment tools to gather relevant functional, developmental, and academic information about the student, including information provided by the parent to determine:</p> <ul style="list-style-type: none"> <li>• Whether the student is eligible for special education, and</li> <li>• The content of the student's IEP</li> </ul> <p>The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs. <a href="#">WAC 392-172A-03020</a></p>	<p>The school must review existing information about the student including in-class assessments, state assessments, observations and information from the parent. In addition, the school needs to select persons who are qualified to conduct assessments to address all areas of a child's disability. If the student needs outside evaluations, the group may include outside evaluators selected by the district. The existing information about the student and the additional testing is used to determine whether the child is eligible and if so, what information is needed to allow the IEP team to develop an individualized education program (IEP).</p>	<p>If you did not already provide the school with information during the referral process you will want to collect any relevant information on their child and provide that information to the school. The information may include medical information, results of other evaluations and history from previous therapies, tutors, summer programs. etc. This information will assist the district in determining what testing it needs to do so that it has enough information to make a decision about your child's need for special education services.</p>

Topic	What the Law Says/Mean	What The School Needs To Do	What Parents Need To Know/Do
Evaluation Report	<p>The evaluation report must include:</p> <ul style="list-style-type: none"> <li>(a) whether the student has a disability,</li> <li>(b) the assessments given to the student, the student's present level of performance and where he/she is functioning in relation to his/her peers.</li> <li>(c) how the student's disability affects the student's progress in the general education curriculum or for preschool children, in appropriate activities;</li> <li>(d) The recommended special education and related services needed by the student.</li> </ul> <p>Each member of the evaluation group must either sign the report in or file a separate report if they disagree with the conclusions.</p> <p><a href="#"><u>WAC 392-172A-03035</u></a></p>	<p>The evaluation group must create a written report which indicates whether the student has a disability, if the student qualifies for special education services and contains the evaluative information necessary to write an appropriate IEP. Each member of the evaluation group must date and sign the evaluation report certifying that the report represents his or her conclusion.</p> <p>If the evaluation report does not reflect his or her conclusion, the professional member of the group must include a separate statement representing his or her conclusions.</p> <p>Each member of the evaluation group contributing to the report must document the results of their individual assessments or observations.</p>	<p>Review the results of the assessment with members of the evaluation group. Ask questions to gain clarity about the meaning of the evaluation results.</p> <p>In advance of the meeting, it may be helpful to write down the questions you wish to ask the other evaluation group members.</p>

Topic	What the Law Says/Mean	What The School Needs To Do	What Parents Need To Know/Do
<p>Determination of Eligibility</p>	<p>Upon completion of the assessment, the evaluation group, including the parent, determine whether the student is eligible for special education and the educational needs of the student. A student must not be determined to be eligible for special education services if the determinant factor is:</p> <ul style="list-style-type: none"> <li>(i) Lack of appropriate instruction in reading, based upon the state's grade level standards;</li> <li>(ii) Lack of appropriate instruction in math; or</li> <li>(iii) Limited English proficiency.</li> </ul> <p>The group may not find a student eligible if the student does not otherwise meet eligibility requirements, including presence of a disability, adverse educational impact and need for specially designed instruction.</p> <p><a href="#">WAC 392-172A-03040</a></p>	<p>The evaluation group must obtain information from a variety of sources including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior.</p> <p>The information from those sources must be carefully considered and documented.</p> <p>The school district must provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.</p> <p>If the student has a disability, but is not eligible for special education, the evaluation team should consider what, if any accommodations are necessary under Section 504 of the Rehabilitation Act. (See Glossary)</p>	<p>You are an important participant in the in the decision regarding eligibility. If you provided information to the evaluation group for consideration, you want to make sure that the information is part of the discussion on eligibility for special education, and when appropriate, included in the evaluation report.</p> <p>If your child is not eligible for special education, he/she may still have a disability needing accommodations. If that is the case, you will want to discuss any necessary accommodations that will be provided under Section 504 of the Rehabilitation Act. (See Glossary)</p> <p>If you do not agree with the decision regarding eligibility you have dispute options under IDEA. (See Section V)</p>

**Reevaluation (follow procedures for initial evaluation and add the following requirements)**

Topic	What The Law Says /Means	What The School Needs To Do	What Parents Need To Know/Do
<p>Reevaluation</p> <p>Timeline</p> <p>Reasons</p> <p>Purpose</p>	<p>A reevaluation may occur not more than once a year, but must occur once every three years unless the parent and the school district agree that a reevaluation is unnecessary. A school district must ensure that a reevaluation is conducted when:</p> <p>(a) The school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation; or</p> <p>(b) If the child's parent or teacher requests a reevaluation.</p> <p><a href="#"><u>WAC 392-172A-03015</u></a></p>	<p>Monitor student progress on a regular basis. Use student data as a basis for your progress reporting. Discuss student progress with all staff who are working with the student.</p> <p>If the student is not making sufficient progress on his/her IEP goals, adjust goals as appropriate.</p> <p>If the student still does not make progress despite the revisions to the IEP, consider the need for a reevaluation.</p> <p>If the student is progressing more rapidly, the staff should also review needed revisions.</p>	<p>Parents may request a reevaluation at any time, but, unless the school district agrees, the parent cannot expect a reevaluation more than once a year.</p> <p>It is important that you share the reason you are requesting the reevaluation with the school personnel. Reasons for a reevaluation might include lack of progress towards annual goals or your belief that other services might be needed.</p> <p>If there is additional relevant medical or therapeutic information available, that was not available during the previous evaluation, be sure to also share that with the evaluation group.</p> <p>If the reevaluation has been completed, but you feel that it is not sufficient, you may ask request independent educational evaluation (IEE).</p>
<p>Change in Eligibility</p> <p><i>Student no longer needs special education</i></p>	<p>School districts must evaluate a student eligible for special education before determining that the student is no longer eligible for special education services.</p> <p><a href="#"><u>WAC 392-172A-03030</u></a></p>	<p>If school personnel believe that the student is no longer in need of special education, a reevaluation must be conducted to determine if the student is no longer eligible.</p>	<p>If the district believes that your child no longer needs special education, they need to conduct a reevaluation.</p> <p>If you believe that your child is no longer in need of special education, you should request a reevaluation.</p>

<p>Evaluation Results</p>	<p>The evaluation report should indicate whether the student continues to be eligible for special education. If the eligible, the evaluation report shall be sufficient in scope to develop an IEP. <i>See initial evaluation for contents of the report.</i>  <a href="#"><u>WAC 392-172A-03035</u></a></p>	<p>An evaluation report documenting the results of the reevaluation and the conclusions reached needs to be completed, even if the reevaluation is conducted without additional testing.</p>	<p>You will be invited to participate in the evaluation group meeting to review the results of the evaluation.</p> <p>If the report is available, ask the district to provide a copy to you prior to the meeting so that you have time to review the results and prepare any questions for the meeting.</p>
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## Specific Learning Disabilities (SLD): Additional Evaluation Procedures

Topic	What the Law Says/Meanings	What The School Needs To Do	What Parents Need To Know/Do
<p>Additional Evaluation Requirements for SLD</p>	<p>Each school district must develop procedures for the identification of students with specific learning disabilities which may include the use of:</p> <ol style="list-style-type: none"> <li>(1) A severe discrepancy between intellectual ability and achievement; or</li> <li>(2) A process based on the student's response to scientific, research-based intervention; or</li> <li>(3) A combination of both within a building.</li> </ol> <p><a href="#"><u>WAC 392-172A-03045</u></a></p>	<p>The district must notify parents if it uses RTI as a basis for identifying students who may have a specific learning disability.</p> <p>If the district uses RTI, it must use scientifically researched based interventions. Information regarding the <i>Response to Intervention (RTI)</i> can be found <a href="#"><u>on the OSPI website</u></a>.</p> <p>When using RTI, the district must monitor the student's progress at regular intervals and keep the parent(s) informed of the student's progress.</p> <p>Districts must also respond to referrals from teachers or parents even if it is providing general education interventions.</p>	<p>Ask questions regarding which evaluation method the district will use. If they are using a response to intervention method, you should receive regular updates on your child's progress.</p> <p>A district may say that they are using RTI, nevertheless, you always have the right to make a written referral for an evaluation if you believe your child is not making sufficient progress.</p> <p>You should also share information about other possible disabilities that might be interfering with your child's progress in general education.</p>
<p>Additional members of the evaluation group</p>	<p>Eligibility in the SLD category is made by the <i>student's parent</i> and a group of qualified professionals which must include:</p> <ol style="list-style-type: none"> <li>(1) the student's general education teacher; or</li> <li>(2) If the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age; or</li> <li>(3) For a student of less than school age, an individual qualified to teach a student of his or her age; and</li> <li>(4) At least one individual qualified to conduct individual diagnostic examinations of students.</li> </ol> <p><a href="#"><u>WAC 392-172A-03050</u></a></p>	<p>The school needs to include the parent and the student's general education teacher in the evaluation group.</p> <p>If the student does not have a general education teacher, or is not of school age, the district must locate appropriate personnel to participate on the evaluation group.</p>	<p>You must be invited and, if possible, attend the evaluation group meetings regarding the evaluation of your child. If it is not possible, ask if you can "attend" by conference phone or some other method.</p> <p>You have an equal voice in the decisions made, but do not have "veto power" if you disagree with the other members of the group.</p>

Topic	What the Law Says/Mean	What The School Needs To Do	What Parents Need To Know/Do
Areas of Learning Disabilities	<p>The evaluation group may determine that a student has a specific learning disability if the student does not achieve adequately for his/her age or meet the state's grade level standards in one or more of the following areas:</p> <ul style="list-style-type: none"> <li>• Oral expression</li> <li>• Listening comprehension</li> <li>• Written expression</li> <li>• Basic reading skill</li> <li>• Reading fluency skills</li> <li>• Reading comprehension</li> <li>• Mathematics calculation</li> <li>• Mathematics problem solving.</li> </ul> <p><a href="#">WAC 392-172A-03055</a></p>	<p>The evaluation group, including the parent, must determine if the student is not making adequate progress in one or more of the listed areas.</p> <p>In doing so, they use either a RTI system or the discrepancy formula.</p> <p>They may also consider relevant information regarding the student's pattern of strengths and weaknesses.</p>	<p>You should be sure to contribute information you have regarding your child's development, learning styles and health condition.</p>
When the student does not qualify as having a SLD	<p>The evaluation group may not make a determination that the student is eligible for special education services as a student with a Specific Learning Disability if any other factors are the reason for the student failing to make progress, including a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency.</p> <p><a href="#">WAC 392-172A-03055</a></p>	<p>The evaluation group needs to ensure that other factors are not present and affecting the student's progress.</p> <p>This information can be obtained through parent reporting, school records and evaluation.</p> <p>While the group's main focus for evaluation may be the presence of an SLD, the group still needs to ensure its evaluation is comprehensive and may need medical or therapeutic information as a part of its evaluation.</p>	<p>If your child has a history of hearing loss, visual impairments or motor disability, inform the evaluation group. Provide information about other factors, including therapy or health conditions that might contribute to your child's learning difficulties.</p> <p>If your family speaks a language other than English in the home, the evaluation group should be informed.</p>
Instructional Requirements	<p>A student who has not had appropriate instruction in math or reading cannot qualify as a student with a Specific Learning Disability. The evaluation group must provide data demonstrating that the student was provided appropriate instruction in general education and have data-based documentation of repeated assessments of achievement.</p> <p>For more complete information review <a href="#">WAC 392-172A-03055</a></p>	<p>The district must document repeated assessments of achievement which reflects the student's progress. This documentation must be provided to the parents</p>	<p>Talk with the staff at your child's school to determine what types of assessments will be used and when they will be shared with you.</p>

Topic	What the Law Says/Meanings	What The School Needs To Do	What Parents Need To Know/Do
Observation Required	<p>At least one member of the evaluation group must conduct an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and parental consent is obtained.</p> <p><a href="#">WAC 392-172A-03075</a></p>	<p>The observation must occur in the general education classroom. If the student is receiving education somewhere other than the public school, the observation will occur in that environment.</p>	<p>If there are specific behaviors or academic concerns that you want addressed, you should let the evaluation group know in advance. This will assist in the quality of the observation.</p>
Documentation Required	<p>The evaluation group is required write an evaluation report which includes the following additional information.</p> <ul style="list-style-type: none"> <li>• the student either does or does not have a Specific Learning Disability,</li> <li>• the basis for that conclusion, including any relevant behaviors noted during the observation of the student, and</li> <li>• any relevant medical, cultural, environmental, economic disadvantage or limited English proficiency that would affect student achievement.</li> </ul> <p>In addition, the report must indicate whether:</p> <ul style="list-style-type: none"> <li>• The student does not achieve adequately in one of the areas of learning disability, and</li> <li>• The student does not make sufficient progress under RTI or the student meets eligibility through a severe discrepancy formula.</li> </ul> <p>Each group member must sign the report and state whether they agree or disagree. If they disagree, they need to state why they disagree.</p> <p>For more detailed information see: <a href="#">WAC 392-172A-03080</a></p>	<p>When documenting the existence of a learning disability, the evaluation group must address each of the statements required.</p> <p>If RTI is used, the evaluation team must also address:</p> <ul style="list-style-type: none"> <li>• instructional strategies used</li> <li>• data collected</li> <li>• documentation that the parents were notified about the district's policies for RTI data collection and the strategies used, and</li> <li>• the parent's right to request an evaluation.</li> </ul>	<p>You will be a part of the evaluation group that makes decisions about your child's eligibility based on the evaluation. You will be provided a copy of the evaluation report.</p> <p>If the district uses RTI you should have received ongoing data to demonstrate your child's progress. This data forms some of the basis for determining if your child is eligible for special education.</p> <p>As a member of the evaluation group, you may submit a statement addressing your conclusions if you disagree with the evaluation report.</p>

### Independent Evaluation- IEE

Topic	What the Law Says/Mean	What The School Needs To Do	What Parents Need to Know/Do
<p>Parent's Right to Independent Educational Evaluation</p>	<p>A parent has the right request an independent educational evaluation (IEE) at public expense if the parent disagrees with the district's evaluation.</p> <p>When parents request an IEE, the district must provide information about where an IEE may be obtained, and the agency criteria for independent educational evaluations.</p> <ul style="list-style-type: none"> <li>• IEE is an evaluation conducted by a qualified examiner who is not employed by the school district; and</li> <li>• Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.</li> </ul> <p style="text-align: center;"><a href="#"><u>WAC 392-172A-05005</u></a></p>	<p>When a parent requests an IEE, have information available about your district's criteria and where IEEs may be obtained.</p> <p>The school district must either:</p> <ul style="list-style-type: none"> <li>• Initiate a due process hearing within fifteen days to show that its evaluation is appropriate; or</li> <li>• Ensure that an independent educational evaluation is provided at public expense, unless the school district demonstrates in a due process hearing that the evaluation obtained by the parent did not meet agency criteria.</li> </ul> <p>A school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.</p>	<p>IEE providers must have the qualifications to evaluate your child. This means they must have appropriate licenses or certifications that would be required for their profession. A district can't use criteria that would prevent you from using a private provider.</p> <p>The district will give you a list of persons who are able to conduct IEEs. You do not have to use persons who are on the district's IEE list, but the person you select needs to be qualified in the area to be tested.</p> <p>If the district believes that its evaluation is appropriate, they are required to request a due process hearing within 15 calendar days. If the hearing decision is that the district's evaluation is appropriate, you still have the right to an independent educational evaluation, but not at public expense.</p>
<p>Limitations</p>	<p>A parent is entitled to only one independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.</p> <p style="text-align: center;"><a href="#"><u>WAC 392-172A-05005</u></a></p>	<p>If the parent requests an IEE, notify your special education director so that proper notifications and steps can be taken.</p>	<p>If you disagree with the district's evaluation, you have the right to request an independent evaluation at public expense each time the district evaluates your child. You only have the right to one request per district evaluation.</p>
<p>Use of Information from an IEE</p>	<p>Independent educational evaluation results must be considered by the school district in any decision made with respect to a FAPE and may be presented as evidence at a hearing.</p> <p style="text-align: center;"><a href="#"><u>WAC 392-172A-05005</u></a></p>	<p>The school personnel need to consider the results of the IEE when making decisions about a student's program. This includes IEEs paid for by the district and those that are obtained privately by the parent if the IEE provider is qualified to conduct the IEE.</p>	<p>If the district does not already have a copy of the IEE, share the results with school personnel and schedule a meeting to review the report. If it is possible, have the outside evaluator share their findings with school personnel.</p>

## **PART III**

### **Individualized Education Program Process**

The purpose of the Individualized Education Program (IEP) is to clearly communicate to the parents, the student, and the service providers the type and amount of special education and any necessary related services or supports that will be made available to the student. The most recent evaluation report and current school data is used to develop the annual IEP. The IEP is individualized to reflect the unique needs of the student and how these needs will be addressed. The IEP must be renewed at least annually, but can be amended or revised sooner than one year, when needed.

The IEP documents the specially designed instruction for the student through the development of goals. The determination of which goals will be on the IEP connects directly to the evaluation report. If the evaluation report indicates that the student needs specially designed instruction in reading, behavior and functional skills, then each of these areas must be addressed with goals on the IEP. The evaluation report, should also address the student's needs for related services. These related services will also be documented on the IEP. Learn more about the connection between the evaluation report and goal writing at: [www.k12.wa.us/SpecialEd/ResourceLibrary/Eval-IEP-Module/default.aspx](http://www.k12.wa.us/SpecialEd/ResourceLibrary/Eval-IEP-Module/default.aspx)

In addition to specially designed instruction, the IEP must include:

- related services,
- supplementary aids and services,
- any accommodations and modifications which are necessary for the student to make progress in his/her program,
- a description of how the district will measure student progress,
- when progress will be reported to parents,
- how the student will participate in state and district-wide assessments, and
- whether the student needs extended school year (ESY) services.

The IEP, which will be in effect when a student turns sixteen, must include transition services to enable the student to reach his/her post secondary goals after he or she graduates or leaves high school. The student's transition needs must be based on assessments that address training, education, employment and, where appropriate, independent living skills. The IEP must include the necessary transition services, including the courses of study needed by the student to meet the transition goals.

## Individual Educational Program (IEP)

Topic	What The Law Says/Mean	What The School Must Do	What Parents Need To Know/Do
<p><b>Required IEP Team Members</b></p>	<p>The IEP team includes:</p> <ul style="list-style-type: none"> <li>• The parent(s) of the student;</li> <li>• At least one general education teacher of the student</li> <li>• One special education teacher or, where appropriate, one special education provider of the student;</li> <li>• A district representative</li> <li>• An individual who can interpret the instructional implications of evaluation results;</li> <li>• Other individuals who have knowledge or special expertise regarding the student, and</li> <li>• whenever appropriate, the student. The student must be invited to the IEP team meeting when the purpose of the meeting is the consideration of the transition services.</li> </ul> <p>One district staff person may meet the qualifications of more than one team member.</p> <p>The district must invite, with parent consent, other agency providers who might be paying for or providing transition services.</p> <p>Districts must also invite Part C representatives if the parent requests.  <a href="#"><u>WAC 392-172A-03095</u></a></p>	<p>The school district needs to make sure that everyone necessary will be in attendance. If a team member is unable to attend, the district must follow rules related to excusal (see next section).</p> <p>The general education teacher has specific responsibilities in the IEP meeting, including assisting the team in determining appropriate behavioral interventions, supplementary aids and services, program modifications and support for school personnel.</p> <p>While one staff person may play more than one role on the team, make certain that they have the qualifications and are able to make the necessary decisions at the meeting.</p> <p>Review the student’s age and needs to determine whether there are other people who should be invited to the meeting. Prepare for the meeting with enough advance time if you need to obtain the parent’s consent to invite other agency personnel who might be paying for or providing transition services.</p>	<p>The district will inform you of the meeting and who will be in attendance.</p> <p>You may invite others who have knowledge or expertise about your child. The determination of who you invite is up to you. It is a good idea to let the district know if someone is attending the meeting with you. The district may also invite others who they think may have special knowledge or expertise. That determination is up to them.</p> <p>If your child will be receiving special education services for the first time, and was receiving Part C services, the district will invite a Part C representative with your agreement.</p> <p>If transition services will be addressed, your child will also be invited to attend the meeting. If other outside agencies might be paying for or providing transition services to your child, the district will ask you to provide consent.</p>

Topic	What The Law Says/Mean	What The School Must Do	What Parents Need To Know/Do
<p><b>Member Excused from the Meeting</b></p>	<p>There are two instances in which staff may be excused from IEP meetings.</p> <ol style="list-style-type: none"> <li>1. If a staff person’s curriculum or related service is not being considered at the meeting, and</li> <li>2. If a staff person’s area is under discussion and they submit written information to all team members in advance of the meeting.</li> </ol> <p>For 1., above, the district must obtain written agreement from the parent. For 2., the district must obtain consent from the parent to excuse the team member. <a href="#">WAC 392-172A-03095</a></p>	<p>The district IEP team members need to make every effort to attend IEP meetings. If they cannot attend, and other meeting dates cannot be arranged, the team member needs to inform the person in charge of arranging the meeting in advance if they are unable to attend the IEP meeting.</p> <p>The district needs to inform the parent, in advance of the meeting in order to obtain their agreement or consent.</p> <p>If the staff member’s area is under consideration at the meeting, that staff member must provide information in writing to the parent and other team members before the meeting.</p>	<p>If the district asks you to excuse a staff member, consider whether the meeting can proceed without that member in attendance. If you feel that team member needs to attend, do not agree to have the staff member excused.</p> <p>Work with the district to either reschedule the IEP meeting or to consider whether there are other ways for the staff member to participate.</p>
<p><b>Parent Participation</b></p>	<p>The school district must notify the parents of the meeting early enough so that they may plan to attend. The meeting should be scheduled at a mutually agreeable time and place. If the parents cannot attend, the district must use other methods including video or telephone conferencing. If the district cannot convince the parents to attend, the district can proceed with the meeting without the parent.</p> <p>When transition will be addressed on the IEP, the notice include information regarding postsecondary goals and transition services will be discussed. <a href="#">WAC 392-172A-03100</a></p>	<p>Schedule the meeting early enough that parents and team members can coordinate calendars. It is helpful to send information, including draft IEP goals in advance of the meeting so that parents have time to consider the information and make suggestions at the meeting.</p> <p>The required notification must indicate the purpose, time, and location of the meeting and who will be in attendance.</p> <p>It must also inform the parent about participation of other individuals on the IEP team who have knowledge or special expertise, and include information about transition, if applicable.</p>	<p>Provide options of available dates and times to the district. This will enable the district to select a time when all team members can attend.</p> <p>IEP team meetings need to be scheduled at mutually agreeable times. In general, given district team members, this means scheduling meetings during school days and school hours and before or after school.</p> <p>If you do not attend a meeting, and the district has made efforts to obtain your attendance, the district can hold the meeting without you.</p>

Topic	What The Law Says/Mean	What The School Needs To Do	What Parents Need To Know/Do
<p><b>Special Considerations</b></p>	<p>In developing each student's IEP, the IEP team must consider the:</p> <ul style="list-style-type: none"> <li>• strengths of the student;</li> <li>• concerns of the parents</li> <li>• results of the initial or most recent evaluation of the student; and</li> <li>• academic, developmental, and functional needs of the student.</li> </ul> <p>When considering special factors unique to a student, the IEP team must consider :</p> <ul style="list-style-type: none"> <li>• the use of positive behavioral interventions and supports, and other strategies,</li> <li>• the language needs for a student with limited English proficiency,</li> <li>• the student's language and communication needs, and</li> <li>• consider whether the student needs assistive technology devices and services.</li> </ul> <p>In the case of a student who is blind or visually impaired, provide for instruction in Braille;</p> <p><a href="#"><u>WAC 392-172A-03110</u></a></p>	<p>Have a process in place for obtaining parent information and input regarding the special factors, when developing IEPs.</p> <p>While most of this information should already be provided through the evaluation process collect any additional relevant information regarding the student's communication skills, including his or her English proficiency or need for signing.</p> <p>For students who have visual impairments, the staff will need to evaluate the student's need for Braille.</p> <p>Consider the need for assistive technology. If an assessment has not been done, and the IEP team believes it is appropriate, begin the process for assessing these needs, so the IEP can be revised if needed.</p> <p>Determine if the student's behavior impedes his/her ability to learn, or interferes with the learning of others. If so, then consider positive behavior interventions, supports and other strategies to increase desired behaviors.</p>	<p>It is important for you to share new information with the team regarding the communication strategies that work best with your child at home and in other environments.</p> <p>You often have information regarding behavioral strategies that work at home and in other settings. That information should be shared with the team to enable them to make good decisions regarding behavior.</p> <p>If there are other special considerations that you have not provided to the team, provide those to the team for consideration.</p>

Topic	What the Law Says/Meanings	What The School Needs To Do	What Parents Need to Know/Do
<p><b>Present Level of Performance</b></p>	<p>The IEP must state the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum.</p> <p>Functional performance can include the student's ability to advocate, mobility, intelligibility, etc.</p> <p>For preschool children, the IEP must state how the disability affects the child's participation in appropriate activities.</p> <p><a href="#">WAC 392-172A-03090</a></p>	<p>During the evaluation process, and annually, the school staff need to collect information/data about the student that provides information about the present levels of performance. This information is then addressed in the IEP and helps determine baselines for annual goals and progress reporting.</p> <p>In addition, the staff will need specific information on how the student's disability affects their participation and progress in general education.</p>	<p>Ask team members about the present level of performance which includes how well your child is performing academically, socially and functionally.</p> <p>If information has not already been provided to you, make sure that you have information about your child's ongoing progress.</p>
<p><b>Measurable Goals, Benchmarks and Objectives</b></p>	<p>Goals must be revised at least annually. The goals must be written to directly connect to the evaluation data, current performance and ongoing progress.</p> <p>A statement of measurable annual goals, including academic and functional goals designed to:</p> <ul style="list-style-type: none"> <li>• meet the student's needs to enable the student to be involved in and make progress in the general education curriculum;</li> <li>• meet each of the student's other educational needs that result from the student's disability; and</li> <li>• for students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.</li> </ul> <p><a href="#">WAC 392-172A-03090</a></p>	<p>As a part of developing the IEP, the IEP team members should ensure that all of the areas of need are identified in the evaluation and addressed in the IEP. Those areas that will be provided using specially designed instruction must be addressed through the use of measurable goals.</p> <p>When you serve students who take an alternate assessment, the IEP must include benchmarks or objectives addressing the areas to be assessed.</p>	<p>The IEP team meeting, which includes you, is a time for a full discussion of the IEP, including:</p> <ul style="list-style-type: none"> <li>• goals that will be a part of your child's program during the year,</li> <li>• the supports necessary, and</li> <li>• placement options.</li> </ul> <p>Prepare for the IEP meeting by creating the goals that you want your child to achieve and the supports that you believe are necessary to achieve those goals.</p> <p>Be thinking about expectations for your child once he/she leaves high school. Discuss this with your child and bring your ideas to the meeting, if he or she is not attending the meeting.</p> <p>Discuss post-secondary goals with your child and bring your ideas to the meeting.</p> <p>Be prepared to discuss the services your child can access once he/she leaves high school. Your child can access once he/she leaves school.</p>

Topic	What The Law Says/Meanings	What The School Needs To Do	What Parents Need To Know/Do
<p><b>Special Education and Related Services</b></p> <p><b>Supplementary Aids and Services</b></p> <p><b>Program modifications</b></p> <p><b>Supports for school personnel</b></p>	<p>The IEP includes a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:</p> <ul style="list-style-type: none"> <li>• To advance appropriately toward attaining the annual goals;</li> <li>• To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and</li> <li>• To be educated and participate with other students including non-disabled students in the activities described in this section.</li> </ul> <p>Supplementary aids and services provide supports to enable students to make progress in general education, participate in extracurricular and non-academic activities.</p> <p><a href="#"><u>WAC 392-172A-03090</u></a></p>	<p>Review the evaluation information/data to ensure that the all of the student’s identified needs are addressed</p> <p>The school district needs to be prepared to demonstrate the peer reviewed research utilized, if available, to support the delivery of specially designed instruction, related services and supplementary aids and services.</p> <p>Those needs can be addressed through goals or benchmarks, objectives, supplementary aids and services, related services, supports for school personnel or program modifications.</p>	<p>You may ask for information regarding any research that was used by the district when making recommendations for special education, related services or supplementary aides and services.</p> <p>If you have research that you would like the school to consider in developing the IEP, including the provision of related services or supplementary aids and service, share it with the staff. It would be helpful to staff if you could send the information prior to the meeting so they have adequate time to read and consider the information.</p>
<p><b>Time Spent with General Education Peers</b></p>	<p>An explanation of the extent, if any, to which the student will not participate with non-disabled students in the general education classroom and extracurricular and nonacademic activities.</p> <p><a href="#"><u>WAC 392-172A-03090</u></a></p>	<p>Evaluation data, including functional data, and observations of the student assist the team in determining the amount of time the student will spend in general education. The team should address any limits on the student’s ability to participate in activities.</p>	<p>Depending on your child’s needs, the amount of time in special education may vary. If you have questions about participation in the general classroom, be prepared to ask them at the IEP meeting.</p>

Topic	What The Law Says/Meanings	What the School Needs To Do	What Parents Need To Know/Do
<p><b>State and District-wide Assessments</b></p>	<p>The IEP team decides whether the student will take the state and district assessment(s), appropriate accommodations or an alternate assessment.</p> <p>If the student takes an alternate assessment, the IEP team must write a statement indicating why the student cannot take the regular assessment, the alternate selected and why the alternate assessment is appropriate for the student.</p> <p><a href="#">WAC 392-172A-03090</a></p>	<p>Determine whether the regular state or district-wide assessment is appropriate for the student.</p> <p>If needed, review the alternate assessments available to the student and determine which would be appropriate.</p> <p>For additional information on the Washington State Assessment for students with disabilities go to <a href="http://www.k12.wa.us/Assessment/AlternativeAssessment/default.aspx">http://www.k12.wa.us/Assessment/AlternativeAssessment/default.aspx</a></p>	<p>Learn about the assessment options that are available for your child.</p> <p>The information regarding assessment options available for the statewide assessment are available at <a href="http://www.k12.wa.us">www.k12.wa.us</a>.</p>
<p><b>Extended School Year</b></p>	<p>Extended school year services means services which are provided beyond the normal school year, in accordance with the IEP and at no cost to the parent.</p> <p>The purpose of ESY services is the maintenance of the student's learning skills or behavior, not the teaching of new skills or behaviors.</p> <p><a href="#">WAC 392-172A-02020</a></p> <p>The IEP must include extended school year services, if determined necessary by the IEP team for the student to receive FAPE.</p> <p><a href="#">WAC 392-172A-03090</a></p>	<p>The need for ESY may be based upon the professional judgment of the team and consideration of factors including the nature and severity of the student's disability, rate of progress, and emerging skills, with evidence to support the need.</p> <p>The student's providers should collect data to address the student's ability to retain skills over a period of time without instruction or recoup skills in a reasonable time period. The providers may also recommend ESY for emerging skills.</p>	<p>The purpose of ESY services is to ensure maintenance of learning skills or behavior and is not intended to address teaching new skills.</p> <p>Special education students have a right to participate in the school district's summer school program. In addition, some students might be eligible to receive ESY program.</p>
<p><b>Dates, location of services and frequency</b></p>	<p>Include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications. Terms such as "as needed" are not sufficiently clear to meet the intent of this regulation.</p> <p><a href="#">WAC 392-172A-03090</a></p>	<p>The IEP team determines when services will begin. The location of services should be determined for each goal as a student may be able to address one goal area in one environment, but need a different environment to meet another goal.</p>	<p>Ask questions regarding all program options available that will meet your child's needs.</p>

Topic	What The Law Says/Meanings	What the School Needs To Do	What Parents Need To Know/Do
<b>Educational Placement</b>	<p>The school must ensure that parents are members of any group that makes a decision on the educational placement of the student.</p> <p><a href="#">WAC 392-172A-02060</a></p>	<p>Invite parents to any meeting where decisions regarding the student's educational placement will be made.</p>	<p>You will be invited to attend all meetings where your child's placement will be decided.</p>
<b>Transition</b>	<p>Beginning not later than the first IEP to be in effect when the student turns sixteen the IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. The IEP also must include transition services, including courses of study, needed to assist the student in reaching those goals.</p> <p><a href="#">WAC 392-172A-03090</a></p> <p>Transition goals must be written based upon assessments for higher education, employment and/or independent living skills.</p>	<p>Complete age appropriate transition assessments of the student in relationship to the student's post secondary interests and skills, in order to develop measurable post secondary goals related to training education, employment and, if needed, independent living skills.</p> <p>Ensure that the student's annual goals and services support the student's transition needs. This includes a discussion about how long the student will remain in school to receive transition services.</p> <p>Review the students transition needs annually, and update the IEP as needed.</p>	<p>Understand how your child's course of study relates to the transition goals and prepare your child for graduation options. Talk with the IEP team about whether your child will graduate with his/her peers or needs more time.</p> <p>Listen to your child to determine their interests for after high school. Check with staff to make sure they have talked to your child as well.</p> <p>Share information with school staff so that they are able to include those interests in any assessment or program development for your child.</p> <p>Ensure that the transition planning for your child is ongoing, and updated when needed.</p>
<b>Age of Majority-18 years</b>	<p>Beginning not later than one year before the student reaches the age of eighteen, the IEP must include a statement that the student has been informed of the student's rights under the act, if any, that will transfer to the student on reaching the age of majority.</p> <p><a href="#">WAC 392-172A-03090</a></p>	<p>Have a system to flag IEPs so that this information is conveyed at least one year prior to the student's 18<sup>th</sup> birthday. This means that the first notification may be before the student turns 17 (depending on the date of the IEP). Make sure that the parent and student understand that the rights previously exercised by the parent now transfer to the student when he or she turns 18. Also explain to both the parent and the student that when the student turns 18, he or she will have the right to make educational decisions, but all notices that go to the student will also be provided to the parent.</p>	<p>In Washington, the age of majority is 18. All individuals are presumed to have the capability of making decisions, including educational decision at this age. There may be children, who may not have the capacity to act on their own behalf. Parents or other persons may file a court action requesting a guardianship. This is a formal legal proceeding which results in the person losing certain legal rights. Parents should discuss whether this is an appropriate action with an attorney. Washington State regulations also provide for the appointment of an educational representative.</p>

Topic	What The Law Says/Mean	What The School Needs to Do	What Parents Need to Do/Know
<p><b>Amendments to the IEP</b></p>	<p>The parent and the district may agree not to convene an IEP team meeting for the purposes of making changes to an existing IEP, and instead, may develop a written document to amend or modify the student’s current IEP. Changes may be made by the entire IEP team at a meeting amending the IEP rather than redrafting the entire IEP. <a href="#">WAC 392-172A-03110</a></p>	<p>IEP amendments are intended to save time by allowing the IEP team to make changes to the existing IEP without having to rewrite the entire IEP.</p> <p>IEP amendments cannot be made by one person in the absence of the IEP team. Amendments require a meeting, including the parent.</p>	<p>The parent has a right to participate in any meeting where the team is considering changes to the IEP, including minor changes created by amendments.</p> <p>You should be invited to the meeting. If you do not agree with the amendment(s), you have the same due process rights as if it were a new IEP.</p>
<p><b>Use of Behavior Intervention Plans</b></p> <p><i>Use:</i> <b>Isolation</b> <b>Restraint</b> <a href="#">28A.600.485</a></p> <p><a href="#">WAC392172A-02110</a></p>	<p>A behavior intervention plan is incorporated into a student’s IEP if determined necessary in order for the student to receive FAPE. The plan describes:</p> <p>(1) The pattern of behavior(s) that impedes the student's learning or the learning of others;</p> <p>(2) The instructional and/or environmental conditions or circumstances that contribute to the pattern of behavior(s);</p> <p>(3) The positive behavioral interventions and supports to:</p> <p>(a) Reduce the pattern of behavior(s) and increases the desired prosocial behaviors;</p> <p>(b) Ensure the consistency of the implementation of the positive behavioral interventions across the student's school-sponsored instruction or activities;</p> <p>(4) The skills that will be taught and monitored.</p> <p><a href="#">WAC 392-172A-01031</a></p> <p><b>Emergency Response Protocol</b></p> <p><i>Any use of isolation, restraint, and/or restraint device shall be used only when a student's behavior poses an imminent likelihood of serious harm. Parents and the school district must agree in writing.</i></p> <p><a href="#">WAC 392-172A-02110</a></p>	<p>Through the IEP process document the behavior plan that will be utilized for students who pose behavioral challenges.</p> <p>Monitor and document student progress in learning alternate pro-social behaviors.</p> <p>Understand the rules and regulations regarding restraint and isolation for your district.</p> <p>Define School District procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210.</p> <p>If staff are requested to use a prohibited intervention by the parent, they may not do so.</p>	<p>Share with the IEP team members any information related to positive interventions that work with your child.</p> <p>Some techniques that are used outside of the public schools are prohibited for use in the schools.</p> <p>Once the IEP is completed and the behavior plan developed, you cannot change or add to the behavior plan unless there is another IEP team meeting.</p> <p>If school personnel believe that a requested treatment is prohibited, they cannot provide it.</p>

## **PART IV**

### **BEHAVIOR, POSITIVE BEHAVIORAL INTERVENTION AND DISCIPLINE**

#### **Introduction**

The regulations addressing discipline balance the school's need for a safe and effective school setting while ensuring that student with disabilities continue to receive appropriate educational services when they are removed from their classroom.

The Washington Administrative Code (WAC) describes the procedures that school districts must follow. The purpose of WAC 392-172A-05140 through 392-172A-05155 is to ensure that students eligible for special education services are not improperly excluded from school for disciplinary reasons and are provided services in accordance with WAC 392-172A-05145. Each school district serving special education students shall take steps to ensure that each employee, contractor, and other agent is knowledgeable of the disciplinary procedures to be followed for students eligible for special education and students who may be deemed to be eligible for special education, and knowledgeable of the rules and procedures contained in chapter 392-400 WAC governing discipline for all students.

When behaviors are a concern to the parent or the staff, the initial and/or subsequent evaluations of the student should include assessment information surrounding those behaviors. The evaluative information regarding the student's behavior may establish the need for including behavioral goals and/or accommodations on the IEP.

Any time an IEP team meets, including the initial IEP meeting, the district and the parents should talk about behavior if it is one of the child's needs. New regulations in Washington State require that a Positive Behavior Intervention Plan be included on the IEP if it is needed to enable the student to receive a Free Appropriate Public Education.

Behavior plans are like tools. They can be used by the school to help the child learn better ways of behaving. Behavior plans are usually used for behaviors the child is already doing, or tends to do.

The IEP team can create a behavioral intervention plan that helps the school to:

- understand the meanings of the behaviors,
- understand what might cause the behaviors to happen, and
- understand how to respond to the behavior so the child can learn appropriate behaviors to replace those inappropriate behaviors.

**Functional Behavioral Assessment is required when a student has repeated behavior problems leading to removal from the student's program for 10 days.**

A FBA will take a close look at problem behavior(s) to determine when, where, and why the behavior(s) is occurring.

When a district uses the FBA to take a closer look at the child's behavior, they will be trying to find an answer to the question, "What function does this behavior have for this child?"

Experts say there are only two answers to that question. All behaviors either:

- get something (attention, sensory stimulation, status, rewards, power) or
- escape or avoid something (pain, boredom, anxiety, fear, someone not liked).

A good FBA will look beyond what the behavior IS to what the behavior DOES for the child. A good FBA will:

- look at the places or situations where the behavior happens,
- look at the events that happen just before it and just after it,
- look at how the child is feeling (angry, tired, thirsty, anxious, including side-effects of medication), and
- try to find out what events, times or situations predict the behavior and will tell what happens after the behavior occurs.

A good FBA will lead to answers to two important questions:

- What causes the behavior to happen?
- What will cause the behavior to NOT happen?

### **Behavioral Intervention Plans: Teaching Alternative Behaviors**

Any IEP team can address behavior. It is much better to deal with behavior issues as early as possible to prevent problems later. An IEP team can develop a positive behavioral intervention plan using the information from a FBA. A positive behavioral intervention plan does not excuse a behavior. It provides the school with a carefully thought out action plan so that when the behavior does occur, teachers and others will know how to act to decrease the behavior and teach a better alternative behavior.

An IEP team can use the information from the FBA to make a plan to teach alternative behaviors which have the same function as the problem behavior. A positive behavioral intervention plan does not simply list the consequences. A positive behavior plan provides the school with a carefully thought out plan of action, so that when the behavior does occur, the student is able to select an appropriate alternative behavior.

### **Positive Behavioral Intervention Plans**

The goal of a positive behavioral intervention plan is to reduce problem behaviors. Steps of a basic positive behavioral intervention plan include answering the following questions:

1. What is the function (reason for) the behavior?
2. What behavior do we want to teach this child to replace the problem behavior? The replacement behavior MUST have the same function for the child.
3. What will the teacher (other person) do to prevent the problem behavior?
4. What will the teacher (other person) do when the child exhibits the correct or alternative behavior in any situation? Re-enforcers should be positive rather than negative.
5. When and how will the teacher (other person) practice teaching the replacement behavior?

A Functional Behavioral Assessment will help provide answers to these questions.

### **Behavior Goals in the IEP**

For many children, behavior can be a part of the IEP just like any other subject area. The IEP team can use the present level of academic achievement and functional performance, annual goals, and specific services to help the child learn appropriate behaviors in the same way they can help the child learn other things. The goal must tell:

- When? (How long until the child will reach this goal? A week? A year?)
- What needs to be happening for the child to do this behavior? (“when on the playground,” “when asked by his teacher,” etc)
- Which behavior? (“will begin to comply with the instructions,” “will step away from his peers”, etc.)
- To what specific level? (“in all small and large group settings,” “for three days in a row,” “8 out of 10 times,” etc.)

When the IEP is implemented, the child is taught the skill needed to reach each goal.

### **The IEP Team’s Job in Dealing with Behavior**

For many children, frustration or boredom leads to behavior problems. If a child has a good IEP, which meets his or her individual needs and is helping him or her to learn and succeed, many behavior problems can be prevented. If

any member of the IEP team feels that the IEP is no longer working, he or she can ask the IEP team to come back together to make changes to the IEP.

When a good IEP is matched with a good, appropriate placement for services, a child's opportunities to learn are greatly increased. The child's opportunities for problem behavior are often decreased. If a child has continual behavioral problems that keep the child or other children from learning, the IEP team should ask these questions:

1. Is this IEP being implemented? If not, what do we need to change?
2. Is this IEP working? Is it meeting this child's special needs?
3. Is this child getting all the services he or she needs to learn? If not, does the IEP team need to add or change some of the services?
4. Is this child's placement (classroom or learning situation) a good fit for the child's needs?
5. Will a FBA help the IEP team to understand the behavior and develop a good behavior plan?

The IEP team can use information from an FBA to develop a positive behavior plan. The IEP team can also talk about changing the services a child needs, changing the placement or learning situation, or changing the IEP to better meet the child's needs.

### **When a Problem Occurs**

Children with disabilities have many protected rights. One of them is the right to participate in the least restrictive environment, learning alongside peers without disabilities, as much as possible. For many children with disabilities, the IEP team, with parental participation, will decide if it is appropriate for the child to have the same consequences for behavior as any other child in the school. Some IEP teams will put this into the IEP. Most children with disabilities are able to understand and follow the same school rules as their peers without disabilities. They have the same legal protections as every other child. Address behavior problems with the IEP team when they occur to avoid more serious problems later.

A school is responsible for keeping children and others safe, while protecting the rights of individual children. If any child is acting in a way that is dangerous for others, or for the child, it is the school's first job to deal with the danger and keep people safe. Special education law cannot interfere with school safety.

Schools may use a variety of disciplinary actions or consequences for breaking rules. A child with a disability can receive the same consequences as other children. However, schools must continue to provide services after students have been removed for more than 10 days. State law has some restrictions for all children. For example, in Washington, it is illegal to use corporal punishment to discipline a child in school. "Corporal punishment" includes punishments like paddling, or slapping. This is true for all children, not just those with disabilities.

The IEP team should talk about possible behavior problems. They should also discuss whether or not the regular consequences in the school's or classroom's policy have meaning for the child. Discipline alone generally will not solve the problem. It only tells the child what not to do. It does not tell the child what to do.

When a problem with behavior occurs, a good first step is to call the IEP team back together to talk about it. The IEP team can take action to prevent a repeat of the problem, using behavior planning, FBA, IEP revision, change of services, or change in placement. As always, the parents are partners in the discussion.

### **Disciplinary Consequences and School Rules**

The most important step for the parents and school is to think ahead. They should know the school rules. If a behavior or set of behaviors is going to be a problem, deal with it in the IEP. The IEP team should always consider positive behavioral supports, which can include the use of a behavior plan or behavioral instruction to teach the student alternate behaviors.

An IEP team can talk about patterns of behaviors that may cause problems. Some disabilities have "common" behaviors. If these are a problem, the IEP team should address them. Not every child will show every "common" behavior typical of that disability. Some children might show behaviors that are not common for the disability. It is

important for the IEP team to talk about what behaviors are being noticed at home, in school, or in the community. If there are behaviors that are, or will likely become, a problem, NOW is the time to work on them. The IEP team can make a plan.

Federal and state laws say it is illegal to discriminate against a person on the basis of disability. A child with a disability cannot be disciplined more severely than a non-disabled child for breaking the same rule. If a child without a disability may be suspended for three days for breaking a rule, a child with a disability cannot be suspended for more than three days for breaking the same rule. There is no law that says a student who has a disability cannot be disciplined.

In addition, schools have the right and responsibility to report crimes to the police. To report a crime, schools do not need a parent's permission. If it is determined there is a health or safety emergency, the school can provide records to the law enforcement.

### **General education- Suspension and expulsion rules for all students**

When a school or district suspends or expels any student, it must make sure that the removal is consistent with state laws and regulations governing discipline for all students. Our state discipline regulations are located at chapter 392-400 of the Washington Administrative Code (WAC). They address discipline, suspension, and expulsion for all public education students. Districts must have policies and procedures that describe various types of misconduct and address penalties imposed for the misconduct (WAC 392-400-235). Discipline must be consistent with the district policies and procedures. Except for emergencies, schools generally may not suspend or expel any student unless they have tried other forms of corrective action that would modify the student's behavior (WAC 392-400-245 Short-term suspension, WAC 392-400-260 Long-term suspension, and WAC 392-400-275 Expulsion).

Definitions provided in WAC 392-400-205 describe suspension and expulsion as follows:

- A *short-term suspension* is a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.
- A *long-term suspension* is a suspension which exceeds a "short-term suspension".
- An *expulsion* is a denial of attendance at any single subject or class or of any full schedule of subjects or classes for an indefinite period of time.

State regulations place limits on the number of days any student may be suspended during a semester or trimester, depending on the student's grade level. (See, for example, WAC 392-400-260)

Similar to the procedural safeguards available to special education students under IDEA, state regulations in chapter 392-400 WAC provide procedural safeguards to any student who is disciplined, suspended, or expelled. Special education students have the right to all procedural safeguards for general education and the procedural safeguards under special education which are in addition to general education. When parents are provided a hearing under general education, they often do not realize that the hearing provided for under special education is a different type of hearing. They have a right to access both hearing procedures.

### **Suspensions (In-school Suspensions and Removal from School)**

When a child is suspended, the child is removed from school or class for a certain number of days as a consequence of breaking school or classroom rules. During in-school suspensions (removals) the child is in the school building, but not attending classes. Sometimes, in-school suspension will include doing work or getting instruction without being in the classroom as usual. Schools must promptly tell the parents if the child is suspended. Many schools will do it in writing. Parents can call and ask for district policies. Parents also have the right and a need to know why their child is suspended. Parents have a right under state law to meet with someone other than the person who suspended the child to appeal the suspension.

If a child with a disability is suspended and then another problem behavior occurs, the consequence of suspension probably did not work. It is a good idea for the IEP team to meet and talk about developing a positive behavioral

intervention plan to help prevent on-going problems and teach new behaviors. A FBA can help the team develop a plan. A functional behavioral assessment and the positive behavioral intervention plan may be done in one meeting, if the team has appropriately collected the necessary information to allow them to make a decision.

The school and parents, as the IEP team, can agree to a change in placement if they believe that the behaviors are due to an inappropriate placement. If the IEP team agrees to a change of placement, the team will need to change the IEP through a reevaluation process supporting the change. The information they have collected may be sufficient for the reevaluation. That decision will need to be made by the evaluation team.

### Discipline

Topic	What The Law Says/Mean	What the School Needs To Do	What Parents Need To Know/Do
Removals for 10 or fewer consecutive school days	<p>School personnel may remove a student from his or her current placement for not more than ten consecutive school days and for separate incidents of not more than 10 consecutive school days if those separate incidents are not a change of placement.</p> <p><a href="#">WAC 392-172A-05145.</a></p>	<p>Make sure that building staff are keeping track of students' suspensions. Have a system that will allow for coordination between building staff and administrative special education staff. When a suspension will result in a removal for more than 10 consecutive school days, protections described below need to be addressed. If the suspensions are for shorter periods, but add up to more than 10 school days, the district needs to determine whether there is a pattern of removals that result in a change of placement. Consider an IEP team meeting to address whether there are additional supports or services that will prevent the behavior that is resulting in suspensions.</p>	<p>Your child may be removed through a suspension or expulsion for 10 consecutive school days, regardless of whether the removal is related to his or her disability.</p> <p>When there are shorter removals, each one less than ten school days, but totally to more than ten school days your child may also be subject to disciplinary removals, that are not considered to be a change of placement (see below).</p> <p>Keep track of suspensions. If you believe that your child is continuing to have behavior that results in suspensions, ask the IEP team to discuss the behaviors to see if the school can start implementing behavioral supports to prevent the behavior that is resulting in suspensions.</p>
Change of Placement	<p>A change of placement occurs if: 1) the removal is for more than 10 consecutive school days; 2) the student has a series of removals that constitute a pattern because:</p> <ul style="list-style-type: none"> <li>• the series of removals totals more than ten days;</li> <li>• the behavior is similar to previous incidents; and</li> <li>• factors such as the length of each removal, amount of time and proximity suggest similarity in behavior.</li> </ul> <p><a href="#">WAC 392-172A-05155.</a></p>	<p>Any time a disciplinary removal is for more than ten consecutive school days, there is a change of placement which requires the school to proceed with special education protections. When there is a series of shorter removals, the district determines whether the series results in a change of placement. If the district determines that the series of suspensions is not a change of placement, and parents disagree, they may request a due process hearing to contest the</p>	<p>As noted above, keep track of suspensions and the reasons behind the suspensions. If there is a series of suspensions that add up to more than ten days, the district can determine that the removals are not a change of placement. In this case, they can also determine to what extent services are needed. You have a right to disagree with the determination that a series of removals is not a change of placement. You may ask for a hearing to resolve the issue. (See Dispute Resolution)</p>

		determination. When there is a change of placement for discipline, you must provide parents with their procedural safeguards.	When there is a change of placement, the district should notify you and provide you with a copy of the procedural safeguards notice. Information on discipline is addressed in the procedural safeguards.
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<b>Topic</b>	<b>What The Law Says/Mean</b>	<b>What the School Needs To Do</b>	<b>What Parents Need To Know/Do</b>
Manifestation Determination Meeting	<p>Within 10 school days of any decision to change the student's placement, the school district, the parent and relevant members of the student's IEP team must review all relevant information in the student's file including the IEP, any teacher observations and any relevant information provided by the parents to determine if:</p> <p>a) the conduct in question was caused by, or had a direct and substantial relationship to the student's disability, <b>or</b></p> <p>b) the conduct was the direct result of the school district's failure to implement the IEP.</p> <p><a href="#">WAC 392-172A-05145</a></p>	<p>Once the school is aware that the removal will be a change of placement it needs to schedule a meeting within 10 school days. The participants include relevant members of the IEP team chosen by the parent and the district. Make sure that the parent is part of the selection. At the meeting, be prepared to review information in the student's file, information by teachers, and information provided by the parent.</p> <p>If the team finds that the conduct either had a substantial relationship to the student's disability, or if the team finds that the conduct was a direct result of the failure to implement the IEP, the conduct IS a manifestation of the student's disability.</p>	<p>When your child's removal is a change of placement you will be invited to a meeting to determine whether:</p> <p>(1) your child's conduct is due to his or her disability, or</p> <p>(2) the district's failure to implement the IEP.</p> <p>If there is a direct relationship to the district's failure to implement your child's IEP and your child's behavior which resulted in a change of placement, it is considered to be a manifestation of the disability.</p> <p>If there are members of the IEP team who should participate, tell the district who you would like to attend. If you have information that addresses your child's behavior, provide that information to the team.</p>
Manifestation meeting requirements	<p>If the student's behavior is a manifestation of the student's disability, the district must take steps to address deficiencies, and, conduct a functional behavioral assessment (FBA), unless it has already been conducted and implement a behavioral intervention plan. (BIP) If the student already has a BIP, review it and modify it as needed to address the behavior.</p> <p>The student must also be returned to his or her placement prior to the discipline unless, the parents</p>	<p>If the conduct is a manifestation of the student's disability, the student must be returned to his or her placement, unless there is an agreement with the parents to try another setting.</p> <p>The school needs to review relevant data to make sure that the behavior will not recur. This can include a review and changes to the IEP. In addition, the district must conduct an FBA if this has not already occurred and the district needs to implement a BIP. If both are already in place, the BIP should be reviewed and modified if needed.</p> <p>It is useful to review with the</p>	<p>Share with the team, information about acts that trigger unwanted behavior. Share strategies that are successful at home. Ask questions about how the FBA will be conducted and how your input will be included. Share any concerns you have about how the IEP is being implemented. Be specific if you have examples. There may be times that you agree that it is appropriate to have your child in another setting and not return to the previous placement. If so, you may agree with the district to change your child's placement. If this is a temporary arrangement make sure that this information is</p>

	and district agree to a different placement, or, the student has been removed for weapons, drugs or serious bodily injury. <a href="#">WAC 392-172-05145 (4)</a>	team, what works and what doesn't work. If appropriate, include the student in the discussion.	included in an IEP amendment or prior written notice.
<b>Topic</b>	<b>What The Law Says/Mean</b>	<b>What the School Needs To Do</b>	<b>What Parents Need To Know/Do</b>
Manifestation meeting requirements (cont'd)	<p>If the student's behavior is not a manifestation of the student's disability, the school may apply discipline in the same manner and for the same duration as it would for a student who is not eligible for special education.</p> <p>However, the student should continue to receive educational services that provide FAPE and continue to allow the student to participate in the general education curriculum so that he/she may make progress towards meeting the goals in the IEP.</p> <p>In addition, if the relevant IEP team members determine it is appropriate the district may conduct a FBA and implement a BIP. <a href="#">WAC 392-172A-05145</a></p>	<p>If the student's behavior is not a manifestation of his/ her disability the student may be removed for the same amount of time a general education student would be removed. However, the team must determine where and how the student will receive special education and general education services. As part of the discussion the team should decide whether it would be appropriate to conduct an FBA and implement a BIP to prevent further behavioral incidents. Make sure that the services to be provided will allow progress towards IEP goals and participation in the general education curriculum. Outline those services in an interim IEP document that is effective for the length of the removal.</p>	<p>If your child's behavior is not a manifestation of his/ her disability you and the group will discuss how and where your child will receive services. You should ask questions about how both general and special education services will be delivered. If you think that the behavior is one that could continue, discuss whether there are strategies that could prevent the behavior, including an FBA and a BIP. If you disagree with the determination that the behavior is not a manifestation of your child's disability, or disagree with the amount of services, you can request a due process hearing or use the other dispute resolution options available to you.</p>
Removals for special circumstances.	<p>Schools may remove a student to an interim alternative educational setting for not more than 45 school days, if the student:</p> <p>a) carries a weapon or possesses a weapon; b) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substances; or c) has inflicted serious bodily injury upon another person at school, on school grounds, or to a school function.</p> <p>Controlled substances, illegal drugs, serious bodily injury</p>	<p>The district must still hold a manifestation meeting and follow procedures for conducting an FBA (if it is a manifestation) when a student is removed for drugs, weapons or serious bodily injury. However, the removal for not more than 45 school days is without regard to whether the behavior was a manifestation of the student's disability. The team discusses how the student will receive services, where the services will be delivered and how those services will allow progress towards goals and participate in general education.</p>	<p>Even if the team determines that the behavior was a manifestation of the student's disability, your child may still be removed from school for not more than 45 school days. Make sure you understand how services will be delivered and how the removal will affect the student's participation in the general education curriculum. If you disagree with the amount of services, or other team determinations, you may request a due process hearing or use the other dispute resolution options available to you.</p>

	and weapons are defined or cross-referenced to federal definitions at: <a href="#">WAC 392-172A-05145 (9)</a> .	Outline those services in an interim IEP document that is effective for the length of the removal.	
<b>Topic</b>	<b>What The Law Says/Mean</b>	<b>What the School Needs To Do</b>	<b>What Parents Need To Know/Do</b>
Settings/ services: 10 or fewer days or no change of placement	<b>10 school days or less:</b> A student may be suspended without services. <b>More than 10 school days and not a pattern of removals:</b> School personal consult with the student’s teacher to determine the extent to which services are needed.	The school may treat suspensions of 10 school days or less as they would for any student. If the short term removals exceed 10 days, but is not a change of placement the district and one of the student’s teachers to determine what is needed to progress towards goals in the IEP and participate in general education.	Ask about the availability of homework or other services for students who receive short term suspensions. If the total number of suspensions exceeds 10 days, but is not a pattern, talk to district administration about how they will deliver services and how your child can complete assignments.
Settings/ services: Change of placement	<b>Removals when there is no manifestation of behavior, or removals for special circumstances:</b> The IEP team determines how the student will continue to receive educational services that provide a FAPE, to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals in the student’s IEP. The IEP team also determine the interim alternative educational setting.	Part of the discussion at the manifestation meeting needs to address where the student will receive services and how those educational services will be delivered. The educational services include both special education and general education instruction.	Ask questions about how both special education and general education will be delivered.
District appeals: dangerous behavior	If a school district believes that maintaining a student in his/her current placement is substantially likely to result in injury to a student or others, the district may request a due process hearing to ask that the student be removed to another setting for not more than 45 school	If the district believes that a student cannot be maintained in their current setting, they may request a hearing. At the hearing, the administrative law judge will order a removal to an IAES if they find that there is a substantial likelihood that maintaining the setting will result in injury to the student or others. This process	If a district requests a due process hearing, you are provided with a copy of their hearing request. You have an opportunity to respond and participate in the hearing.

	days.	may be repeated.	
Students not yet eligible for special education	<p>A district may be deemed to have knowledge that a student was eligible for special education, if before the disciplinary action:</p> <ul style="list-style-type: none"> <li>• The parent expressed concern in writing to administrative staff or the student’s teacher that the student might need special education; or</li> <li>• The parent requested an evaluation for special education services; or</li> <li>• The teacher or other district personnel expressed specific concerns to the director of special education or other supervisory personnel about the student’s pattern of behavior.</li> </ul> <p>If the district should have had knowledge, then all discipline procedural protections under IDEA are available to the student. If the district is not deemed to have knowledge, they must expedite the evaluation process. The student is disciplined in accordance to general education procedures until the eligibility decision is made.  <a href="#">WAC 392-172A-05170</a></p>	<p>Keep track of a follow up on any referrals or written concerns by parents, and concerns expressed by teachers regarding a student’s pattern of behavior. Follow up on these requests using referral and evaluation procedures. If the student is deemed to be eligible, the parent may assert all protections available. If the district should have known that the student would be eligible, follow the discipline procedures addressed above.</p> <p>The school will not be deemed to have knowledge if the parent did not allow an evaluation of the student, or if the student was evaluated, the parent refused or revoked consent for services. In addition the district will not be deemed to have knowledge if the district evaluated the student and did not find the student eligible. If the student is not deemed to be a student eligible for special education, and the parent requests and evaluation, that evaluation must be conducted in an expedited manner.</p>	<p>If your child was not eligible, but you have a record of making written referrals to the district, or written concerns regarding the student’s needs, or if teachers expressed concerns to their supervisors, your child would have the same discipline protections, as a student who is already eligible for special education.</p> <p>If you had refused to allow the district to evaluate your child, you refused consent for initial services, or if you revoked consent for continued services, the district will not be deemed to have knowledge that your child is eligible for special education.</p> <p>If you did not previously express concerns in writing or there is no evidence that teachers or others expressed concerns, (or refused services) you may still request that the district conduct an evaluation. Your child would be disciplined like any other student, but the district would need to evaluate your child as soon as possible to determine whether your child is eligible.</p>

## **PART V PROBLEM SOLVING**

### **Introduction**

Parents and schools have a “built-in” partnership with the child as the focus. This partnership will grow when parents and school staff work together. Disagreements may happen, but disagreements can also help to make the child’s education better. Disagreements that get solved can make the parent/school relationship stronger. In addition, positive relationships between the school and family are directly connected to improved student learning and serve as lifelong models for children and youth.

### **Informal Meeting**

#### **What to do when issues arise?**

Parents should talk directly with the people involved as soon as possible. First, you can call to schedule an informal meeting to discuss the situation. Second, you can prepare for the meeting by making a list of issues and some possible solutions. It is very helpful to staff if you can let them know how much time you will need to discuss your concerns. Try to stay within that time constraint even if it means having a second meeting to finish the discussion.

District staff should contact parents as quickly as possible to discuss concerns they may have. Staff also should not ignore issues that are surfaced by the parent or adult student. Open communications and problem solving strategies can prevent issues from escalating into problems.

#### **What can you do in the meeting?**

- See if you can agree on the issue(s) that must be addressed.
- Try to start the meeting with a positive statement.
- Listen actively to understand the other person’s perspective.
- Communicate your concerns clearly.
- Use notes to keep you and the meeting on track and focused on the child.
- Ask questions or restate so you and others are clear in your understanding.
- Work together to suggest some possible options to resolve the issue(s).
- Analyze all of the options to see if you can find areas of agreement.
- Be willing to try suggestions for an agreed upon period of time. (Collect data during that time so that when you come back together, you will know if the suggestion is having the desired effect.)
- Discuss what should happen next.

### **Special Education Parent Liaison**

The purpose of the Special Education Parent Liaison is to provide support to parents, guardians, educators, and students with disabilities. The Liaison provides information to help families and educators understand state and federal laws, rules, regulations, and to access training and support, technical information services, and mediation services, as appropriate.

- The Office of Superintendent of Public Instruction Special Education Parent Liaison for additional information at 360-725-6075.

#### **The Special Education Parent Liaison housed within OSPI functions as:**

- A liaison between citizens and school districts;
- A person who can provide information regarding Special Education laws, regulations, and procedures;
- A person to turn to for ideas when unsure about options for resolving Special Education related disagreements;
- A person who can explain formal dispute resolution options;
- A person who acts as a neutral and confidential sounding board to explore options for resolving Special Education related disagreements;

- A check and balance to the system;
- An advocate for a fair process;
- A person who works to prevent individual concerns from being overlooked by the system;
- A person who listens, assists with problem-solving, and provides appropriate referral services; and
- A person who makes recommendations to OSPI based upon patterns of complaints, if patterns emerge.

**What the Special Education Parent Liaison located within OSPI is NOT**

- An attorney who provides legal counsel;
- One who develops or sets Special Education or OSPI policy;
- One who writes reports on and/or conducts large scale investigations;
- An advocate acting on behalf of any one party or organization;
- A defender of OSPI practices; or
- One who can order a public agency to fix your problem.

**How can I contact the Special Education Ombudsman?**

The special education ombudsman can be reached by phone at (360) 725- 6075 or by email at [speced@k12.wa.us](mailto:speced@k12.wa.us).

Note: If you have a dispute under the Early Intervention Section (Part C) of the IDEA, it can be sent to:

Department of Social and Health Services  
 Infant Toddler Early Intervention Program  
 P.O. Box 45201  
 Olympia, WA 98504-5201  
 360-902-8488

**Facilitated IEP Meetings**

A facilitated IEP (Individualized Education Program) meeting is an option for early conflict resolution that is available to parents and schools. In a facilitated meeting, a trained neutral facilitator helps the IEP team with the process of deciding what will be included in the IEP. This facilitation may take place at any IEP meeting when the team members feel that they will not be able to reach agreement without facilitation.

The option of a facilitated IEP meeting is voluntary. The parents and the school staff must agree to the use of a facilitator.

**Why would I want to participate in a facilitated IEP meeting?**

The purpose of facilitation is to help the school and family reach an agreement on the IEP when there has been a history of disagreement and/or communication difficulties in planning for the student’s education. The use of a neutral third party oftentimes can help parents and districts to arrive at an IEP that is mutually acceptable.

**How do I request a facilitated IEP?**

To request an IEP Meeting Facilitation, or obtain more information call: Sound Options Mediation and Training Group, L.L.C. at 1-800-692-2540 or (206)842-2298 (Seattle. Washington State relay service numbers are 1-800-833-6388 (TDD) or 1-800-833-6384 (voice). Sound Options – <http://www.somtg.com>

**Formal Dispute Resolution Options under IDEA**

If parents and districts still cannot reach an agreement, IDEA sets forth three formal dispute resolution options:

- Mediation,
- Citizen’s Complaints, and
- Due Process Hearings.

These formal ways to solve problems can help the school and the parent reach a resolution. There is no specific order to these options. A parent may access any option at any time.

**Special Education Mediation**

Mediation services are offered by OSPI at no charge to parents or school districts. Mediation is available to help resolve problems that involve the initial identification of a student, evaluations of the student, the educational placement, and the educational services provided to a student (FAPE). An impartial mediator works with the parties to clarify issues, resolve conflicts and develop agreements between the parties, when an agreement is reached. Parents and school districts may invite any participants they believe will assist in the mediation. Mediation is a voluntary process for the parents and districts. Either the district or the parent may refuse to mediate, and there are occasions when parties are not able to reach an agreement. Mediation may not be used to delay or deny rights under IDEA or the right to proceed to a due process hearing.

When parties reach an agreement, those agreements are in writing and are enforceable in state and federal courts. The discussions that occur during the mediation are confidential.

To request mediation, or obtain more information call: Sound Options Mediation and Training Group, L.L.C. at 1-800-692-2540 or (206)842-2298 (Seattle. Washington State relay service numbers are 1-800-833-6388 (TDD) or 1-800-833-6384 (voice). Sound Options – <http://www.somtg.com>

### **Citizen Complaints**

Any individual or organization may file a citizen complaint if it believes a school district, another public agency serving special education students, a private agency under contract with a public agency to serve special education students, an educational service district, or the state has violated federal or state laws or regulations implementing IDEA. The complaint must be in writing and it must be signed.

If you wish to file citizen's complaint the following information is required:

- A statement that a public agency has violated a requirement of Part B of IDEA, or corresponding state law or regulation; or, a statement that the school district is not implementing a mediation or resolution agreement.
- The name, address, and telephone number of the person filing the complaint
- If the complaint involves a specific student, including students who are homeless, the name and contact information for the student.
- The name of the school district. If the complaint is about an agency other than the school district providing special education services include the name and address of the other agency.
- A description of the problem with the facts supporting the allegations.
- A proposed resolution of the problem to the extent you can.

When preparing a complaint, it is helpful to include as much information as possible including significant dates and events that may be relevant to the allegations. Although it is not required, a complaint form has been developed to assist individuals or organizations in providing the information needed in order to accurately process complaints. This form may be requested from OSPI, Special education at (360)725-6075. It is also available on the special education website at:

[www.k12.wa.us/SpecialEd/DisputeResolution/CitizenComplaint.aspx](http://www.k12.wa.us/SpecialEd/DisputeResolution/CitizenComplaint.aspx)

The citizen complaint should be sent directly to:

Office of Superintendent of Public Instruction  
Attn: Special Education  
PO Box 47200  
Olympia, WA 98504-7200

## Impartial Due Process Hearings

Both parents and school districts may request an impartial due process hearing involving issues about the identification, evaluation, placement, or provision of a FAPE to a student. The Office of Administrative Hearings (OAH) assigns an independent administrative law judge (ALJ) to conduct the special education due process hearing. The original request for a due process hearing must be provided to the other party. Parents who are requesting a hearing provide the original request for a due process hearing to the superintendent of the school district. A copy of the request must also be sent to OSPI.

Office of Superintendent of Public Instruction  
Attn: Administrative Resource Services  
Old Capitol Building  
PO Box 47200  
Olympia, WA 98504-7200

A copy of the due process hearing request may also be faxed to Administrative Resource Services at (360) 753-4201.

State and federal regulations require that a request for a due process hearing contain the following written information (which remains confidential):

- The name of the student;
- The address of the residence of the student (or available contact information in the case of a homeless student);
- The name of the school the student is attending;
- A description of the nature of the problem and the facts related to the problem; and
- A proposed resolution of the problem to the extent known and available to the party at the time.

The right to a due process hearing can be denied or delayed if the request does not include all of the information stated above. It is up to the party requesting the hearing to provide proof that the due process hearing request was received. Any issues about whether or when the due process hearing request was received will be determined by the ALJ.

OSPI has developed procedures to [Request a Due Process Hearing](#). A hearing request may be requested from OSPI, Administrative Resource Services or Special Education, as well as from the school district. OSPI has also developed written instructions entitled Procedures and Timelines for Due Process Hearings Under IDEA 2004 that addresses the required procedures for providing the due process hearing request notice to the other party, including timelines before the due process hearing can begin.

Once OSPI receives a hearing request OSPI assigns a case number and forwards a copy of the hearing request to OAH. OAH appoints an ALJ who sends written confirmation to both parties.

## PART VI GLOSSARY OF TERMS

**Adverse Educational Impact:** When a student, due to having a disability, is not performing as expected academically, behaviorally or functionally.

**Assistive Technology (AT):** Any item a child needs to increase, maintain or improve how the child does in school. AT includes low tech and high tech items, from a calculator to a computer. AT also can mean services to help in choosing, acquiring, or using the item.

**Behavioral Intervention Plan (BIP):** The IEP Team creates a plan to help prevent problem behaviors. The plan helps a child learn new appropriate behaviors. A positive behavior plan is not a list of punishments. The plan uses information from a functional behavioral assessment.

**Change of Placement:** A change of placement occurs anytime a student is, for disciplinary reasons, removed from the placement identified on his/her IEP for more than 10 days. A change of placement may also occur if the IEP team meets and decides that services should be provided in a different location. It is not a change of placement if the school moves the student from one general education classroom to another or from one resource room to another.

**Discrepancy Formula:** A method of using standardized tests to determine whether a student has a specific learning disability, by calculating the discrepancy between the student's intelligence (based on an IQ test) and their actual performance.

**Evaluation:** When a group of professionals, and the parent, gathers information about a child to decide if the child qualifies for special education services, including the type and amount of services needed. Evaluation can be testing, including classroom based assessments. It may also include observing the student, or talking to people who work with the child.

**Evaluation Report:** The Evaluation Group (the school staff and the parent) gathers all evaluation information about a child who is being evaluated. They work together to write a final report about the evaluation. The report includes whether the child qualifies for special education, and recommendations for services.

**Free Appropriate Public Education (FAPE):** FAPE means that the student receives an individualized education program (IEP) at no cost to the parents; and that the program is designed to enable the student to make progress in general education and the goals on the IEP. Local Education Agencies (LEAs) are required to provide FAPE for all special education eligible students enrolled in their district.

**Functional Evaluation:** Data that is collected regarding a student's ability to attend to tasks, follow directions, turn in homework and interact appropriately in the school. For other students, it may be data regarding their ability to dress themselves, toileting or other self care tasks. It could be data related to work in the classroom or other settings.

**Functional Behavior Assessment (FBA):** The IEP Team determines what is causing the child to continue a problem behavior(s).

**General Education Curriculum:** What all children learn in the general education program.

**Individual Education Program (IEP):** The IEP is a written statement that is developed, reviewed, and revised, at least annually, in an IEP meeting. The IEP documents the program and placement for a student qualified to receive special education and related services.

**Individualized Education Program Team (IEP Team):** The IEP team is a group of staff, parents and others that either the school staff or parents choose to include. The team is responsible for developing the student's Individual Educational Program (IEP).

**Interim Alternative Educational Setting (IAES):** Students may be removed from his/her placement for up to forty-five days and placed in an interim alternative educational setting. The forty-five day placement may only be used for violations related to weapons, drugs or dangerous behavior. The purpose of the placement is to assist the staff in providing services while assessing necessary changes to the IEP.

**Local Education Agency (LEA):** The Local Education Agency means the school district.

**LEA Representative:** A person on the IEP Team who has knowledge about, and can commit the school resources so that the child receives the IEP services. All IEP meetings must have an LEA representative.

**Least Restrictive Environment (LRE):** LRE is environment where the individual student is able to learn and reach the goals on the IEP. The LRE should be in the general education environment to the extent appropriate. The child's least restrictive environment may change based on the subject being taught.

**Placement:** The child's setting (regular class, resource room, self contained class, home, hospital or institution) the child attends to receive special education. Placement does not necessarily refer to a specific teacher's classroom; it refers to a type of classroom.

**Procedural Safeguards:** Due process rights provided to parents and adult students.

**Related Services:** Things a child may need to benefit from special education. They are included in the IEP. (Examples of related services are counseling, transportation, etc.)

**Response to Intervention (RTI):** A method of using scientifically research based interventions to determine a student's eligibility for special education services under the Specific Learning Disability category.

**Section 504 of the Rehabilitation Act:** Section 504 of the Rehabilitation Act is a statute which prohibits discrimination based on disability. In addition, it requires the provision of accommodations necessary for students to benefit from their education. Students who have a disability, but do not qualify for special education, may be protected under Section 504. If the student qualifies for protection under Section 504, and needs accommodations, those accommodations must be provided.

**Serious Bodily Injury:** An injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

**Specially Designed Instruction (SDI):** Specially designed instruction is designed to address the specific instructional needs of a student who qualifies for special education services. It is based on the results of the student's individual evaluation. In order for instruction to be considered specially designed, it must differ from the instruction provided in the general education program, and cannot merely be accommodations.

**Special Education:** Specially designed instruction to meet the unique needs of a child with a disability who qualifies for special education. The services are provided at no cost to the parent. The services can be provided in many different settings.

**Supplementary Aids and Services:** Services and supports provided in regular education classes and other settings to help a child with a disability be educated with children who do not have disabilities.

**Transition:** Transition is a term used to indicate movement from one level to another. It includes transition from high school to life after school, and transition from a Birth to Three program to a school's special education program. High school transition planning is a required part of every child's IEP starting no later than the first IEP to be in effect when the student turns sixteen or younger, if determined appropriate by the IEP team. Transition planning is also required for every child moving from Birth to Three programs into the school setting.

**Washington Administrative Code (WAC):** The rules which govern schools in Washington State are addressed in the Washington Administrative Code.