

Special Education *Policies and Procedures* Manual

Fairfield Public Schools

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Copies of this manual are available at:

<http://www.sde.ct.gov/sde/cwp/view.asp?a=2678&Q=320730#publications>

Chapter 1 — Child Identification (Child Find)

In accordance with federal regulations, the District assumes responsibility for the location, identification and evaluation of all children from birth through age 21 who require special education and related services. All children who are suspected of having a disability and who are in need of special education are part of the child find process in our District.

This includes students who are:

- advancing from grade to grade;
- enrolled by their parents in private elementary or private secondary schools, including religious schools located in our District (regardless of the severity of their disability) (See Chapter 8); and
- wards of the state and children who are highly mobile, such as migrant and homeless children.

In addition, our District identifies students (Kindergarten through Grade 12) who may be gifted or talented (see page 4).

❖ Role of the Planning and Placement Team

The Planning and Placement Teams (PPT) in each of our schools ensure that the student meets the eligibility requirements of the Individuals with Disabilities Education Act as amended in 2004 (“IDEA”) and state regulations.

In all cases, the Planning and Placement Team will not determine that a student has a disability if the suspected disability is because of a lack of instruction in reading or math. If the student is not proficient in English, our Planning and Placement team will not identify the student as disabled if the limited English proficiency is the cause for the suspected disability.

❖ Child Identification Process

The District has a child identification process that includes the location, identification and evaluation of a child suspected of having a disability or suspected of being gifted and talented. Our Special Education Department coordinates the child identification process. The department and its staff use a variety of community resources and conduct many systematic activities in our efforts to identify children requiring special services. Our District staff members consult with appropriate representatives of private school students attending private schools located in our District such as the student’s parents, teachers and administrators of those private schools located in our District in carrying out this process. The District assures that this process for students attending private or religious schools located in our District is comparable to activities undertaken for students with disabilities in our public schools.

Identification of Children Between the Ages of Birth to Age Three

The State’s early intervention system, the Connecticut Birth to Three System under the IDEA, Part C, (the Individuals with Disabilities Education Act, the federal special education law) is responsible for identifying and providing services to children between the ages of birth and age three who are eligible to receive such services due to developmental delays or documented physical or mental conditions that have a high probability of resulting in developmental delay. Because of their overlapping responsibilities, the State

Department of Education and the Connecticut Birth to Three System have an interagency agreement intended to ensure that children with disabilities are provided needed services in a timely manner. The State Department of Education asks Districts to ensure that children between the ages of birth to three are referred to the Connecticut Birth to Three System for an evaluation. Therefore, when our District becomes informed of a child between the ages of birth to three who has or may have a disability, we will either (a) make a child referral directly to the Connecticut Birth to Three System via the statewide toll-free number and/or (b) provide the parent with the information so that they can make the referral themselves.

Parents may opt out of and/or opt not to be referred to the Connecticut Birth to Three System. They may request an evaluation from the District to determine if their child has a disability that may require special education. These parents are entitled to an evaluation from our District, even if the child is between the ages of birth to age 3. Our District is responsible for providing an evaluation but is not responsible for the provision of a free appropriate public education (FAPE) for eligible children until the child is age 3. In such circumstances, no child or family should be instructed to wait for an evaluation until their child turns age 3.

Transition to Special Education from the Connecticut Birth to Three System

The purpose of transition planning for children in the Connecticut Birth to Three System is to ensure that eligible children and their families experience a smooth and effective transition from the Connecticut Birth to Three System to our District.

- The District receives child specific information from the Connecticut Birth to Three System on those children who have been determined eligible and are receiving early intervention services. The District has a system of collecting and maintaining this data and other child specific information in order to track children receiving early intervention services over time to ensure that they are timely evaluated and provided a FAPE by age 3.
- The District has an assigned transition contact that is the primary person responsible for working with the Connecticut Birth to Three System and their programs on transition as well as one or more individuals who will attend all 90-day transition conferences convened by the Connecticut Birth to Three System. The District has the capacity to ensure the availability of school personnel to attend 90-day transition conferences throughout the calendar year – including during the summer months.
- The District will schedule a Planning and Placement Team (PPT) meeting to discuss the referral of a child to the District. The District will schedule the PPT meeting sufficiently early (preferably soon after the 90-day transition conference) to ensure that an eligible child will receive a FAPE no later than their third birthday. Identification of PPT meeting dates can be a part of the discussion at the 90-day transition planning conference and a component of the child's written transition plan developed at the transition planning conference with the birth to three program, the family and the District.
- The District ensures that the child's birth to three providers are part of the PPT decision-making process and that the child's birth to three information, including the child's Individualized Family Service Plan ("IFSP") is used in the decision-making process.
- If the child is scheduled to transition from the Birth to Three program to the District, and that child turns three years of age during the summer months, the District will determine if the child is eligible for a FAPE and whether the child requires extended school year services (ESY). If the child is eligible for the provision of FAPE and requires ESY services, the District will ensure the implementation of the IEP no later than the child's third birthday, regardless of the fact that this occurs during the summer months. If it is determined that the child is eligible for FAPE and does not require ESY services, then the IEP will be implemented on the first day of school.
- The Department of Education and the Connecticut Birth to Three System agree that late referrals to the Birth to Three System (33 months and older) should be made simultaneously to

our District and the Connecticut Birth to Three System with the ultimate goal of ensuring that these children, if eligible, are provided with FAPE by their third birthday.

- In cases of children who are referred to the District at 34 or 35 months of age, the ultimate goal is to ensure that all eligible children are provided with a FAPE no later than their third birthday. In situations where that may not be possible, a “reasonable standard” would be the 45 school day rule – so that no more than 45 school days should pass from the date of referral to the implementation of the child’s IEP, if that child is eligible for FAPE. Thus, a referral for a child who is close to age three may result in IEP services initiated after the child’s third birthday.

Identification of Children Below School-Age

For children who are not involved in the Connecticut Birth to Three System even under the age of 3, our District conducts on-going child find activities which include community screenings as well as individual child specific screenings to determine if a child requires further evaluation (and, to determine the eligibility of children age 3 and above for special education and related services.)

Through this process, children who may require special education services are referred to the Planning and Placement Team for consideration for further evaluation. Parents and other referring parties may also contact the special education department to refer a child to a PPT.

Identification of School Age Students (5-21 Years of Age)

- **Transfer Students**

The principal or designee in each of our schools reviews the records of any new student transferring from another school system whether transferring from a District within Connecticut or from out of state. If the records indicate that the student has been identified as a student with disabilities and that the student requires special education and related services, the student is immediately enrolled in school and, in consultation with parents, given an appropriate program including services comparable to those described on the student’s IEP. If the Individualized Education Program from the sending school requires revision, a Planning and Placement Team meeting is held at the earliest possible opportunity to develop, adopt and implement a new IEP. For students transferring from another state, our District may also conduct an evaluation if determined to be necessary and develop a new IEP, if appropriate.

- **Currently Enrolled Students**

Students attending our District schools receive the ongoing attention of professional personnel to help support their successful learning. Students whose behavior, attendance, or progress in school is considered unsatisfactory, at a marginal level of acceptance (i.e., potential drop-outs), or are suspended repeatedly, are promptly referred to a PPT by completing the District’s standard referral form (*See Chapter 1 Appendix*) and notifying the parents within 5 school days of the referral by completing the Notice of Referral to PPT (*See Chapter 1 Appendix*). A PPT is scheduled to discuss the referral concerns and to decide how the PPT will proceed (*See Chapter 4 Evaluation*). Such students are identified through anecdotal records, conversations with parents, individual performance records and standardized test results (including, but not limited to, the Connecticut Mastery Tests or Connecticut Academic Performance Tests).

❖ **Alternative Procedures and Programs Prior to PPT Referral**

Before our District personnel refer a student to a Planning and Placement Team, alternative procedures and programs in regular education are explored and implemented where appropriate. Each school in our District has a team that provides a variety of alternative strategies to the teacher. This team is called Child Study Team. Parents are encouraged to collaborate with the teacher and other involved staff during this time.

Parents or school personnel may request assistance from the school's Child Study Team. The team works collaboratively with the classroom teacher and parents to develop and document strategies to assist the student within the regular education program. If the student's problems or difficulties persist, a prompt referral to a PPT is made.

❖ **Referral Form**

A standard referral form is used to document all referrals to the Planning and Placement Team. This form is available at the Special Education Department or in each of our District's schools. Concerned parents and/or staff may complete the form. Once the form is completed, it is given to the school administrator or his/her designee. The completion of this referral form initiates the Planning and Placement Team process (*See Chapter 1 Appendix*).

❖ **Gifted and Talented Students**

Students in our District in grades Kindergarten-12 who may be gifted and talented are identified, referred and evaluated using a process described in the Chapter 1 Appendix. While identification is mandated under state law, programming is permissive.

The definition of students requiring special education includes students identified as gifted and talented. In our District this includes any exceptional child who has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs or services beyond those ordinarily provided in the regular school programs but which may be provided through special education as part of the public school program.

"Gifted and talented" means a child identified by the planning and placement team as (1) possessing demonstrated or potential abilities that give evidence of very superior intellectual, creative or specific academic capability and (2) needing differentiated instruction or services beyond those being provided in the regular school program in order to realize their intellectual, creative or specific academic potential. The term includes children with extraordinary learning ability and children with outstanding talent in the creative arts as defined by these regulations.

"Extraordinary learning ability" means a child identified by the planning and placement team as gifted and talented on the basis of either performance on relevant standardized measuring instruments, or demonstrated or potential achievement or intellectual creativity or both. The term refers to the top five per cent of children so identified. (Note: The term means 5% of the children so identified as gifted and talented within the District.)

"Outstanding talent in the creative arts" means a child identified by the planning and placement team as gifted and talented on the basis of demonstrated or potential achievement in music, the visual arts or the performing arts. The term refers to the top five per cent of children so identified. (Note: The term means 5% of the children so identified as gifted and talented within the District.)

Procedures for Identification

The parents must be notified in writing that a referral to the Planning and Placement Team (PPT) has been made to determine a child's identification as either gifted or talented. A PPT is a group of certified and/or licensed professionals, who represent each of the teaching, administrative and pupil personnel staffs and who participate equally in the decision making process; the PPT includes the parents. These shall be persons knowledgeable in the areas necessary.

The PPT must process the referral for an evaluation. The PPT must review existing data to determine if the child may be eligible as gifted and talented. If the PPT determines that sufficient information exists to determine eligibility, further evaluation is not necessary. The parents may challenge the refusal of the PPT to find a child gifted and talented by requesting due process, discussed further below.

Steps in the Process of the Identification of Gifted and Talented Students

1. Parents must be notified in writing when the student is referred to the PPT for a consideration of identification of gifted and talented and, after the PPT has reviewed the assessment information, notified in writing if the student has met the criteria for eligibility as gifted or talented.
2. If the District recommends further evaluations and use an individual assessment procedure (e.g., an individual intelligence test), certain procedural safeguards must be followed. Individual assessment requires proper notice and informed consent. Parents are notified that their child has been referred for evaluation and written consent for the evaluation must be obtained. Parents are informed of the results of the evaluation and informed whether or not the child has been identified as gifted and talented.
3. If group assessment procedures are used to identify gifted and talented students, consent to perform such assessments may not be required. Group assessments (e.g. achievement tests) given to all students within a District are nonspecific and, therefore consent is not required. If a group of students are to be evaluated specifically to determine identification as gifted and talented, notice and consent are required.
4. If a school district uses individualized assessment procedures, an individual PPT may be held with the parents to discuss eligibility. However, districts are not required to hold individual PPTs with parents, since an IEP will not be developed. For purposes of determining eligibility where either individual and/or group assessments are used, it is acceptable for the PPT to review student assessment data and to identify a group of gifted and talented students during a single meeting.
5. Parents have the right to review and inspect any educational records related to their child. This includes records related to the determination of a child's identification as gifted and talented.
6. If at any time in the evaluation process the parents disagree with the decisions of the PPT, the parents have the right to challenge those decisions. For example, if the parents disagree with the District's refusal to evaluate the child, the parents may request either a mediation or due process hearing to challenge this refusal. If the PPT determines that the child is neither gifted nor talented, the parents may challenge this determination by requesting either mediation or a hearing. Parents may request an independent educational evaluation to challenge the evaluations conducted by the District.
7. Parents have the right to obtain an independent evaluation of their child, conducted by a certified person not employed by the District.
8. Parents have the right to an independent evaluation at public expense if they disagree with an evaluation obtained by the District. "Public expense" means at no cost to parents. However, the District may initiate a due process hearing to show that the evaluation is appropriate.
9. The District is not required to provide programming for children identified as gifted and talented. Instead, programming is permissive. Parents, then, can ask for educational services

that accommodate the educational needs of their children, but the District is not required to provide such special education services.

Child Identification Appendix

- District Referral Form
- District Notice of Referral PPT Form
- District Procedures for Identification of Gifted and Talented Students

School _____

Signature of School Administrator _____

Date Received _____

FAIRFIELD PUBLIC SCHOOLS
REFERRAL TO DETERMINE ELIGIBILITY FOR SPECIAL EDUCATION AND RELATED SERVICES

Student: _____ DOB: _____ Age: _____ Grade: _____
Parent/Guardian: _____ Primary Lang: ☐ English ☐ Other: _____
Address: _____ Referred by: _____
Referral Date: _____
Telephone: _____ Relationship to Child: _____

1. AREA(S) OF CONCERN:

Check major area(s) of concern, and briefly describe the child's behavior, or performance in each area checked. If you have identified more than one area of concern, circle the area you consider to be the highest priority.

☐ Academic ☐ Social/Emotional ☐ Gross/Fine Motor ☐ Activities of Daily Living
☐ Health Related ☐ Behavior ☐ Communication ☐ Other: (specify) _____

A. Describe Specific Concerns:

B. Describe Alternative Strategies Attempted and Outcome: (Use additional pages if necessary.)

Student: _____

DOB: _____

2. **Special Services History:**

Are you aware of any special services provided for this child now or in the past?

☐ Yes

☐ No

If Yes, describe the type, location, and provider of the service.

3. **Other Relevant Information:**

4. **Parent Notification:**

Has the parent/guardian been notified about your concerns regarding this student?

☐ Yes

☐ No

If Yes, method of notification: _____

Date(s) parent/guardian was notified: _____

Signed: _____

(Signature of individual completing this form)

Date: _____

***Please note:** The special education referral date immediately affords the student and parent(s) all special education procedural safeguards. This referral also "starts the clock" with respect to the timelines specified in RCSEA 10-76d-13(a)(1) and (2) which provide that "(1) The individualized education program shall be implemented within forty-five days of referral or notice, exclusive of the time required to obtain parental consent. (2) In the case of a child whose individualized education program calls for out-of-district or private placement, the individualized education program shall be implemented within sixty days of referral or notice, exclusive of the time required to obtain parental consent." If a parent communicates in writing directly with a staff member that they wish to refer their child for an evaluation to determine her/his eligibility for special education services, the date the staff member receives this written communication constitutes the date of referral. If a parent communicates verbally with a staff member that they wish to refer their child for an evaluation to determine her/his eligibility for special education services, the staff member should provide the parent with a copy of this referral form and, when necessary, assist the parent in completing this form. It should be understood that, in all instances, this is a referral for an evaluation to determine eligibility for special education services. Actual eligibility for special education services is determined by the PPT only after an evaluation has been completed.

FAIRFIELD PUBLIC SCHOOLS

PARENT NOTICE OF REFERRAL TO DETERMINE ELIGIBILITY FOR SPECIAL EDUCATION AND RELATED SERVICES

Date: _____

(Name of Parent/Guardian or Student)

(Street Address)

(City/Town) (State) (Zip Code)

Dear _____

The purpose of this letter is to advise you that your child, _____,
(Student's Name) (DOB)

has been referred for consideration of eligibility for special education services. The referral was made by:

_____, on _____
(Name of person or team making referral) (Date)

The next step in the referral process is to schedule a Planning and Placement Team meeting (PPT). At this meeting the available information regarding your child's current school performance will be reviewed and evaluation procedures for determining eligibility for special education services will be considered. Parent participation in this process is very important. We ask that you make every effort to attend this meeting.

Enclosed with this letter are the following materials:

- ☐ A copy of the referral which outlines specific concerns and the information used as the basis for this referral, including alternative strategies employed prior to the referral.
- ☐ A copy of Procedural Safeguards in Special Education. If you would like a further explanation of these procedures please contact: _____, at _____.
- ☐ A Planning and Placement Team meeting notice. (If a notice is not included with this letter you will receive one in a separate mailing.)
- ☐ Other: (specify) _____

Please be advised that you have the right to review and obtain copies of all records used as a basis for this referral.

If you have any questions, please contact, _____,
(Name) (Title)
at _____

Sincerely,

(Name and Title)

GIFTED EDUCATION:

Gifted education is provided for those students who demonstrate extraordinary learning ability or outstanding talent in the areas of Language Arts or Mathematics. Identification for the gifted program is based on a multi-step process involving multiple sources of information. The process starts with screening all third grade students using the CogAT Verbal, Quantitative and Nonverbal Assessment and the Connecticut Mastery Test (CMT). If more data are required, information is obtained from performance in the classroom as well as through additional assessments, such as the Gates-MacGinitie and the TOMAGS.

Teachers in grades K-3 provide enriched experiences in the classroom for students. Formal screening for gifted education starts in the spring of third grade. Challenge programming is provided to students in grades 4 & 5. At the middle school level, high achieving students are provided advanced instruction in Language Arts and Mathematics through differentiated classroom lessons and special programs. Language Arts classes are conducted using the Reading and Writing Workshop instructional approach providing for further study in areas of interest.

Student placement in advanced math classes is based on teacher recommendation and achievement. In addition to in-school programs, outside specialists provide programs and seminars on specific curricula or interest-based topics. At the high school level, programs including Honors and Advanced Placement courses and Multi-Variable Calculus represent the options for high ability and gifted students.



Chapter 2 — Confidentiality

The District maintains records of students requiring special education and related services. The District maintains strict confidentiality of these student records and other personally identifiable information at collection, storage, disclosure, and destruction stages of handling. Parents and other appropriate persons are given proper and needed access to records. Our District establishes and implements policy and procedures which ensure that records are classified, filed, protected, kept confidential, reviewed, and when appropriate, destroyed according to the Individuals with Disabilities Education Act (IDEA), and the Family Educational Rights and Privacy Act (FERPA) and the state's Records Retention Schedule (*See Chapter 2 Appendix*). Parents of students receiving special education and related services are notified annually of the availability of these policies and procedures. The written policies and procedures concerning education records are available to the public in the Superintendent's office.

❖ Generation and Maintenance of Records

Student records are defined as any records, files, documents, and other materials which are maintained in writing, found in computer memory banks, video, or audio tape, film, microfilm, and microfiche by the school system or persons acting for the school system. These records are collected, maintained, or used by the District in order to meet the requirements of IDEA. This includes records that are used for identification, evaluation and educational placement of a student for the provision of free appropriate public education.

Custodian of Records

The District has designated one official, the Director of Special Education, Pupil Services and Special Programs, who is responsible for ensuring the confidentiality of any personally identifiable information. This person is considered the custodian of records. The custodian of records ensures that all individuals who collect or use personally identifiable information receive training regarding the policies and procedures outlined in IDEA and the Family Educational Rights and Privacy Act, as well as in the District procedures.

Access to Confidential Student Information

Access to student records is only given to parents, a representative of the parents and parties who have been determined by our District to have a legitimate educational need. The District maintains, for public inspection at the Superintendent's office, a current list of the names and positions of those employees within the District who may have access to personally identifiable information (*See Chapter 2 Appendix*).

Record of Access

Our District maintains a record of the parties that have accessed a student's education record. With the exception of parents and authorized employees of our District, everyone who reviews a student's educational record is documented in the record of access. The record of access includes the name of the party having access, the date access was given, and the purpose for which the party was authorized to use the records (*See Chapter 2 Appendix*).

Disciplinary Information

The District includes in the records of a student with a disability a statement of any current or previous disciplinary action that was taken against the student. Our District includes this statement to the same extent that this information is included in nondisabled student's records. The statement may include a description of the disciplinary action taken and any other information that is relevant to the safety of the student and other individuals involved with the student. If the student transfers from one school to another, the transmission of any of the student's records must include the student's current and previous disciplinary action that has been taken against the student.

When the District initiates disciplinary procedures applicable to all students, the District ensures that the special education and disciplinary records of the student with a disability are transmitted for consideration to the person or persons making the final determination regarding the disciplinary action.

Referral to and Action by Law Enforcement and Judicial Authorities

The District reports criminal acts committed by a student with a disability as the District does crimes committed by students without disabilities. The District ensures that when the District reports a crime committed by a student with a disability that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to which the District reports the crimes. The District transmits copies of the student's special education records only to the extent that the Family Educational Rights and Privacy Act permit the transmission.

❖ Parental Rights

Parental Inspection and Review of Educational Records

When reference is made to parent, this also includes eligible students and surrogate parents. Parents have the right to inspect and review all education records pertaining to their child that are collected, maintained or used by the District to meet the requirements of special education law. Our District presumes that the parent has the authority to inspect and review records relating to their child unless the District has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation and divorce.

A request to review and inspect records must be in writing. The District makes records available to parents within ten school days of the request. Records are made available within three school days of the request if information is needed to plan for any due process proceeding or a PPT meeting. A representative of the parent may inspect and review the records.

Our District will provide to parents an explanation and an interpretation of their child's records upon parental request. The District provides to parents, upon request, a list of the types and locations of education records collected, maintained or used by our District.

Cost for Records or Search and Retrieval

In Connecticut, the right to review and inspect the records includes the right to one free copy of the records. Parents are required to submit a written request for the records; the District must comply within five school days of the request. Our District may charge for additional copies if the fee does not effectively prevent parents from exercising their right to inspect and review the records. Our District does not charge parents a fee to *search for* or to *retrieve* the educational records of a special education student.

NOTE: While test instruments are considered education records, any test instrument or portion of a test instrument for which the test manufacturer asserts an ownership or copyright interest may not be copied although they may be reviewed and inspected by parents. Our district retains test protocols for 2 years following evaluation and notifies parents before they are destroyed.

Limitations of Parents' Rights of Inspection and Review

Review and inspection of student records is restricted to information concerning the parent's own child. If our District maintains education records that include the names of more than one student, the parents of that student have the right to view information pertinent only to their child, or to be informed of that specific information.

❖ Rights of Eligible Students

A student who has attained 18 years of age, an emancipated minor, or a student who is attending a postsecondary education institution has the right of access to his/her educational records and is afforded the right to privacy.

The rights of parents regarding educational records under the Family Educational Rights and Privacy Act of 2003 are transferred to the student at age 18 or when she or he is attending postsecondary education. Because the rights given to parents under IDEA Part B are transferred to a student who reaches age 18, the rights regarding educational records are also transferred to the student.

When a student with a disability reaches age 18 (this includes those students incarcerated in an adult or juvenile, state or local correctional institution, but excludes those who have been determined to be incompetent under State law) our District does the following:

- Provides all required notices to both the student and the parents;
- Transfers to the student all other rights accorded to the parents under IDEA (as revised in 2004) Part B;
- Notifies the student and the parents of the transfer of rights; and
- Transfers the rights regarding education records to the student.

❖ Surrogate Parent

The rights of a student are protected by the appointment of a surrogate parent in the following circumstances:

- When the student requires or may require special education **and**
- When the parent cannot be identified after our District has made reasonable efforts to discover their whereabouts **or**
- When the student is under the guardianship of the Commissioner of the Department of Children and Families **or**
- When the Commissioner of the Department of Children and Families is the student's statutory parent, **or**
- When the student is an unaccompanied homeless youth as defined by the McKinney Vento Homeless Assistance Act.

The surrogate parent has legal rights afforded to parents or guardians with respect to special education and related services. The surrogate parent represents the student in all matters relating to the identification, evaluation, and educational placement and the provision of a free appropriate public education to the student. In the above instances, notice to our District is issued from the Department of Children and Families if they have been involved in the student's placement. The District will request from the State Department of Education the assignment of a surrogate parent.

❖ Amendment of Student Records

Request for Amendment

Parents or eligible students may request that the custodian of records amend their child's or their own confidential record (if the student is over 18 years of age) if they believe that information in the education record is inaccurate, misleading, or violates the privacy rights of the student. Within a reasonable period of time, the custodian of records will decide whether to amend the information in accordance with the parent's request.

Hearing to Amend Student Records

If the custodian of records refuses to amend the records, parents are informed of the refusal. They are advised of their right to a hearing with the District to challenge the information in the record on the grounds that it is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. Hearings as a result of a parent request for amendment of a student's special education record are conducted in accordance with the procedures of the Family Educational Rights and Privacy Act.

These procedures are as follows:

- The hearing is held within a reasonable time after the District has received the request for a hearing from the parent or eligible student.
- The District provides the parent or eligible student notice of the date, time and place of the hearing reasonably in advance of the hearing.
- An individual (including an official of the District), who does not have a direct interest in the outcome of the hearing, conducts the hearing.
- The District provides the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised.
- The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
- The District provides to the parents within a reasonable period of time after the hearing a written decision of the hearing.
- The hearing decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decisions.

Hearing Decision to Amend the Records

If the decision of the hearing is that the data are inaccurate, misleading or otherwise in violation of the privacy rights of the student, our District will inform the parent or eligible student of this in writing. The record will be revised accordingly.

Hearing Decision to Not Amend the Records

If the hearing finds that the information is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, our District informs the parent or eligible student of the decision. The District also notifies them of their right to place, in the District-maintained student's record, a statement commenting on the contested information or setting forth any reason for disagreeing with the District's decision or both. Any explanation placed in the record of the student shall be maintained by the school system as part of the records of the student as long as the record or contested portion is maintained by the school system. If the District discloses education records to any party, any explanation having been placed in the record will also be disclosed.

❖ Release of Confidential Information

Parent Consent and Record Protection

Our District protects the confidentiality of personally identifiable information at all stages of handling; this includes collection, storage, disclosure and destruction of information. In all cases except where consent is not required under the Family Education Rights and Privacy Act (FERPA), the District obtains parental consent before personally identifiable information is disclosed to anyone other than officials of the District (who our District has determined to have a legitimate educational interest). This is also true when it is used for any purpose other than meeting a requirement of the IDEA. The District does not release information from education records to other providers of special education and related services (IDEA) without parental consent unless authorized to do so under FERPA and Connecticut State Statute.

Conditions when Prior Consent is not required to Disclose Information

In accordance with the Family Educational Rights and Privacy Act and Section 10-220h of Connecticut Education Law, the District may disclose personally identifiable information from a student's education record without parent/student consent if the disclosure is:

1. To other school officials, including teachers within the educational agency and consultants with whom the District contracts who have been determined by such agency/institution to have legitimate educational interests;
2. To officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer at the same time that the District transfers the records, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. When the new school district informs us in writing that the student is enrolled, the District will transfer the record no later than ten days after receipt of the written notification;
3. To authorized representatives of the Comptroller General of the United States; the Secretary of Education; the U.S. Commissioner of Education; the Director of the National Institute of Education, or the Assistant Secretary of Education; or State Educational Authorities, under certain conditions as described below. The District will provide such authorized representatives access to student or other records, which may be necessary in connection with the audit, evaluation or enforcement of state and federally supported education programs. The District will not permit such representatives to collect personally identifiable data unless specifically authorized to do so by state and federal law;
4. In connection with a student's application for, or receipt of, financial aid;
5. To state and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974;

6. To accrediting organizations in order to carry out accrediting functions;
7. To parents of a dependent student as defined in Section 152 of the Internal Revenue Code of 1986;
8. In connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Factors to be taken into account in determining whether personally identifiable information from the education records of a student may be disclosed include:
 - The seriousness of the threat to the health or safety of the student or other individuals;
 - The need for the information to meet the emergency;
 - Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and
 - The extent to which time is of the essence in dealing with the emergency;
9. To comply with a judicial order or lawfully issued subpoena provided that the educational agency makes a reasonable effort to notify the parent or the eligible student in advance of compliance;
10. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests or student aid programs, and improving instruction; and
11. Between two or more schools in which the student is enrolled or receiving services.

When the District reports the commission of a crime committed by a student with a disability to the appropriate authorities, the District sends copies of the special education and disciplinary records of the student to the appropriate authorities to which the District reports the crime. The District also sends copies of the student's special education and disciplinary records to the extent permitted by the Family Educational Rights and Privacy Act (*See Chapter 2 Appendix*).

❖ Duration and Destruction of Records

Our District's special education department informs parents when personally identifiable information, which was collected, maintained or used under IDEA is no longer relevant to the provision of educational services to a student and the District plans to destroy the information. (Also see note on page 3 of this chapter.) The District reminds parents that they or their child may need the information for Social Security benefits or other purposes in the future. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Parents may also request that the records be destroyed and if the District is no longer using it to provide education services to the student, the District destroys it. If there is an outstanding request to inspect the records, they will not be destroyed until that request is satisfied. Records of students placed by our District in regional education service centers and approved private special education programs are education records, therefore retention and destruction of this information is our obligation. The District notifies parents/guardians of the location of records that are maintained by these agencies and parents has access to the copy. The District considers records to be no longer needed to provide educational services to a student when the minimum retention period as recommended by the State of Connecticut is achieved (*See Chapter 2 Appendix*).

Confidentiality Appendix

- Family Education Rights and Privacy Act (FERPA)-located at <http://www.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf> in the Family Policy Compliance Office of this website
- Current list of names and positions of those employees who may have access to personally identifiable information
- Municipal Records Retention Schedule for Educational Records (Schedule M8)-located at <http://www.cslib.org/retschedules.htm>
- Access Record form

Schedule M8 - Education Records, p.1

Municipal Records Retention Schedule M8
EDUCATION RECORDS

Item Number	Record Series Title	Minimum Retention Required	Disposition
M8-010	A. CHILD-STUDY TEAM RECORDS ¹	6 years after student leaves the school district	destroy ²
	B. EDUCATION INFORMATION ¹ (including but not limited to):		
M8-015	1. Curriculum	Until superceded by new curriculum	destroy ²
	2. Cumulative records ³		
M8-020	a. Academic achievement (grades/transcripts)	50 years after student leaves the school district ⁴	destroy ^{2,5}
M8-025	b. Attendance records (days absent/present/tardy) ⁶	50 years after student leaves the school district	destroy ²
M8-030	c. Awards	6 years after student leaves the school district	destroy ²
M8-035	d. Basic biographical information	50 years after student leaves the school district	destroy ^{2,5}
M8-040	e. Diagnostic test results (non-special ed)	6 years after student leaves the school district	destroy ²
M8-045	f. Extracurricular activities	6 years after student leaves the school district	destroy ²
M8-050	g. Letters of recommendation	6 years after student leaves the school district	destroy ²
M8-055	h. Parent's ⁷ /eligible student's signed release forms, if required by school policy ⁸	as long as records are maintained	destroy ²

Schedule M8 - Education Records, p.2

Item Number	Record Series Title	Minimum Retention Required	Disposition
	B. EDUCATION INFORMATION¹ (Cont.):		
M8-060	i. Records of immunization ⁹	50 years after student leaves the school district	destroy ²
M8-065	j. Standardized group test scores	6 years after student leaves the school district	destroy ²
M8-075	3. Diplomas	6 years after student leaves the school district ¹⁰	destroy ²
	4. Disciplinary records		
M8-085	a. Detentions	no requirement	destroy ²
M8-090	b. Incident reports	no requirement	destroy ²
M8-095	c. Referrals	no requirement	destroy ²
M8-100	d. Suspensions/expulsions	For expunging the cumulative record, see <i>Connecticut General Statutes</i> Section 10-233c(e) and 10-233d(f). ¹¹	destroy ²
M8-110	5. Enumeration Records/Field Sheets	3 years	destroy ²
M8-115	6. Tardy slips from parents/guardians	At completion of school year	destroy ²
M8-120	C. FAMILY WITH SERVICE NEEDS RECORDS ¹	6 years after student leaves the school district	destroy ²
M8-130	D. GRADE BOOKS ¹	current, plus 1 year	destroy ²

Schedule M8 - Education Records, p.3

Item Number	Record Series Title	Minimum Retention Required	Disposition
	E. HEALTH INFORMATION¹ , (including but not limited to)		
	1. Cumulative records		
M8-140	a. Accident reports	6 years after student leaves the school district	destroy ²
M8-145	b. Basic school entrance health histories	6 years after student leaves the school district	destroy ²
M8-150	c. Child abuse forms	6 years after student leaves the school district	destroy ²
M8-155	d. Cumulative health record (CHR-1, original or copy) ¹²	6 years after student leaves the school district	destroy ²
M8-160	e. Emergency care plans	6 years after student leaves the school district	destroy ²
M8-165	f. Health assessment records (HAR-3)	6 years after student leaves the school district	destroy ²
M8-170	g. Incident reports	6 years after student leaves the school district	destroy ²
M8-175	h. Individualized health care plans	6 years after student leaves the school district	destroy ²
M8-180	i. Medication administration records	until superseded by yearly summary on CHR-1 or 6 years after student leaves the school district	destroy ²
M8-185	j. Parent authorizations for medications/treatments	6 years after student leaves the school district	destroy ²
M8-190	k. Parent's ⁹ eligible student's signed release forms, if required by school policy ⁷	as long as records are maintained	destroy ²

Schedule M8 - Education Records, p.4

Item Number	Record Series Title	Minimum Retention Period	Disposition
M8-195	1. Physician orders for medications/treatments	6 years after student leaves the school district	destroy ²
E. HEALTH INFORMATION¹ (cont.):			
M8-200	m. Referral forms for services based on results mandated screenings	6 years after student leaves the school district	destroy ²
M8-205	n. Sports histories and physical-examination reports	6 years after student leaves the school district	destroy ²
M8-215	2. Employee's emergency health information	until superseded or until employee leaves school district	destroy ²
M8-225	3. Nursing protocols	permanent; revise as required. Keep old copy separately	retain permanently
	4. Nursing records		
M8-235	a. Health assessment data	6 years after student leaves the school district	destroy ²
(M8-180)	b. Individual-treatment or procedure logs/flow sheets	see retention period for medication records	
M8-240	c. Nursing process notes	6 years after student leaves the school district	destroy ²
M8-245	d. Third-party health records (from hospitals, clinics, and private providers)	6 years after student leaves the school district	destroy ²
M8-255	5. Physician's standing orders	permanent; revise as required. Keep old copy separately.	retain permanently
M8-265	6. Student's emergency information card	until superseded or student leaves school district	destroy ²

Schedule M8 - Education Records, p.5

Item Number	Record Series Title	Minimum Retention Required	Disposition
M8-275	F. POLICY AND PROCEDURE MANUALS	permanent; revise as required. Keep old policy and procedures separately. ¹³	retain permanently ¹³
M8-285	G. PRIMARY MENTAL HEALTH PROGRAM RECORDS ¹	no requirement	destroy ²
M8-295	H. PROFESSIONAL STAFF'S WORKING PAPERS/NOTES ^{14,15}	no requirement	destroy ²
M8-305	I. PROGRAM DATA RECORDS Statistical data (including but not limited to): Services provided or professional activities—e.g., number and type of daily visits, number of screenings, number of home visits, caseload records, etc. These records include both raw data files (or logs) and reports. ¹⁶	no requirement	destroy ²
	J. PUPIL PERSONNEL SERVICES ¹ (including, but not limited to):		
M8-315	1. School counselor case records	6 years after student leaves the school district	destroy ²
M8-325	2. School nurse case records	See E. HEALTH INFORMATION	
M8-335	3. School psychologist case records	6 years after student leaves the school district	destroy ²
M8-345	4. School social-work case records	6 years after student leaves the school district	destroy ²
M8-355	5. School speech/language pathology case records	6 years after student leaves the school district	destroy ²

**FAIRFIELD PUBLIC SCHOOLS
CONFIDENTIAL FILE
ACCESS RECORD**

Student Name: _____ DOB: _____

Name of Individual Accessing Record (include name of agency)	Purpose for Accessing Record	Date of Access to Record

Chapter 3 — Prior Written Notice and Consent

❖ Written Notice

Parents and eligible students are provided written notices at specific points throughout the special education process. These situations are identified in IDEA and Connecticut regulations. The State Department of Education's procedural safeguards document is provided to parents and eligible students at many of these times as well (*See Chapter 3 Appendix*).

Age of Majority

The District sends all required notices to both the student and the parent when a student reaches age eighteen. The only exception to this is for a student who has been determined to be incompetent under state law. Throughout this section, students age eighteen or older who have not been determined to be incompetent under state law are referred to as (an) "eligible student(s)".

Description of Prior Written Notice

Prior written notice is a document that our District provides to parents and eligible students. This document serves to notify parents and eligible students, in writing, five school days before the District proposes to or refuses to initiate or change the student's identification, evaluation or educational placement or the provision of a free appropriate public education ("FAPE") to the student. This includes graduation from high school with a regular diploma or whenever a decision will effect the provision of a free appropriate public education. The term "regular high school diploma" does not include alternative degrees such as certificates of attendance or completion of a general educational development credential ("GED").

The written prior notice will have the following information: [Page 3 of ED 620]

- Description of the action proposed or refused by the PPT;
- Explanation of why the PPT proposes or refuses to take the action;
- Description of any options the PPT considered and the reasons why those options were rejected;
- Description of each evaluation procedure, test, record, or report the District used as a basis for the proposal or refusal;
- Description of any other factors that are relevant to the PPT's proposal or refusal; and
- Statement that a parent or eligible student has the right to protection under procedural safeguards. If this notice is not an initial referral, prior written notice will include a description of how the procedural safeguards can be obtained. Prior written notice will include sources to contact to obtain assistance in understanding the provisions of IDEA.

Additional Situations Requiring Notice

In addition to the above information, IDEA requires notice to be given to the parents and eligible students for a disciplinary situation that results in placement in an interim alternative educational setting. The Connecticut regulations also require that notice be given to parents and eligible students in other situations in the special education process as described below. These are not prior written notice as described above, but each has its own set of required components.

Referral [ED 622]

Our District notifies parents and eligible students in writing within five school days after the date of a referral to special education (*See Chapter 3 Appendix*). The notice contains the following elements:

- Reason for notice;
- Source of the referral;
- Date of the referral; and
- Statement of parental rights or eligible student's rights to review and obtain copies of all records used as a basis for referral.

A full explanation of all procedural safeguards available to the parent or eligible student is sent with the referral notice.

Indication of the Convening of a Planning and Placement Team Meeting [ED 623]

At least five school days prior to a meeting to develop, review or revise a student's Individualized Education Program (IEP), the parent or eligible student is advised in writing, in her or his native language, of the right to participate as a member of the Planning and Placement Team.

The elements of the notice include:

- The purpose for the PPT meeting;
- A time and location of the meeting with a statement that the meeting can be rescheduled at a mutually agreed upon time and place;
- Who will be in attendance and who will be invited to the meeting; and
- An indication that parents or eligible students can bring anyone of their choosing to the meeting.

If the PPT's purpose is to develop transition goals and objectives as part of the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the PPT team, the notice of the PPT indicates:

- This purpose of the meeting;
- That the student is invited;
- Identification of any other agency that will be invited to send a representative with the written consent of the parent (also see chapter 5, page 2); and
- All other PPT meeting notice elements listed above.

Initial Evaluation [ED 625]

The notice to secure original consent for an initial evaluation includes the elements of prior written notice and the following elements:

- The reason for notice;
- A description of each evaluation procedure, test, record or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;
- A statement that parents or eligible students have the right to refuse consent and that, if given, it may be revoked at any time;

- A statement that if parents or eligible students contest the evaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- A statement that failure to respond within ten school days from the date of the notice, shall be construed as refusal of consent;
- An indication that a copy of the procedural safeguards document is included with the notice; and
- An indication that parents or eligible students will receive a copy of the evaluation report and documentation of determination of eligibility.

Reevaluation [ED 627]

In addition to the elements of prior written notice, the reevaluation notice must include:

- The reason for notice;
- A description of each evaluation procedure, test, record or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;
- A statement that parents or eligible students have the right to refuse consent and that, if given, it may be revoked at any time;
- A statement that if parents or eligible students contest the reevaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- An indication that parents or eligible students will receive a copy of the evaluation report and documentation of determination of eligibility.

Parents and eligible students are notified when no additional data is needed for reevaluation and they are informed of that decision, the reasons for it, and their rights to request an assessment to determine whether the student continues to be a student eligible for special education.

Disciplinary Situations That Result in Interim Alternative Educational Settings

In disciplinary situations, parents and eligible students are notified no later than the date on which a decision is made to take an action that may or will result in one or more of the following:

- The student will be placed in an appropriate interim alternative educational setting for reasons of weapons, drugs, or serious bodily injury (see chapter 10).
- A hearing officer will order a change in the placement of a student to an appropriate interim alternative setting.
- The student will be removed from school for a period of time that would be considered a change in placement.

Parents or eligible students are provided a copy of procedural safeguards.

Communication of Written Notice

The District communicates prior written notice in a language understandable to the general public. It is in the native language of the parent and eligible students or other mode of communication used by the parent and eligible students unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the District will take steps to ensure that there is written evidence that the notice is translated orally or by other means to the parent and eligible student and that the parent and eligible student understands the content of the notice.

Timelines for Prior Written Notice

The District provides parents and eligible students with written notice five school days before the Planning and Placement Team proposes to, or refuses to, initiate or change the identification, evaluation or educational placement of the student. This includes graduation from high school with a regular diploma or issues regarding the provision of a free appropriate education to the student.

❖ Parental Consent

In accordance with Federal regulations, the District requires informed parental (or eligible student) consent prior to an initial evaluation, reevaluation, and an initial provision of special education services and release of confidential educational records under specific conditions (see chapter 2). Also in accordance with Connecticut regulations, our District requires consent prior to a private placement.

Consent means that the parent (or eligible student):

- has been fully informed of all information relevant to the activity for which consent is sought. This information is given to the parent or eligible student in his or her native language, or other mode of communication unless it is clearly not feasible to do so;
- understands and agrees in writing to the carrying out of the activity for which her or his consent is sought. The consent describes that activity and lists the records (if any) that will be released and to whom they will be released; and
- understands that the granting of consent is voluntary and may be revoked at any time.

Obtaining Parental Consent

In our District, parental (or eligible student) consent is obtained prior to an initial evaluation and reevaluation (with the exception noted below), an initial provision of special education services, and a private placement. Consent for initial evaluation is not construed as consent for initial provision of special education services.

Parents (or eligible students) may not object to the inclusion in an initial evaluation or reevaluation of the following:

- review of existing data, or
- testing or other evaluation that is administered to all students, unless, before administering that test or evaluation, consent is required of parents of all students.

Parental (or eligible student) consent for reevaluation need not be obtained if the District can document that the District has taken reasonable measures to obtain the consent and the parent (or eligible student) has failed to respond. In these situations the District would have some documentation indicating the following activities:

- detailed records of telephone calls made or attempted and the results of these calls;
- copies of correspondence sent to the parents (or eligible student) and any responses received; and
- detailed records of visits made to the parent's (or eligible student's) home or place of employment and the results of those visits.

Parental Refusal for Consent or Withdrawal of Consent

If a parent (or eligible student) revokes consent, that revocation is not retroactive. Therefore, it does not negate an action that has occurred after consent was given and before consent was revoked.

Our District does not use a parent's (or eligible student's) refusal to consent to one service or activity to deny the parent or student any other service, benefit or activity in our District.

If a parent (or eligible student) refuses or withdraws consent in the case of an initial evaluation or reevaluation, our District may continue to pursue these PPT decisions by using due process, including mediation. If a hearing officer upholds our District decisions, the District may evaluate or reevaluate.

If a parent (or eligible student) refuses consent or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the District will not pursue the provision of special education and related services by using due process, including mediation.

If parental (or eligible student) consent is not given or is revoked for private placement, the District will request a hearing provided the private placement is not the initial placement for the child.

Consent Forms

All consent forms in our District include:

- A statement of parents' (or eligible student's) right to refuse consent and that, if given, it may be revoked at any time;
- A statement that parental (or eligible student's) failure to respond within ten school days from the date of the notice shall be construed as refusal of consent (not applicable to reevaluation); and
- A statement that, if contested, a student's current educational placement will not change until due process procedures have been completed.

❖ Procedural Safeguards

Our District considers provision of procedural safeguards an essential part of prior written notice. Procedural safeguards are given to parents (or eligible students) as part of the prior written notice (*See Chapter 3 Appendix*). A copy of the procedural safeguards are given to the parents (or eligible students), at least one time a year and upon the following occurrences:

- initial referral or parent request for evaluation;
- upon receipt of the first complaint made under the State's Complaint Resolution Process or the first due process complaint filed in a school year;
- on the date on which the decision is made to remove a child from his or her educational placement because he or she has violated a code of student conduct and the removal constitutes a change in placement [see Chapter 10, Discipline]; or
- upon request by a parent.

The State Department of Education's procedural safeguard document provided to parents (or eligible students) includes the following:

- Evaluation of a child by a person who does not work for the school district. This is called an independent educational evaluation;
- Giving the parent a copy in writing of what the school is proposing or refusing to do about a child's program (prior written notice);
- Getting parent permission before the school administers evaluations or provides special education services to a child;
- Inspecting, reviewing and obtaining a copy of a child's educational record;
- Due process hearings;
- Advisory opinions;
- A child's program during the pendency of a due process hearing;
- Procedures when disciplining a child with a disability;
- Steps a parent must follow if a parent places a child in a private school and expects the school to pay;
- Mediations;
- Expedited due process hearings;
- Bringing a case to court;
- Attorneys' fees;
- State complaints;
- The difference between due process hearings and state complaints; and
- Electronic Mail.

Communication of Procedural Safeguards

The description of the procedural safeguards available to parents (or eligible students) is provided in the native language of the parent (or eligible student) or other mode of communication used by the parent (or eligible student) unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent (or eligible student) is not a written language, the District takes steps to ensure that the procedural safeguards is translated orally or by other means to the parent (or eligible student) in his or her native language or other mode of communication that the parent (or eligible student) understands. The District ensures that the parent (or eligible student) understands the content of the procedural safeguards and that there is written evidence that these requirements have been met.

Hearing Officers

The District maintains a list of the persons who serve as hearing officers. This list, provided to us by the State Department of Education, includes a statement of the qualifications of each person on the list (*See Chapter 3 Appendix*)

Prior Written Notice and Consent Appendix

- Prior Written Notice form
- Notice of Referral
- Notice of Planning and Placement Team Meeting
- Notice and Consent for an Initial Evaluation
- Consent for Special Education Placement
- Notice and Consent for a Reevaluation
- Procedural Safeguards
- List of Hearing Officers

Student: _____ District: _____ Meeting Date: _____
 DOB: _____ mm/dd/yyyy

PRIOR WRITTEN NOTICE

Actions Proposed	Reasons for proposed actions	Evaluation procedure, assessment, records, or reports used as a basis for the actions proposed (dated)	Date These actions will be implemented
<input type="checkbox"/> Educational performance supports proposed actions <input type="checkbox"/> Evaluation results support proposed actions <input type="checkbox"/> Previous IEP goals and objectives have been satisfactorily achieved <input type="checkbox"/> Student has met Exit Criteria <input type="checkbox"/> Other _____	<input type="checkbox"/> Achievement _____ <input type="checkbox"/> Adaptive _____ <input type="checkbox"/> Classroom Observation _____ <input type="checkbox"/> Cognitive _____ <input type="checkbox"/> Communication _____ <input type="checkbox"/> Developmental _____ <input type="checkbox"/> Health/Medical _____	<input type="checkbox"/> Motor _____ <input type="checkbox"/> Report Cards _____ <input type="checkbox"/> Review of Records _____ <input type="checkbox"/> Social Emotional Behavior _____ <input type="checkbox"/> Teacher Reports _____ <input type="checkbox"/> Other (specify and dated) _____	(Minimum five school days from date parent received prior written notice) date(s): _____
Actions Refused	<input type="checkbox"/> Educational performance supports refusal <input type="checkbox"/> Evaluation results support refusal <input type="checkbox"/> Previous IEP goals and objectives have been satisfactorily achieved <input type="checkbox"/> Student has met Exit Criteria <input type="checkbox"/> Other _____	Evaluation procedure, assessment, records, or reports used as a basis for the refusal <input type="checkbox"/> Achievement _____ <input type="checkbox"/> Adaptive _____ <input type="checkbox"/> Classroom Observation _____ <input type="checkbox"/> Cognitive _____ <input type="checkbox"/> Communication _____ <input type="checkbox"/> Developmental _____ <input type="checkbox"/> Health/Medical _____	<input type="checkbox"/> Motor _____ <input type="checkbox"/> Report Cards _____ <input type="checkbox"/> Review of Records _____ <input type="checkbox"/> Social emotional Behavior _____ <input type="checkbox"/> Teacher Reports _____ <input type="checkbox"/> Other (specify and dated) _____
Other options considered and rejected in favor of the proposed actions <input type="checkbox"/> Full-time placement in general education with supplementary aids and services. <input type="checkbox"/> No other options were considered and rejected. <input type="checkbox"/> Other options considered and rejected in favor of this action: _____	Rationale for rejecting other options <input type="checkbox"/> Options would not provide student with an appropriate program in the least restrictive environment <input type="checkbox"/> Other: (specify) _____	Other factors that are relevant to this action <input type="checkbox"/> There are no other factors that are relevant to the PPT decision <input type="checkbox"/> Information/concerns shared by the parents <input type="checkbox"/> Information/preferences shared by the student <input type="checkbox"/> Other: (specify) _____	Exit Information <input type="checkbox"/> Date of exit from Special Education _____ <input type="checkbox"/> Returning to general education _____ <input type="checkbox"/> Reason for exiting Special Education: _____

Parents please note: Under the procedural safeguards of IDEA, a copy of the Procedural Safeguards in Special Education shall be given to the parents of a child with a disability only one time per year, except that a copy also shall be given to the parents: 1) upon initial referral or parental request for evaluation, 2) upon the first occurrence of the filing of a complaint under Section 615(b)(6), 3) upon request by a parent, and 4) upon a change of placement resulting from a disciplinary action. A copy of Procedural Safeguards in Special Education which explains these protections **was made available previously this school year** (date) _____. **is enclosed with this document.** A copy of Procedural Safeguards in Special Education is available on school district website : <http://www.state.ct.us/sde/deps/special/index.htm>. If you need assistance in understanding the provisions of IDEA, please contact your child's principal, the district's special education director or the CT's federally designated Parent Training and Information Center (CPAC at 800-445-2722). For a copy of "A Parent's Guide to Special Education in CT" and other resources contact SERC (800-842-8878) or go to: www.state.ct.us/sde/deps/special/index.htm.

**FAIRFIELD PUBLIC SCHOOLS
NOTICE OF PLANNING AND PLACEMENT TEAM MEETING**

Date: _____

(Name of Parent/Guardian or Student)

(Street Address)

(City/Town) (State) (Zip Code)

Dear _____

Please be advised that a Planning and Placement Team (PPT) meeting will be convened on behalf of:
_____, _____ . The meeting is scheduled as follows:
(Student's Name) (DOB)

Date: _____ **Time:** _____ **Location:** _____

The purpose of this meeting is to: (check all that apply)

- ☐ discuss a referral to special education and consider/plan an evaluation
- ☐ review evaluation results and determine eligibility for special education
- ☐ develop, review or revise the IEP
- ☐ conduct an Annual Review
- ☐ consider transition needs/services – student will be invited to attend the meeting and: **(check all items below that apply)**
 - ☐ transition goals and objectives in the IEP will be developed/reviewed/revised (required at the annual review following a student's 15th birthday or sooner, if appropriate)
 - ☐ the agency representative(s) listed below will be invited to attend to assist in transition planning
- ☐ plan a reevaluation to determine continuing eligibility for special education and related services
- ☐ review reevaluation results to determine continuing eligibility for special education and related services
- ☐ conduct a Manifestation Determination
- ☐ other: (specify) _____

The following individuals have been invited to attend:

Administrator

Student's Reg. Ed. Teacher

Special Education Teacher

Student

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Name and Title

Parent participation in this process is very important. Please make every effort to attend this meeting. You may bring any other individuals to the meeting, including those who have knowledge or special expertise regarding your daughter/son. The meeting may be rescheduled at a mutually agreed upon time and place.

If you have any questions or wish to reschedule the meeting please contact me at _____
(Telephone No.)

Sincerely,

(Name and Title)

- ☐ A copy of the Procedural Safeguards in Special Education is enclosed.
- ☐ A copy of the Procedural Safeguards in Special Education was provided to you previously this school year. If you would like another copy of the Procedural Safeguards please contact _____
(Name)
- ☐ A copy of this notice has been sent to the parent(s). (This is required if rights under IDEA have been transferred to the student at age 18. When rights transfer, meeting notices must be sent to the student with a copy to the parents.)

FAIRFIELD PUBLIC SCHOOLS
NOTICE AND CONSENT TO CONDUCT AN INITIAL EVALUATION

Date: _____

Dear _____

Your child, _____, _____ has been referred for an evaluation to determine
(Student's Name) (DOB)

eligibility for special education services. Federal and State regulations require that the school district obtain the written consent of parents before conducting such an evaluation.

- ☐ A copy of the Procedural Safeguards in Special Education is enclosed.
- ☐ A copy of the Procedural Safeguards in Special Education was provided to you previously this school year. If you would like another copy of the Procedural Safeguards, an explanation of these procedures, or if you have any questions, please contact:

_____ at _____
(Name) (Title) (Telephone Number)

This document includes the following rights:

- A. Parents have the right to refuse consent and, if given, it may be revoked at any time.
- B. Parental failure to respond within 10 school days from the date of this notice shall be construed as refusal of consent.
- C. If contested, your child's current educational placement will not change until due process proceedings have been completed.
- D. Parents have the right to review and obtain copies of all records used as a basis for a referral.
- E. Parents have the right to be fully informed of all evaluation results and to receive a copy of the evaluation report.
- F. Parents have the right to obtain an independent evaluation as part of the evaluation process.
- G. Parents have the right to utilize due process procedures.

☐ The tests/evaluation procedures listed below were recommended

☐ The PPT has decided that the available evaluation information listed below is sufficient to determine eligibility:

Reason: (specify) _____

<u>TEST/EVALUATION PROCEDURE</u>	<u>AREA OF ASSESSMENT</u>	<u>EVALUATOR</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Special adaptations or accommodations are to be considered when indicated by the student's language, cultural background or physical status. Adaptations/accommodations required for this evaluation are:

☐ No adaptations/accommodations required

☐ Adaptations/accommodations required: (specify) _____

PARENTAL CONSENT

☐ I give my consent for the [DISTRICT NAME] Public Schools to utilize the evaluations described above. I understand that this consent may be revoked at any time.

Parent/Guardian Signature Date

☐ I do not give my consent for the [DISTRICT NAME] Public Schools to conduct the evaluations described above. I understand that the school district must take steps as are necessary, which may include due process proceedings, to ensure that my child continues to receive a free appropriate public education.

Parent/Guardian Signature Date

FAIRFIELD PUBLIC SCHOOLS
CONSENT FOR SPECIAL EDUCATION PLACEMENT

I. Identification Information:

Student: _____ DOB: _____
School: _____ Grade: _____
Parent/Guardian: _____

II. Consent Requirements:

Federal regulations mandate that parents (guardians) give written consent for the initial placement of their child in a special education program. State regulations require written consent for a private special education placement. In both instances the consent must be in writing and given prior to placement.

- ☐ A copy of the Procedural Safeguards in Special Education was provided to you previously this school year. If you would like another copy of the Procedural Safeguards or an explanation of these procedures, or if you have any questions, please contact:

_____ at _____
(Name and Title) (Telephone Number)

Included in this document are the following rights:

- A. Parents have the right to refuse consent and, if given, it may be revoked at any time.
- B. Parental failure to respond within 10 school days from the date of this notice shall be construed as refusal of consent.
- C. If contested, your child's current educational placement will not change until due process proceedings have been completed unless you and the district otherwise agree.
- D. Parents have the right to utilize due process proceedings

III. Placement Description

The following special education placement is being proposed for your child, _____
(child's name)

The proposed placement is: ☐ Initial Placement in Special Education ☐ A Private Placement and is described in an IEP dated: _____ (Note: An IEP must be developed prior to either placement)

IV. Written Consent

- ☐ **I consent to** the special education placement described in item III, above. I understand that, for an initial placement in special education, my consent is valid for changes in my child's program or placement (except placement in a private program) if proper notice is given to me and I have not revoked my consent.

Parent/Guardian Signature Date

- ☐ **I do not consent to** the special education placement described in item III, above. I understand that by refusing consent for the initial placement in special education, I waive all rights to special education services and protections at the time consent is refused. I may still ask for a reevaluation or hearing on the evaluation or the appropriateness of the special education and related services being offered. I also understand that, if I am refusing consent for a private placement, the school district must initiate due process, provided the private placement is not the initial placement of the child.

Parent/Guardian Signature Date

FAIRFIELD PUBLIC SCHOOLS
NOTICE AND CONSENT TO CONDUCT A REEVALUATION*

Date: _____

Dear _____

A Planning and Placement Team (PPT) meeting regarding your child, _____, _____
(Student's Name) (DOB)

was held on _____ . The team determined that an evaluation should be conducted for the following reason:
(meeting date)

- ☐ To comply with Federal and State regulations which require that each child receiving special education and related services must be reevaluated at least every three years to determine eligibility for special education services.
- ☐ To assess your child's current level of functioning
- ☐ Other: (specify) _____
- ☐ A copy of the Procedural Safeguards in Special Education is enclosed.
- ☐ A copy of the Procedural Safeguards in Special Education was provided to you previously this school year. If you would like another copy of the Procedural Safeguards or an explanation of these procedures, or if you have any questions, please contact:

_____ at _____
(Name) (Telephone Number)

This document includes the following rights:

- A. Parents have the right to refuse consent and, if given, it may be revoked at any time.
- B. If contested, your child's current educational placement will not change until due process proceedings have been completed.
- C. Parents have the right to be fully informed of all evaluation results and must be provided with a copy of the evaluation report(s).
- D. Parents have the right to obtain an independent evaluation as part of the evaluation process.
- E. Parents have the right to utilize due process procedures.

Evaluation Procedures:

- ☐ The tests/evaluation procedures listed below were recommended
- ☐ The PPT has determined that no additional tests/evaluations are needed to determine continuing eligibility for special education services (and no parent consent is required) because: (specify) _____

Parents, please be aware that you have the right to request an assessment to determine continuing eligibility for special education services and that the school district is not required to conduct such an assessment unless requested by parents.

<u>TEST/EVALUATION PROCEDURE</u>	<u>AREA OF ASSESSMENT</u>	<u>EVALUATOR</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Special adaptations or accommodations are to be considered when indicated by the student's language, cultural background or physical status. Adaptations/accommodations required for this evaluation are: ☐ No adaptations/accommodations required

☐ Adaptations/accommodations required: (specify) _____

PARENTAL CONSENT*

- ☐ I give my consent for the [DISTRICT NAME] Public Schools to utilize the evaluations described above. I understand that this consent may be revoked at any time.

Parent/Guardian Signature Date

- ☐ I do not give my consent for the [DISTRICT NAME] Public Schools to conduct the evaluations described above. I understand that the school district must take steps as are necessary, which may include due process proceedings, to ensure that my child continues to receive a free appropriate public education.

Parent/Guardian Signature Date

** Note: If the school district has taken reasonable measures to obtain consent for a reevaluation, and parents have failed to respond, the district may proceed with the reevaluation. Parent consent means student consent when the student has reached the age of majority. Consent is not required if additional tests/evaluations are not being conducted.*

State of Connecticut Department of
Education
Division of Teaching and Learning
Programs and Services
Bureau of Special Education



Steps to Protect a Child's Right to
Special Education:
Procedural Safeguards

Introduction

This procedural safeguards notice is written in language to be understood by the general public. For a reading in the actual language of the law/regulations, one should refer to the Connecticut General Statutes Sections 10-76a to 10-76i, inclusive, and corresponding regulations and the Federal Individuals with Disabilities Education Act (IDEA) and its corresponding regulations. www.sde.ct.gov/sde/lib/sde/PDF/DEPS/special/SpEd_Regs.pdf
www.ed.gov/policy/special/guid/idea/idea2004.html

The parent must be given a copy of these safeguards one time each year and when:

- A child is referred for evaluation (testing) for the first time.
- A parent requests an evaluation or requests a copy of these safeguards.
- A hearing is requested or a complaint has been filed for the first time in a school year.

- A decision is made to remove a child from school because a school rule was violated and the removal is a change in placement.

The copy of these steps, the procedural safeguards, shall fully tell about:

- Evaluation of a child by a person who does not work for the school district. This is called an independent educational evaluation.
- Giving the parent a copy in writing of what the school is proposing or refusing to do about a child's program. This is called Prior Written Notice.
- Getting written parent consent before the school does an evaluation or provides special education services.
- Inspecting, reviewing and getting a copy of a child's education record.
- Due process hearings.
- Expedited due process hearings.
- Advisory opinions.
- A child's program during the time it takes complete to a hearing.
- Procedures when disciplining a child with a disability.
- Steps a parent must follow if a parent places a child in a private school and expects the school to pay.
- Mediation.
- Bringing a case to Court.
- Attorneys' fees.
- Complaints.
- Electronic mail.

P. The difference between a hearing and a complaint.

When a child turns eighteen years old, the child has all the rights the parent used to have. A child will not get these rights if a Court has said the child is not able to decide in a way that is good for the child. The school shall give any notice required by the law to both the child and the parent even though the child now has the rights the parent used to have. When the rights pass from the parent to the child, the school must notify the child and the parent of the transfer of rights.

A. Testing of the Child by a Person Who Does Not Work for the School:
Independent Educational Evaluation (IEE)

- The parent has the right to have the school pay for an evaluation done by a person who does not work for the school (IEE), if the parent disagrees with the evaluation obtained by the school. The school may ask the parent for the reason why the parent objects to the evaluation done by the school. An explanation by the parent is not required. If the school decides not to pay for the evaluation, the school must ask for a hearing without delay. At the hearing the school must show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school's standards. If the hearing officer decides that the school's

evaluation is appropriate, the school does not have to pay for the evaluation requested or arranged for by the parent. However, the parent still has the right to have an IEE done.

- The parent has the right to get an IEE done at their own expense. The parent may give the results of the evaluation to the school. The evaluation must be considered by the school when deciding on a child's program, if the evaluation meets the standards used by the school. The evaluation results may be used at a due process hearing.
- A hearing officer may ask that a child receive an IEE. The school must pay for this evaluation.
- When the school pays for an IEE, the evaluation must meet the standards for evaluation used by the school. This includes the location where the evaluation is done and the skills of the person doing the evaluation. The school may not set additional standards or timelines when the school pays for the IEE. The standards of the school must not interfere with a parent's right to have the IEE.
- If the parent asks, the school shall tell where to get an IEE and what the standards are for such evaluation.
- A parent is allowed to have only one IEE at school expense each time the school conducts an evaluation with which the parent disagrees.

B. Getting in Writing What the School Has Said About a Child's Program: Prior Written Notice

1. The parent has the right to get written notice no later than five school days after the school proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education. This is called prior written notice.

2. The written notice must tell:

- (a) exactly what the school proposes or refuses to do;
- (b) why the school proposes or refuses to take action;
- (c) the other options the Planning and Placement Team [PPT] talked about and the reasons why those were not done;
- (d) about each evaluation procedure, assessment, record or report that the school used as a basis for the proposed or refused action;
- (e) about other factors that were relevant to the school's proposal or refusal;
- (f) that the parent has protections under the procedural safeguards and how to get a copy of these protections; and

- (g) who to contact to get help in understanding these protections.

3. The notice must be written in a way that would be easy to read and understand, unless it is clearly not possible to do so. If the parent's spoken word or other means of communication is not a written one, the school must make sure:

- (a) the notice is given orally or by another way to the parent;
- (b) the parent understands what is in the notice; and
- (c) there is written evidence that these two steps have been taken.

C. Parent Consent

1. Consent means that the:

- (a) parent has been fully informed about why the school seeks permission;
- (b) parent understands and agrees in writing to let the school evaluate the child or place the child in a program. If school records are to be sent to someone, the school tells the parent what will be sent and to whom it will be sent; and
- (c) parent understands that he or she willingly gives permission and permission may be withdrawn at any time. If the parent withdraws permission, the withdrawal does not effect

the actions taken or the services provided to the child during the time the school had the permission of the parent.

2. Parent consent must be given before:

- (a) the school evaluates a child for the first time;
- (b) a child gets special education for the first time; and
- (c) a child is placed in a private school by the public school.

Except for these three times, the school can not use the reason that a parent has not given consent to refuse the parent or the child any other services, benefits or activities of the school. Parent consent to evaluate a child for the first time shall not be taken to mean that the parent has given consent to give a child special education and related services.

3. When the school seeks parent consent, the school must make reasonable efforts to get consent from the parent and must tell the parent:

- (a) of the right to not give consent and if the parent does give consent, the parent can take it back;
- (b) if the parent does not respond to the school in ten school days, the school will take that to mean that the parent does not give consent; and

- (c) if the parent does not give consent and asks for a hearing, the child's school program will not change during the time it takes to go to a hearing unless the parent and the school agree otherwise.

4. If parent consent is not given to evaluate the child for the first time, the school may take steps, but is not required to, to make sure that the child gets an appropriate education. This may mean the school asking for mediation or a hearing.

5. When the school seeks to evaluate the child for the first time and the child is in the custody of the Commissioner of the Department of Children and Families and is not residing with the child's parent, the school is not required to get the consent from the parent to determine whether the child is disabled and in need of special education services if:

- (a) after reasonable efforts, the school cannot find out where the parent is located;
- (b) the rights of the parent have been terminated by the Court; or
- (c) a judge decided that the right of the parent to make decisions about the child's education are to be made a person appointed by the Court.

6. If the parent fails to respond or refuses to give consent for the child to receive special education for the first time, the school may not use mediation or request a hearing. Hence, the school would not violate its responsibility to make available a free appropriate public education (FAPE) to the child and is not required to hold a PPT or develop an individualized education program (IEP) for the child.

7. If parent consent is not given to the school when the school seeks to place a child in a private school, the school must ask for a hearing and may ask for mediation provided the private school placement is not the first time the child receives special education services.

8. If the hearing officer decides in favor of the school, the school may evaluate or place the child in a private school without parent consent. The parent may go to either State Superior Court or Federal District Court to stop the school from evaluating or placing the child.

9. The school must get parent consent before reevaluating a child. However, the school does not need to get consent, if the school can show that it made a good effort to get consent and the parent did not respond to the school.

10. Anytime the school seeks parent consent the school must have a

record of its efforts to get parent permission. This record might include:

- (a) telephone calls tried or made and the results of those calls;
- (b) copies of letters sent to the parent and any letters sent back to the school by the parent; and
- (c) visits made to the parent's home or workplace and results of those visits.

11. If the parent refuses consent for reevaluation, the school may ask for mediation or a hearing (but is not required) to see that the child gets an appropriate education.

12. Parent consent is not needed before:

- (a) reviewing existing records of the child when the school is evaluating or reevaluating a child; or
- (b) giving a test or other evaluation that is given to all children unless the school gets parent consent from all parents before giving the test or evaluation.

13. If the parent home schools the child or the child is placed in a private school at the expense of the parent and the parent does not provide consent for the child to be evaluated for the first time or for reevaluation or the parent fails to

respond to a request to provide consent, the school may not use mediation or request a hearing and the school is not required to consider the child as eligible to receive services for parentally-placed private school children.

D. Inspecting, Reviewing and Getting the School Records of a Child

1. The parent has the right to:

- (a) inspect and review all records which are kept or used by the school that deal with the:

- identification of the child;
- evaluation of the child;
- educational placement of the child; and
- child's right to a free appropriate public education (FAPE).

The school may take for granted that the parent has the right to inspect and review records unless the school has been told that the parent does not have this right according to State law.

The school must let the parent inspect and review the records as soon as possible and not later than 10 school days after a parent asks.

The school must let the parent look at the records as soon as possible and within 3 school days if it is to prepare for a:

- meeting about an IEP; or
- mediation or hearing.

The school must, in spite of the timelines noted above, comply with a parent request as soon as possible and before any IEP meeting or hearing:

- (b) expect the school to explain and tell about the meaning of the records;
- (c) get one free copy of the records. The parent must ask in writing for a free copy. The school shall provide a copy within 5 school days. Any test instrument or portion of a test instrument for which a test manufacturer asserts a proprietary or copyright interest in the instrument shall not be copied. The school may charge for more copies. The school may not charge for more copies if having to pay the fee would keep the parent from inspecting and reviewing the records. The school may not charge a fee to look for records;
- (d) have a person acting for the parent inspect and review the records; and

(e) when any record has information on more than one child, inspect and review only the information relating to his or her child or to be informed of that specific information.

E. Asking for a Hearing: A Way to Solve a Dispute

1. The law limits the time period for making a request for a hearing. The parent or the school has two years to ask for a hearing from the time the party knew or should have known about the alleged action that forms the basis of the request for hearing relating to the:
 - (a) identification of the child;
 - (b) evaluation of the child;
 - (c) educational placement of the child; or
 - (d) provision of a free appropriate public education (FAPE).

If the parent is not given a copy of this document, the "Steps to Protect a Child's Right to Special Education: Procedural Safeguards", the two-year limit shall start at the time the copy is properly given to the parent. The two-year limit would not apply if the school told the parent that the issues had been resolved when they actually had not

been resolved or if the school withheld information from the parent that was required to be provided to the parent.

When a parent asks for a hearing, the school shall tell the parent about the use of mediation as a means to settle the issues. The school shall also tell the parent of any free or low-cost legal and other relevant services that are available in the area if:

- (a) the parent asks for this; or
- (b) the parent or the school asks for a hearing.

2. When asking for a hearing a party, or the attorney for the party, must provide in writing:

- (a) the child's name and address (if the child is homeless the available contact information for the child) and the name of the child's school;
- (b) the nature of the problem relating to the proposed or refused initiation or change, including the facts related to the problem; and
- (c) what will resolve the problem, to the extent known and available to the party at the time.

3. The school shall have a form for the parent to fill out to ask for a hearing; however the school or the Connecticut

State Department of Education may not require the use of this form. The form shall tell what needs to be included.

4. The party or their attorney asking for the hearing shall send a letter or the form (which must remain confidential) requesting the hearing to the other party and send a copy to:

Connecticut State Department of
Education

Bureau of Special Education

Due Process Unit

P.O. Box 2219

Hartford, CT 06145-2219

FAX 860 713-7153

5. A party may not have a hearing until the party gives the information noted in #2 of this section. The party receiving the request for hearing shall have 15 calendar days from the receipt of the request to notify the hearing officer and the other party in writing that the receiving party believes that the request for hearing does not contain the required information. The hearing officer, within 5 calendar days of receiving this notice, must decide if the required information has been given and immediately notify the parties in writing of that decision. If the receiving party does not notify the hearing officer, the request for hearing

would be considered to contain the required information.

6. A party may amend its request for hearing only if the:

- (a) other party consents in writing to the change and is given the chance to resolve the issues through a resolution meeting as noted in #9 of this section; or

- (b) hearing officer gives permission which may only be given at any time not later than 5 calendar days before the hearing begins.

If a party files an amended request for hearing, the timelines for the resolution meeting noted in #9 of this section and for resolving the parent's issues in #12 of this section, begin again with the filing of the amended request for hearing.

7. If the school has not sent prior written notice to the parent (See Section B.) regarding the issues noted in the parent's request for hearing, the school shall, within 10 calendar days of receiving the parent's request for hearing, send the parent a response that shall tell:

- (a) why the school proposes to or refuses to do what was

noted in the request for hearing;

- (b) the other options the PPT talked about and the reasons why those were rejected;
- (c) about each evaluation procedure, assessment, record or report that the school used as a basis for the proposed or refused action; and
- (d) about other factors that were relevant to the school's proposal or refusal.

The response by the school does not prevent a school from claiming that the content of the parent's request for hearing was insufficient, that is, the request did not contain the information noted above in #2 of this section.

- 8. Except as provided above in #7, the party receiving the request for a due process hearing must, within 10 calendar days of receiving the request, send to the other party a response that specifically addresses the issues in the request for the due process hearing.

- 9. Within 15 calendar days of getting the parent's request for a hearing and before the start of the hearing, the school must have a resolution meeting with the parent and the IEP member(s) who have information about the facts that are noted in the parent's request

for the hearing. The parent and the school determine the relevant members of the IEP team to attend the meeting. The school must have a person at the meeting who has the authority to make a decision for the school. The school may not bring an attorney unless the parent has an attorney.

- 10. At the resolution meeting, the parent will discuss the request for hearing and give the facts and the reasons why the hearing was requested. The meeting will give the school the chance to resolve the issues. This meeting does not have to be held, if:

- (a) the parent and the school agree in writing not to have the meeting; or
- (b) the parent and the school agree to use mediation. (See Section K.)

- 11. If at the resolution meeting the parent and the school resolve the issues, an agreement will be put in writing and signed by the parent and the person from the school who has the authority to make the agreement. The parent or the school will have 3 business days from the signing of the agreement to change their minds and cancel the agreement. Otherwise, the agreement is binding on both the parent and the school and either the parent or the school may go to State or Federal Court to have the agreement enforced.

- 12. If the school has not resolved the parent's issues to the parent's satisfaction within 30 calendar days of receiving the parent's request for the hearing, the 45-calendar-day timeline for hearing may begin except as noted below in #14 of this section.

- 13. Unless the parent and the school agree not to have the resolution meeting or to use mediation, the failure of the parent to participate in the resolution meeting will delay the timelines for the resolution process and the due process hearing until the resolution meeting is held. However, if the school is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts and documents such efforts (as noted in Section C. #11), the school may, at the end of the 30-calendar-day resolution period, ask the hearing officer to dismiss the parent's request for hearing. In addition, if the school fails to hold the resolution meeting within 15 calendar days of receiving the parent's request for hearing or fails to participate in the resolution meeting, the parent may ask the hearing officer to begin the 45-calendar-day due process hearing timeline.

- 14. The 45-calendar-day timeline for the hearing will start the day after one of the following events (which may result in an adjustment to the 30-calendar-day resolution period):

- (a) The parent and the school agree in writing not to hold the resolution meeting;
 - (b) After the mediation or resolution meeting starts but before the end of the 30-calendar-day resolution period, the parent and the school agree in writing that no agreement is possible;
 - (c) The parent and the school agree in writing to continue the mediation at the end of the 30-calendar-day resolution period, but later, the parent or the school withdraws from the mediation process.
15. If the school requests the hearing, the 45-calendar-day timeline shall commence:
- (a) immediately after the hearing officer deems the request to be sufficient (See Section E. #5); or
 - (b) immediately following the parent's notice to the hearing officer not to challenge the sufficiency of the hearing request; or
 - (c) 15 calendar days after the parent receives the school's request for hearing, if the parent

does not challenge the sufficiency of the school's request for hearing.

16. Before the start of the hearing, the parent and the school shall take part in a telephone call with the hearing officer. This is called a prehearing conference. During the call the parent and the school shall try to work out the dispute, if possible, and narrow the issues.

17. The hearing shall be held by a hearing officer who:

- (a) is not an employee of
 - the Connecticut State Department of Educationor
 - the school district where the child goes to school or the school district responsible for the child's education;
- (b) does not have a personal or professional interest which would get in the way of his or her being fair in the hearing;
- (c) has knowledge and is able to understand the Federal and State special education laws and regulations and the way these laws are understood by Federal and State Courts;
- (d) has knowledge and is able to conduct a hearing in accordance

with appropriate, standard legal practice; and

(e) has knowledge and is able to make and write decisions in accordance with appropriate, standard legal practice.

A person who would be a hearing officer is not an employee solely because he or she is paid by the Connecticut State Department of Education to act as a hearing officer.

18. The Connecticut State Department of Education, Due Process Unit, and the school district shall keep a list of the persons who serve as hearing officers. This list shall state the qualifications of each of these persons.

19. The parent has the right to have the child at the hearing and to open the hearing to the public. The parent has the right to be provided with the record of the hearing and the findings of fact and decisions noted in #20(e) and (f) of this section at no cost.

20. The parent and the school have the right to:

- (a) bring and be helped by an attorney and persons with special training about children who are disabled;
- (b) present evidence, question and cross-examine any witness;
- (c) require witnesses to attend the hearing;

(d) not allow any evidence to be given at the hearing that had not been given to that party no less than five business days before the hearing. Evaluations that have been completed by that date and recommendations from the evaluations that one intends to use at the hearing shall be given at least five business days before the hearing;

(e) a written, or, at the choice of the parent, electronic word-for-word record of the hearing; and

(f) written, or at the choice of the parent, electronic findings of fact and decisions.

21. The hearing officer may prevent the parent or the school from giving any evidence at the hearing without the permission of the other party if the parent or the school fails to meet the timeline in #20(d) of this section.

22. The party that asked for the hearing shall not be allowed to raise issues at the hearing that were not raised in the request for the hearing unless the other party agrees. A parent may file a separate request for a due process hearing on an issue separate from the hearing request already filed.

23. A decision made by the hearing officer shall be made on:

(a) substantive grounds, that is, on legal rights and principles based on whether the child received a free appropriate public education (FAPE); or

(b) on matters alleging procedural violations, if such violations kept the child from receiving a free appropriate public education (FAPE), kept the parent from being meaningfully involved in the decisions about the child's right to a free appropriate public education (FAPE) or deprived the child of educational benefit. The hearing officer may order a school to follow the procedures, even if the hearing officer found that the child was not kept from receiving a free appropriate public education (FAPE).

24. Within 45 calendar days of the start of the hearing timeline, a final decision in the hearing shall be reached and a copy of the decision shall be mailed to each of the parties. The hearing officer may allow extra time beyond the 45-calendar-day timeline when requested by the parent or the school. The hearing shall be held at a time and place that would make it easy for the parent and child to attend.

25. The decision of the hearing is final, unless the parent or the school asks for a review from either State Superior Court or Federal District Court.

26. The Connecticut State Department of Education shall, after taking out any data that would make the identity of the child easily known, send the written findings of fact and decisions to the State Advisory Council for Special Education and also make them available to the general public.

F. Expedited Due Process Hearings

1. The procedures and the way in which an expedited due process hearing is held are as noted in Section E. (excluding #15) except as provided in this section.

2. An expedited hearing will be arranged when a hearing is requested on the following:

- (a) the school thinks that keeping the child in the current school program is, to a large extent, likely to result in injury to the child or to others and the school wants to put the child in an interim alternative educational setting (IAES) for not more than 45 school days;
- (b) the school wants to change the child's school program at the end of a child's placement in the IAES because the school believes it is a danger for the child or others for the child to return to the school program that the child was in before being

placed in the IAES. This hearing procedure may be repeated;

- (c) the parent challenges an alleged change of placement (See Section I. #3) and believes the child has been kept out of school for more than 10 school days in a row without the school following the proper steps;
- (d) the parent challenges an alleged change in placement (See Section I. #3) and believes the child has been kept out of school for more than 10 school days in a school year without the school following the proper steps;
- (e) the parent does not agree with the school placing the child in an IAES for weapons, drugs or dangerousness (See Section I. #10); or
- (f) the parent does not agree with the manifestation determination (MD) (See Section I. #7).

3. Upon a request for a hearing for any of the matters noted in this section, the hearing shall occur within 20 school days of the date the hearing request is filed and shall result in a decision within 10 school days after the hearing. The hearing officer may order a change in placement of the child as follows:

- (a) return the child to the placement from which the child was removed; or
- (b) place the child in an IAES for not more than 45 school days if it is determined that keeping the child in the current placement will more than likely result in injury to the child or to others.

4. Each party to a hearing:

- (a) has the right to keep any evidence from being presented at the hearing that has not been given to the other party at least 2 business days before the hearing; and
- (b) shall give to all other parties all evaluations completed to date and the recommendations from the evaluations that the party wants to use at the hearing at least 2 business days before the hearing.

5. A resolution meeting (See Section E. #9) must occur within 7 calendar days of receiving the request for hearing unless the parent and the school agree in writing not to have the resolution meeting or they agree to mediation. The due process hearing may proceed unless the matter has been resolved to the satisfaction of the parent and the school within 15 calendar days of the receipt of the request for hearing.

G. Asking for an Advisory Opinion: A Quick Way to Settle a Dispute

1. After a hearing has been asked for and before the hearing begins, the parent and the school may agree to go to an advisory opinion by sending a letter or a form that the school has to:

Connecticut State Department of Education
Bureau of Special Education
Due Process Unit
P.O. Box 2219
Hartford, CT 06145-2219
FAX 860 713-7153

2. By going to an advisory opinion, the parent and the school have a chance to state their position in a brief manner to a hearing officer in one day. The hearing officer shall tell the parent and the school how he/she thinks the issues would be decided if the parent and the school went on to a full hearing. The hearing officer who presides over the advisory opinion shall not be the same hearing officer that would hold the full hearing.

3. The parent and the school do not have to accept the view of the hearing officer that gives the advisory opinion. The parent and the school may go on to a full hearing if the issues are not settled by obtaining an advisory opinion.

H. Child's School Program During a Hearing or a Court Review

1. Except as provided in #2 of this section, when a hearing has been asked for, the child must stay in the school program with the same services that the child was getting before the parent and the school had a disagreement. The child must stay in this program until the matter is settled unless the parent and the school agree to change the school program. If the child is to enter public school for the first time, the child, with the consent of the parent, must be able to go to school until the completion of all proceedings. If a hearing officer agrees with the parent that a change to the child's school program is appropriate, the order of the hearing officer must be carried out, even if a Court review (See Section L.) has been asked for.

5. If the child turns three years of age and is coming from a Birth-to-Three program, the school is not required to provide the Birth-to-Three services that the child had been receiving. If the child is found to be eligible for special education services and the parent consents to the child receiving services for the first time, the school must provide the services that are not in dispute between the parent and the school.

3. If the school or the parent asks for a hearing after a child is placed in an

interim alternative educational setting (IAES) for not more than 45 school days by:

- (a) the school for reasons as noted in Section I. #10 or

- (b) a hearing officer as noted in Section F. #2(a) and #3

then the child must stay in the IAES until the hearing officer decides differently or until the end of the specified time (which shall not be more than 45 school days), whichever comes first, unless the parent and school agree to change the school program.

If the school wants to change the child's program after the specified time in the IAES is up and asks for a hearing, the child would return to the school program that the child was in before being placed in the IAES while the hearing is held.

I. Procedures When Disciplining a Child

1. The school may consider any special concerns for a child when deciding to change the school program of a child who violated a code of school conduct.
2. The school may remove a child from school who violates a school rule from the current program to an IAES, another setting, or suspension, for not more than 10 school days in a row and for additional removals of not more than 10

school days in a row in the same school year for separate incidents of misconduct provided the removals do not result in a change in placement. (See #3 of this section)

A school is only required to provide services to a child who has been removed from his or her current placement for 10 school days or less in the same school year, if the school provides services to a child without a disability who has been similarly removed. However, a child who is removed from school for up to 10 school days in a row must be provided with the opportunity to complete missed classwork including examinations.

3. A change in placement occurs if:

- (a) the removal is for more than 10 school days in a row; or
- (b) the removals make up a pattern because:
 - they total more than 10 school days in a school year; and
 - the child's behavior is very much like the child's behavior in previous incidents that resulted in other removals, and
 - of other factors such as the length of each removal, the total amount of time the child has been removed and

the closeness in time of the removals to one another.

The school shall determine on a case-by-case basis whether a pattern of removals is a change in placement.

4. If the school seeks to change a child's placement for more than 10 school days and the behavior that led to this intended change was not a manifestation of the child's disability (See #7 of this section), the child may be disciplined in the same way and for the same amount of time that would be applied to a child who is not disabled. The child's PPT shall determine the educational setting.

5. After a child has been removed from the school program for 10 school days in the same school year and the current removal is not for more than 10 school days in a row and is not a change in placement (See #3 of this section), the school staff along with at least one of the child's teachers shall determine the extent to which services are needed to enable the child to continue in the general education coursework, even though in another setting, and to progress toward meeting the goals of the IEP and receive, as appropriate, a functional behavioral assessment (FBA) and behavior intervention services and modifications, that are designed to

address the behavior violation so that it does not happen again.

6. If the removal is a change of placement (See #3 of this section), the child's IEP team determines the services that are needed to enable the child to continue in the general education coursework and to progress toward meeting the goals of the IEP.

7. Within 10 school days of any decision to change a child's placement for more than 10 school days because the child violated a school rule, the school with the parent and relevant members of the IEP team (to be determined by the parent and the school) shall review all relevant information in the child's school file, including the IEP, teacher observations and any relevant information provided by the parent to determine if the behavior in question:

- (a) was caused by, or had a direct or substantial relationship to the child's disability; or
- (b) was the direct result of the school's failure to implement the IEP.

If the team determines that either of the above, (a) or (b), applies to the child, the behavior in question shall be determined to be a manifestation of the child's disability. This decision is known as the manifestation determination (MD).

If the team determines that the behavior in question was a direct result of the school's failure to implement the IEP, the school must take immediate steps to remedy the deficiencies.

8. If the team noted in #7 of this section decides the behavior in question was a manifestation of the child's disability, the IEP team shall:

- (a) if the school had not already conducted a functional behavioral assessment (FBA) before the behavior in question occurred, conduct an FBA and put into effect a behavior intervention plan (BIP) (a plan to improve the child's behavior so that the behavior that resulted in the change of the child's program does not happen again);
- (b) if a BIP is already in place, review the BIP and modify it, as necessary, to address the behavior in question; and

- (c) except as noted in #10 in this section, return the child to the program that the child was in before being removed unless the school and the parent agree to a change in the child's placement as part of the revised BIP.

9. On the date the decision is made for a removal that would be a change in placement (See #3 of this section), the school must notify the parent of that decision and provide the parent with a copy of the "Steps to Protect a Child's Right to Special Education: Procedural Safeguards".

10. A school may place a child in an LAES for not more than 45 school days without regard to the manifestation determination (MD) as noted in #7 of this section, in cases where a child:

- (a) carried a weapon to school or has a weapon at school, on school grounds or to or at a school activity;
- (b) knowingly had, or used illegal drugs, or sold or tried to buy a controlled substance at school, on school grounds or at a school activity; or

- (c) has caused serious bodily injury upon another person at school, on school grounds or at a school activity.

When the school orders a child to an LAES for not more than 45 school days, the school must hold a PPT meeting to determine the LAES.

J. Steps a Parent Must Follow When Placing a Child in a Private School at Public Expense

1. A parent, who on their own, places a child, who at one time received special education through the public school, in a private school and seeks a return of the money for the costs of the private school from the public school may receive the costs from the public school:

- (a) by order of a Court; or
- (b) by the order of a hearing officer

if it is decided that:

- (a) the school had not made a program that could meet the child's education needs available to the child in a timely manner before the parent enrolled the child in the private school; and
- (b) the private school program for the child meets the child's education needs.

The private school program provided to the child may be found to be an appropriate program for the child by a hearing officer or a Court even if the private school does not meet the state standards that apply to the education provided by the school district.

2. The return of the costs for the private school may be denied or reduced:

(a) if at the last PPT meeting that the parent attended before taking the child out of the public schools, the parent did not

- tell the PPT of not wanting the placement offered by the school
- state the concerns about the placement offered by the school and
- state the intent to enroll the child in a private school at public expense;

or

if, at least, 10 business days (including any holidays that occur on a business day) before taking the child out of the public school, the parent did not

- give notice in writing to the school of not wanting the placement offered by the school
- state the concerns about the placement offered by the school and
- state the intent to enroll the child in a private school at public expense;

(b) if, before the parent took the child out of the public school, the school told the parent (See

Section B.), in writing, of its intent to evaluate the child, giving the purpose of the evaluation, and the parent did not make the child available for evaluation; or

(c) upon a Court deciding that the parent did not act within reason.

3. The return of the costs:

(a) shall not be reduced or denied because the parent did not tell the school because:

- the school kept the parent from giving notice, as noted in #2(a) of this section;
- the parent had not received notice from the school that the parent had to tell the school, as noted in #2(a) of this section, before putting the child in the private school if the parent wanted to get the school district to return the costs of the private school; or
- having to tell the PPT, as noted in #2(a) of this section, would likely result in physical harm to the child.

and

(b) may, in the finding of the hearing officer or the Court, not be reduced or denied because

the parent did not tell the school because:

- the parent cannot read and write in English; or
- having to tell the PPT, as noted in #2(a) of this section, would likely result in serious emotional harm to the child.

K. Settling a Dispute When the Parent and the School Do Not Agree: Mediation

1. Mediation is a way to settle a dispute when the parent and the school do not agree on:

- (a) the identification of the child;
- (b) the evaluation of the child;
- (c) the educational placement of the child; or
- (d) any other matter related to provision of a free appropriate public education to the child (FAPE).

The parent and the school have a free choice to go to mediation. The mediation can not be used to:

- (a) deny or delay the parent's right to a hearing; or

- (b) deny any other rights that the parent has under the State or Federal special education laws.

Before filing a complaint (see Section N.) or before asking for a hearing (see Section E.) or any time after filing a complaint or during the hearing, the parent and the school may ask for a mediation by sending a letter to:

Connecticut State Department of Education
Bureau of Special Education
Due Process Unit
P.O. Box 2219
Hartford, CT 06145-2219
FAX 860 713-7153

The Due Process Unit has a list of mediators and will assign a mediator from a rotating list who:

- (a) is trained in mediation;
- (b) does not show favor to either the parent or the school;
- (c) is knowledgeable about the special education laws;
- (d) is an education consultant with Connecticut State Department of Education; and
- (e) does not provide direct services to the child who is the subject of the mediation.

The mediator will assist the parent and the school to settle their concerns of the parent and the school. The mediation will be held in a place that is convenient for the parent and the school staff. The Connecticut State Department of Education is responsible for the cost of the mediation process.

2. If the parent and the school reach agreement on the issues, what they have agreed to will be put in writing and signed by the parent and a school representative who has the authority to sign the agreement. The mediation agreement shall state that the discussions that occurred during the mediation will remain confidential and may not be used as evidence in any subsequent due process hearing or court action that may follow the mediation. The mediation agreement is enforceable in any State Court or in Federal District Court.

L. Reviews by a Court: Civil Actions

1. If the parent or the school does not agree with the findings and final decision made in the hearing, they have the right to a review within 45 calendar days of receipt of the final decision and order from either State Superior Court or Federal District Court without taking into account the damages claimed or the relief sought. The Court:

(a) shall receive the records of the hearing;

(b) shall hear additional evidence when asked by the school or the parent; and

(c) basing its decision on the greater amount of evidence, shall order a change as the Court determines to be appropriate.

2. Nothing in the Federal law (IDEA) regarding the education of children who are disabled limits the rights that a parent or the school has under other Federal laws that protect the rights of children who are disabled. However, before filing for a review by a Court, a final decision of the hearing must be rendered.

M. Attorneys' Fees

1. For any hearing or Court review the Court may order:

(a) the school to pay the attorneys' fees paid by the parent in a matter that is decided in the favor of the parent;

(b) the attorney of a parent to pay the attorneys' fees paid by the school or the State in a matter that is decided in favor of the school or the State, if the attorney of the parent files a request for a hearing or review by the Court that is needless, is

without good reason, or is without a proper basis; or if the attorney of a parent continued to litigate after it is clear that the matter is needless, is without good reason, or is without a proper basis;

(c) the attorney of a parent or the parent to pay the attorneys' fees paid by the school or the State in a matter that is decided in favor of the school or the State, if the parent's request for hearing or review by the Court is made for any improper purpose, such as to harass, to cause unnecessary delay, or needlessly increase the cost of the hearing or the Court review.

2. The amount of attorneys' fees that is decided shall be based on rates common in the area in which the hearing or Court review arose for the kind and quality of services provided. No extra means may be used in figuring the fees ordered.

3. Attorneys' fees may not be ordered and related costs may not be returned to the parent in any hearing or Court review for services provided after the time of a written offer to a parent to settle the matter if:
 - (a) the offer is made within the time allowed by Federal rule or, in the case of a hearing, at any time more than 10 calendar days before the hearing begins;

(b) the offer is not accepted within 10 calendar days; and

(c) the Court finds that the relief finally given to the parent is not more than the offer to settle the matter.

An order for the return of attorneys' fees and other costs may be made to a parent who succeeds with their case and who had good reason for not taking the offer made by the school to settle the matter.

The return of attorneys' fees may not be ordered for:

(a) any meeting of the PPT unless the PPT meeting is held as a result of a hearing or a Court review;

(b) a mediation (See Section K); or

(c) the resolution meeting (Section E #9).

4. The Court may lower attorneys' fees whenever it finds that:

(a) the parent or the parent's attorney, during the hearing or the Court review, took more time than necessary to reach a final resolution of the hearing or the Court review;

(b) the amount of the attorneys' fees goes beyond, without good reason, the hourly rate common in the area for same type of

services by attorneys who compare in skill, reputation, and training;

- (c) the time spent and legal services provided were more than expected for the type of hearing or Court review; or

- (d) the attorney for the parent did not give the school the required information when requesting the hearing.

The Court may not lower attorneys' fees if the Court finds that:

- (a) the school or the State without good reason took more time than necessary to reach a final resolution of the hearing or the Court review; or
- (b) the procedural safeguards were violated.

N. Filing a Complaint

1. A organization or a person may file a written, signed complaint. The complaint must state:

- (a) that the school did not carry out the Federal (IDEA) or the State laws that protect children who are disabled;

- (b) the facts on which the complaint is based; and

- (c) the signature and contact information for the person or

organization filing the complaint.

If the complaint involves a specific child, the complaint shall include:

- (a) the name and address of the child;
- (b) the name of the school that the child is attending;
- (c) in the case of a homeless child, the available contact information for the child and the name of the school the child is attending;
- (d) the nature of the problem of the child, including the facts related to the problem; and
- (e) a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

The complaint must claim a violation that occurred not more than one year before the date that the complaint is received.

2. A complaint shall be sent to the school district and, at the same time, a copy to:

Connecticut State Department of Education
Bureau of Special Education
Due Process Unit
P.O. Box 2219

Hartford, CT 06145-2219
FAX 860 713-7153

3. The Department shall make a decision about the issues in the complaint within 60 calendar days after the complaint is filed with Department. The 60-calendar-day-limit may be extended if the:

- (a) Department believes that there are special factors in a complaint; or
- (b) person or the organization and the school agree to a mediation.

In making a decision, the Department shall:

- (a) carry out an on-site visit at the school, if the Department believes it must be done;
- (b) give the complainant a chance to give, orally or in writing, more facts about the complaint;
- (c) provide the school with the opportunity to respond to the complaint, which may include:

- if the school so desires, a proposal to resolve the complaint and
- an opportunity for the complainant and the school to go mediation.

- (d) review all the facts regarding the complaint and decide if the school failed to meet the law; and

- (e) send out a decision to the complainant. The decision shall rule on each issue raised in the

complaint and contain the facts on which the decision was based, how the facts were related to the decision and the reasons for the decision.

4. The carrying out of the Department's decision may include:

- (a) assistance to the school district by the Department;
- (b) helping the parent and the school reach agreement on terms to resolve the complaint; and
- (c) actions for the school to take to meet the requirements of the law.

5. If the Department has found that the school failed to provide appropriate services to a child, the Department shall address:

- (a) how to make up for services that had not been given to a child, which may include paying the parent for the costs of those services that had been paid by the parent or other proper actions related to the needs of the child; and
- (b) for system-wide issues, appropriate future provision of services for all children who are disabled.

6. A parent may also request a hearing even if a complaint has been filed;

however the Department shall not look into any part of a complaint that is being addressed in the due process hearing until the final decision of the hearing is issued. Any issue in the complaint that is not part of the due process hearing must be resolved following steps noted in #3 in this section. If an issue is raised in a complaint that was already decided in a due process hearing with the same parties, the hearing decision is final and will not be reviewed by the Department. The Department shall inform the complainant that a review will not be done. The Department shall resolve a complaint that states the school has failed to carry out the final decision of the due process hearing.

O. Electronic Mail

1. The parent may elect to receive notices required for prior written notice, procedural safeguards and due process hearings electronically, if this option is available.

P. The Difference Between a Due Process Hearing (Section E.) and an Administrative Complaint (Section N.)

1. A complaint may be filed by any person or organization which claims that a school district violated the Federal (IDEA) and/or the State

special education laws and/or regulations that protect a child with a disability. The Connecticut State Department of Education shall make a decision within 60 calendar days after the complaint is filed with the Department.

2. A hearing may be filed by a parent or the school district on any matter relating to a proposal or refusal to initiate or change:

- (a) the identification of a child;
- (b) the evaluation of a child;
- (c) the educational placement of the child; or
- (d) the provision of a free appropriate public education to the child.

The hearing officer shall render a final decision within 45 calendar days after the start of the hearing timeline, unless the hearing officer allows extra time when asked by the parent and/or the school.

10/13/06

Parental Notification of the Laws Relating to the use of Seclusion and Restraint in the Public Schools

Introduction

You have been provided with a copy of the "Procedural Safeguards in Special Education." The Procedural Safeguards document outlines your rights and the rights of your child under the Federal Individuals with Disabilities Education Act (the IDEA) and the Connecticut statutes and regulations concerning the provision of special education and related services to children with disabilities.

The Board of Education is also required by state statute to inform you about a specific provision of the state statutes and regulations regarding the emergency use of physical restraint and seclusion or the use of seclusion as a behavior intervention in a child's IEP. Every parent must be advised of these rights at the initial Planning and Placement Team meeting (PPT) held for their child even if the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP is not likely to occur with their child.

On and after October 1, 2009, you must be provided with a copy of the state developed "Parental Notification of the Laws relating to Physical Restraint and Seclusion in the Public Schools" at the first PPT meeting following your child's initial referral for special education. If your child was eligible for special education prior to October 1, 2009, you will receive this notice at the first PPT meeting convened after October 1, 2009. In addition, the notice must also be provided to you at the first PPT meeting where the use of seclusion as a behavior intervention is included in your child's IEP.

Who are the children covered by the law?

The state statute uses the term "person at risk" to describe the people generally covered by the statute. For the public schools, the "person at risk" is (1) a child requiring special education and related services who is

receiving services from their board of education or (2) a child being evaluated to determine the child's eligibility for special education and related services. This notice uses the term "child" and this means a child who is eligible for special education and related services and is receiving services from their board of education or a child who is being evaluated to determine the child's eligibility for special education and related services.

What does "physical restraint" mean?

Physical restraint means any mechanical or personal restriction that immobilizes or reduces the free movement of a child's arms, legs or head. It does not include: (1) briefly holding a child in order to calm or comfort the child; (2) restraint involving the minimum contact necessary to safely escort a child from one area to another; (3) medication devices, including supports prescribed by a health care provider to achieve proper body position or balance; (4) helmets or other protective gear used to protect a child from injuries due to a fall; or (5) helmets, mitts and similar devices used to prevent self injury when the device is part of a documented treatment plan or IEP and is the least restrictive means available to prevent self-injury.

What does "seclusion" mean?

Seclusion means the confinement of a child in a room, whether alone or with staff supervision, in a manner that prevents the child from leaving. In public schools, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement such as in-school suspension and time-out.

What do I need to know about the emergency use of restraint and seclusion?

1. Life threatening physical restraint is prohibited. Life threatening physical restraint means any physical restraint or hold of a child that restricts the flow of air into a child's lungs, whether by chest compression or any other means.
2. Involuntary physical restraint may not be used to discipline a child; it may not be used because it's convenient and it may not be used as a substitute for a less restrictive alternative.
3. Involuntary physical restraint is to be used solely as an emergency intervention to prevent immediate or imminent injury to the child or to others. When a

child is physically restrained, the child is to be continually monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is physically restrained must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child's educational records.

4. Involuntary seclusion may not be used to discipline a child; it may not be used because it's convenient and it may not be used as a substitute for a less restrictive alternative.
5. When a child is involuntarily placed in seclusion as an emergency intervention to prevent immediate or imminent injury to the child or to others, the child is to be frequently monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is involuntarily secluded must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child's educational records.
6. A psychopharmacologic agent (medications that affect the central nervous system, influencing thinking, emotion or behavior) may not be used with your child except as prescribed by a physician and administered according to the orders of your child's physician and in compliance with board policies concerning the administration of medications in the school.
7. A child may be physically restrained or removed to seclusion only by a person who has received training in physical management, physical restraint and seclusion procedures including training to recognize health and safety issues for children placed in seclusion. Additional training such as verbal de-escalation or de-escalation; prevention strategies; types of physical restraint; the differences between permissible physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques; monitoring to prevent harm to a child physically restrained or in seclusion and recording and reporting procedures on

the uses of restraint and seclusion must also be provided.

8. Public schools are required to maintain a safe school setting. Public schools are allowed to use reasonable physical force when and to the extent there is a reasonable belief it is necessary to protect students or staff, obtain possession of a dangerous instrument or controlled substance upon or within control of a minor, protect property from physical damage or restrain a child or remove a child to another area to maintain order. The prohibitions listed in Items 1-5, above, do not conflict with the responsibility of public schools to maintain a safe school setting or use reasonable physical force as described here.

If seclusion is used as a behavior intervention in my child's IEP, what can I expect?

9. A public school may use seclusion as a behavior intervention if it's specifically addressed in your child's individualized education program (IEP). A "behavior intervention" means supports and other strategies developed by the PPT to address a child's behavior which may interfere with the child's learning or the learning of others.
10. Seclusion may only be used as a behavior intervention in your child's IEP if other less restrictive, positive behavior interventions were tried but the child's behavior did not improve.
11. Seclusion may not be used as a behavior intervention for a child if it is known that the child has any medical or psychological conditions that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion.
12. Where seclusion is used as a behavior intervention, your child's IEP must specify:
 - (a) the location of seclusion, which may be multiple locations within a school building;
 - (b) the maximum length of any period of seclusion;
 - (c) the number of times in a single day the child may be placed in seclusion;
 - (d) the frequency of monitoring while the child is in seclusion; and
 - (e) any other concerns addressed by the PPT concerning the age, disability and

Chapter 4 — Evaluation

The District uses procedures to ensure that proper identification of students with disabilities occurs through the implementation of sound evaluative practices. Evaluation in this context means the procedures that the District uses to determine whether a student has a disability and the nature and extent of the special education services that the student needs. A full and individual initial evaluation is conducted to determine if the student is a student with a disability and to determine the student's educational needs before any action is taken with respect to the initial placement of a student with disabilities in a special education program. A reevaluation is conducted if conditions warrant it, or if a student's parent or teacher requests a reevaluation, but at least once every 3 years unless the parent and our District agree that it is unnecessary. In addition, a reevaluation will not be conducted more frequently than once a year unless the parent and our District agree otherwise.

❖ Process

1. Early Intervention Strategies

Before school personnel refer a student to a Planning and Placement Team, alternative strategies and programs in regular education are explored and, where appropriate, implemented. See Chapter 1, Student Identification, for more detailed information on locating students who may have a disability and need special education.

2. Referral to Determine Eligibility for Special Education and Related Services [ED 621]

If these strategies are not successful or if the parents make a written request for an evaluation, a student is referred to determine eligibility for special education and related services. A District standard referral form [ED 621] (*see Chapter 1 Appendix*) is used to document the referral. This form is available to parents and school personnel in each of the schools and at the Special Education Department Office. Parents receive notice of the referral within five school days of the date of the referral, regardless of who makes the referral.

3. Initial Evaluation

A Planning and Placement Team meeting is scheduled to discuss the referral. Parents receive written notification of the PPT five school days prior to the meeting. The PPT may decide an evaluation is not needed and the regular education program and services are appropriate. If the PPT decides to conduct an evaluation, the PPT, which includes the parent, designs the evaluation (*See Evaluation Study for Determination of Eligibility and Placement*). Before our District provides initial special education and related services, a full and individual initial evaluation is conducted to determine if the student is a student with a disability and to determine the education needs of the student. Parents must sign a written consent for the evaluation. See Chapter 3 for evaluation notice and consent requirements.

After the evaluation is completed, the Planning and Placement Team of qualified professionals and the parent of the student make the determination of whether the student is a student with a disability. See Chapter 1 for further details of student identification. A copy of the evaluation report and documentation of eligibility is given to the parent. Development of the IEP for a student is based upon

the diagnostic findings of the evaluation study. Implementation of an IEP based upon an initial referral is not to exceed 45 school days from the date of referral or 60 school days for students placed in a private school, exclusive of the time necessary to get parent consent. *(See Chapter 6 for further details regarding Individualized Education Programs.)*

4. Interpretation of Evaluative Data in Making Educational Decisions

In interpreting evaluation data for the purpose of determining if a student has a disability and what the educational needs of the student are, the District uses information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The District ensures that information obtained from all of these sources is documented and carefully considered. An IEP is developed if a determination is made after reviewing the information that a student has a disability and he/she requires special education and related services. A student is not determined to be a student with a disability if the determining factor for such decision is limited English proficiency or lack of instruction in reading or math.

5. Reevaluation

The IEP of each student with a disability is reviewed in our District periodically, but at least annually. A reevaluation of each student with a disability is conducted at least once every three years (unless the parent and our District agree that it is unnecessary), or if a student's parent or teacher requests a reevaluation (although a reevaluation will not be conducted more frequently than once a year unless the parent and our District agree otherwise). Parents must sign consent for reevaluation unless our District can document that we have taken reasonable measures to obtain parental consent and the parent (or eligible student) has failed to respond (see Chapter 3, page 4). See Chapter 3 for reevaluation notice requirements and the appendix for the consent form.

6. Evaluation Prior to Termination of Special Education Eligibility

The District evaluates a student with a disability before determining that the student is no longer a student with a disability. An evaluation before the termination of a student's eligibility for special education and related services is not required if the student graduates with a regular high school diploma or exceeds the age of eligibility for FAPE under state law.

❖ Summary of Performance

For a student whose eligibility for special education and related services terminates due to graduation with a regular diploma or due to exceeding the age eligibility for FAPE under state law, our District will provide the student with a summary of the student's academic achievement and functional performance [ED 635], which shall include recommendations on how to assist the student in meeting his or her postsecondary goals.

❖ Evaluation Study for Determination of Eligibility and Placement

An evaluation study on a student in our District includes reports concerning educational progress, structured observation, and such psychological, medical, developmental and social evaluations as may be appropriate to determine the nature and scope of the student's exceptionality.

The evaluation study may include information concerning the student's physical condition, socio-cultural background and adaptive behavior in home and school. The evaluation report documents the sources of all information. If an assessment is not conducted under standard conditions, a description of the extent to which it varies from standard conditions is included in the evaluation report.

In evaluating each student with a disability, our District's evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the student's disability category. A student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

No single procedure is used as the sole criterion to determine whether a student has a disability and to design an appropriate educational program for the student. Results of standardized or local tests of ability, aptitude, affect, achievement and aspiration are not exclusively used as the basis for determining whether a student is a student with a disability within our District. An evaluation study shall document and carefully consider the sources of all information.

Evaluative Data for Initial Evaluation or Reevaluation

As part of an initial evaluation and as part of any reevaluation, the PPT (which develops, reviews or revises the student's IEP) and other qualified professionals, as appropriate, review existing evaluation data, including:

- Information, and evaluations conducted by the district and/or provided by the parents of the student;
- current classroom-based, local, or State assessments, and classroom-based observations; and
- observations by teacher and related services providers.

If the team is unable to make a determination using existing information, the team may identify any additional data that maybe needed including tests and other evaluation materials to determine the following:

- Whether the student has a particular category of disability and the educational needs of the child;
- In the case of reevaluation, whether the student continues to have such a disability and such educational needs;
- The present levels of academic achievement and related developmental needs of the student;
- Whether the student needs special education and related services;
- In the case of a reevaluation of a student, whether the student continues to need special education and related services; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to:
 - Meet the measurable annual goals set out in the IEP; and
 - Participate, as appropriate, in the general education curriculum.

Notice and consent for initial evaluation and reevaluation will be completed.

When conducting a reevaluation, if no additional data is needed to determine whether the student continues to be a student with a disability, the District notifies the student's parents of this determination and the reasons for it. The District also notifies the parents of their right to request an assessment to determine whether the student continues to be a student with a disability and to determine the child's educational needs. The District is not required to conduct an assessment unless requested by the student's parents.

Evaluations of students with disabilities who transfer from one school district to another school district in the same academic year are coordinated with such student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

❖ Evaluation Tools and Measurements

Tests, evaluation materials, procedures and techniques used for the purpose of evaluation are chosen carefully to ensure accurate results. They are selected and administered so as not to discriminate on a racial or cultural basis. They are used to gather relevant functional, developmental and academic information including: information provided by the parent, and information related to enabling the student to be involved in and progress in the general curriculum. For a preschool student, the District looks at information that will enable the student to participate in appropriate activities. This information will help the PPT determine whether a student has a disability as well as the content of the student's IEP.

The evaluation tools the District uses are administered according to instructions provided by the producers/publishers and have been validated for the specific purpose for which they are used. They are administered by trained and knowledgeable personnel who are appropriately certified and or licensed. The District ensures that they are technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

The evaluation tools and measurements that the District uses include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. These assessment measures provide relevant information that directly assists persons in determining the educational needs of the student. Tests and measurements that the District uses are selected and administered to ensure that the test results accurately reflect the student's aptitude or achievement level or whatever factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills.

Language Issues In Evaluation

Assessments, evaluation material, procedures and techniques used for evaluation are selected and administered so as not to be discriminatory on a racial or cultural basis. They are provided and administered in the student's native language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally unless it is not feasible to do so. If a student is dominant in a language other than English, the evaluation study also includes systematic teacher observation of the specific areas of concern. Detailed information about the student's performance at home and in the community and any prescriptive or diagnostic teaching that have taken place is included.

The District uses a language dominance proficiency assessment prior to an evaluation when appropriate. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education rather than measuring the student's English language skills.

Evaluation for Learning Disabilities

The determination of whether a student suspected of having a specific learning disability is a student with a disability must be made by a PPT which includes the student's parents and qualified professionals including, but not limited to:

- the student's regular teacher [or if the student does not have a regular teacher, a regular classroom teacher, a regular classroom teacher qualified to teach a student of her or his age, or for a student of younger than school age, an individual qualified by the state educational agency to teach a student of her or his age]; and
- at least one person qualified to conduct an individual diagnostic examination such as a school psychologist, speech-language pathologist or remedial reading teacher.

Determination of a Learning Disability

Specific Learning Disability ("SLD") means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written.

A PPT may determine that a student has a specific learning disability *if*:

1. The student does not achieve adequately for his or her age, or to meet grade level standards in one or more of the following areas (when provided with learning experiences and instruction appropriate for the child's age or grade level standards):
 - oral expression
 - listening comprehension
 - written expression
 - basic reading skills
 - reading fluency skills
 - reading comprehension
 - mathematics calculation
 - mathematics problem solving

and,

2. The student does not make sufficient progress to meet age or grade level standards in one or more of the areas identified in number 1, above, when using a process based on the child's response to scientific, research-based intervention; or
3. The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards, or intellectual development, that is determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments.

In addition, the PPT may not identify a student as having a specific learning disability if the suspected disability is primarily the result of:

- a visual, hearing or motor disability;
- intellectual disability;
- emotional disturbance;
- environmental, cultural or economic disadvantage;
- limited English proficiency; and
- lack of appropriate instruction in reading or math.

To ensure that underachievement in a child suspected of having a SLD is not due to a lack of appropriate instruction in reading or math, the team must also consider, as part of the evaluation:

- Data that demonstrates that prior to, or as a part of the referral process, the student was provided appropriate, research-based instruction in regular education settings, including that the instruction was delivered by qualified personnel; and
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.

In determining whether a child has an SLD, our district may use a discrepancy model (i.e., discrepancy between intellectual ability and achievement) or a Response to Intervention model which determines the existence of a learning disability based upon the progress a student makes over an appropriate period of time when provided with high-quality instruction/intervention and frequent monitoring of progress. Either model is permissible.

No matter which method our district uses to identify a child with SLD (response to scientific, research based instruction, or discrepancy model of patterns of strengths and weaknesses) we will conduct a comprehensive evaluation of the student that will also include an observation of the student's academic performance in the regular classroom setting by at least one team member other than the student's regular education teacher. In the case of a student of less than school age or out of school, a team member will observe the student in an environment appropriate for a student of that age.

In our district we use a comprehensive evaluation procedure that includes standardized assessment, curriculum-based assessment, and a review of the students response to interventions. When necessary, clinical judgement is used to determine eligibility, but NEVER in the absence of an evaluation.

Multidisciplinary Evaluation Report [ED 629]

For a student suspected of having a specific learning disability, the documentation of the PPT's determination of eligibility (*See Chapter 4 Appendix*) must include a statement of:

- whether the student has a specific learning disability;
- the basis for making the determination;
- the relevant behavior noted during the observation of the student;
- the relationship of that behavior to the student's academic functioning;
- whether the student does not achieve adequately or make sufficient progress to meet age or grade level standards;
- whether there are patterns of strengths and weaknesses in performance, achievement or both, relative to age, grade-level standards, or intellectual development in one or more of the areas listed under "*Determination of a Learning Disability*);
- the instructional strategies used and the student-centered data collected if a response to scientific, research-based intervention process was implemented;
- the determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
- educationally relevant medical findings, if any;
- If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
 - o The instructional strategies used and the student-centered data collected; and
 - o The documentation that the child's parents were notified about: (1) the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; (2) strategies for increasing the child's rate of learning; and (3) the parents' right to request an evaluation.

Each team member participating in the determination of eligibility of a student suspected of having a learning disability certifies in writing whether the report reflects her or his conclusion. If it does not, the team member will submit a separate statement presenting his or her conclusions.

❖ Independent Educational Evaluation

The District provides to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and our District's criteria applicable for independent educational evaluations.

Parents may request an independent educational evaluation at district expense if the parent disagrees with an evaluation that was completed or obtained by our District. The parent is entitled to request only one IEE at district expense each time the District conducts an evaluation with which the parent disagrees.

If a parent requests an independent educational evaluation at District expense, our District will, without unnecessary delay, either --

- File a due process complaint to request a hearing to show that the District's evaluation is appropriate; or
- Ensure that an independent educational evaluation is provided at District expense, unless the agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.

When an independent education evaluation is at District expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner must be the same as the criteria that our District uses when the District initiates an evaluation. This is done to the extent that the criteria is consistent with the parent's right to an independent educational evaluation and that the District may not impose additional conditions or timelines to those that the District uses.

If the parent obtains an independent educational evaluation at private expense, our District in any decision made with respect to the provision of FAPE to the student will consider the results of the evaluation. The results of an independent educational evaluation obtained by the parent at private expense may be presented as evidence at a hearing under the provisions of IDEA.

Trial Placement for Diagnostic Purposes

The purpose of such placements is to assess the needs of a student for whom special education and related services may be necessary, but for whom the evaluation study is either inconclusive or the data insufficient to determine the student's IEP. A diagnostic placement is a structured program of not more than eight weeks duration.

The following steps are implemented in our District when the District has a student in a diagnostic placement:

1. The PPT specifies, in writing, the diagnostic goals and objectives, as well as the types and amounts of services needed to conduct the program to determine more conclusively the student's needs.
2. The PPT meets at least once every two weeks with personnel working with the student to discuss the student's progress and to revise, where necessary, the services being provided.
3. The PPT decides whether the student's time is divided between the diagnostic program and another program, or the student may be placed in the diagnostic program full time.
4. A diagnostic program shall be terminated as soon as the student's needs have been determined, but in any event within eight weeks.

5. Five school days before the end of the diagnostic program, the PPT will re-convene and, if required, write the student's IEP based on the findings made during the diagnostic placement as well as other evaluative information regarding the student.

Evaluation Appendix

- Multidisciplinary Evaluation Report for Learning Disabilities
- Reading Worksheet
- Math Worksheet
- Worksheet to determine eligibility for Serious Emotional Disturbance
- Summary of Performance (ED 635)

Fairfield Public Schools
Multidisciplinary Evaluation Report for
Students Suspected of Having a Specific Learning Disability

Student: _____ Date of Birth: _____ Grade: _____
School: _____ Date of Report: _____

The following information must be reviewed by the Planning and Placement Team and documented in the appropriate spaces.

I. Required Evaluation Components

A. Parental Input:

B. Interventions and Instructional Strategies Used Prior to Referral:

[All student-centered intervention and progress monitoring data is attached, including information from math, reading, and/or writing worksheets, as appropriate. Data should include implementers and dates of progress monitoring.]

C. Educationally Relevant Medical Findings, if any: ☐ N/A

D. Regular Classroom Observation: Area of Difficulty: _____

Academic setting: _____ Date(s): _____

Observer(s) : _____

Behavior observed and the relationship to academic functioning: _____

E. Assessment Information:

Assessment

(e.g., curriculum-based, standardized, criterion-referenced)

Evaluator (Name and Title)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

II. Criteria			Criteria Met	
Respond to each criteria used to determine eligibility for students suspected of having a specific learning disability.			YES	NO
A.	Is student achieving adequately for the student's age or meeting State-approved grade-level standards in one or more of the following areas when provided with learning experiences appropriate for the student's age or State-approved grade level standards? If NO, indicate in which area(s) student is NOT achieving adequately below: <p style="text-align: center;"><i>[Note: At least <u>one</u> area must be identified.]</i></p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> mathematics calculation <input type="checkbox"/> mathematics problem solving <input type="checkbox"/> oral expression <input type="checkbox"/> written expression <input type="checkbox"/> listening comprehension <input type="checkbox"/> reading comprehension <input type="checkbox"/> fluency <input type="checkbox"/> basic reading skills </div> </div>			*
B.	Is student making sufficient progress in the area identified above to meet age or State-approved grade-level standards, even with scientific research-based interventions?			*
C.	The student has been provided with explicit and systematic instruction in the essential components of scientific, research-based reading instruction or math from a qualified teacher, including regular assessments of achievement to document the student's response to scientific, research-based intervention as a part of the evaluation procedures.			*
D.	Learning difficulty is <i>primarily</i> due to:	YES	NO	Note: If all of the (✓)'s are in the NO column, then the student meets the criteria for II D (i.e., "learning difficulty is NOT the result of" these other factors).
1.	Lack of instruction in math, reading or writing ^o (Based on Math, Reading or Writing Worksheets)			
2.	A visual, hearing or motor disability			
3.	Intellectual Disability			
4.	Emotional Disturbance			
5.	Cultural factors			
6.	Environmental or economic disadvantage			
7.	Limited English proficiency			
E.	Has NO been (✓)'d for all items in D above (#1-7)?			
F.	Does information gathered through the required evaluation components (including consideration of a dual discrepancy**) indicate that a specific learning disability exists in the area identified above (in A)?			†
G.	Are special education and related services required to address the specific learning disability identified in F?			

*Criteria A-C: The student has been provided with scientific, research-based interventions in area of concern and repeated measures of progress were utilized to determine the student's response to the intervention(s).

^oCriteria D-1: Math, Reading and/or Writing Worksheets are attached (unless math, reading and/or writing are not an area of weakness).

†Criteria F: If a specific learning disability exists in **one of the eight areas above** (in II A), **attach** a summary statement of all formal and informal assessment data used to document the existence of such a disability.

**Dual Discrepancy: Dual discrepancy means that a student has BOTH low performance relative to age or grade level standards AND insufficient progress even when provided with scientific, research-based interventions.

Statements of Assurances:

- H. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction (i.e., progress monitoring) has been provided to parents.

Date(s) information provided: _____

- I. Student's parents were notified about state policies for performance, strategies for increasing the student's rate of learning and parent's right to request an evaluation.

Date(s) information provided: _____

Received State-approved extension to delay assurances J & K until July 1, 2010: ☐ YES ☐ NO

- J. The IQ/discrepancy (ability/achievement) model was not used to determine eligibility.

- K. A disorder in one of the basic psychological processes in understanding or in using spoken or written language was not required as part of the eligibility decision.

The Planning and Placement Team has reviewed the information presented and has made the determination that the student has a specific learning disability and requires special education services:

☐ YES [All criteria (A-G) have been met.] ☐ NO

Each team member certifies by his/her signature that this report reflects her/his conclusion. (**Bold** means required.)

Signature

Title

General education teacher _____

Examiner/special education instruction _____

Examiner/pupil personnel services _____

Administrator _____

Other _____

Other _____

If this report does not reflect a team member's conclusion s/he must indicate below her/his reasons and conclusion.

Name: _____ Title: _____ Signature: _____

Reason(s) and conclusion:

Fairfield Public Schools Reading Worksheet

(To document that a student has received appropriate instruction and intervention in reading)

This checklist must be completed for all elementary, middle, and high school students who have been referred to special education due to a suspected learning disability that affects reading. This information should generally be gathered prior to a referral to special education as part of early intervention (i.e., alternative procedures required to be implemented in regular education under CT Special Education Regulations §10-76d-7). *(All boxes must be checked with appropriate documentation provided.)*

1. Core General Education Language Arts Instruction (Tier I)

- ☐ Student has participated in daily general education reading/language arts instruction using scientific research-based practices provided to the entire class by the general education teacher.

Description of Instruction Provided: General education instruction should involve a comprehensive, district-wide reading curriculum that addresses state standards and the five areas of reading (e.g., through read-alouds; systematic phonics instruction; word study and structural analysis; fluency-building activities; explicit vocabulary instruction; literature think-alouds; comprehension strategy instruction):

2. Small Group/Differentiated Instruction by General Education Teacher (Tier I)

- ☐ Student has participated in small group, differentiated reading instruction by the classroom teacher as part of Tier I general education instruction (i.e., for all students). Materials at the student's instructional level (90-95% word accuracy and at least 75-80% comprehension) have been used for a minimum of four days per week.

Description -How Core Curriculum was Differentiated to Meet Individual Student Needs in Small Group Setting:

3. Progress Monitoring Assessments (Tier I)

- ☐ Continuous progress monitoring has been provided to establish a basis for instructional decisions and to document a student's response to instruction.

Description/Source of Evidence of Progress Monitoring: ☐ Results attached

Assessment (e.g., curriculum based measurement, curriculum-based assessments, diagnostic assessments)	Skills/Competencies Targeted (e.g., phonemic awareness, phonics, fluency, vocabulary, comprehension)	Dates

4. Supplemental scientific research-based interventions (Tier II – targeted interventions; Tier III - more targeted and intensive interventions)

- ☐ Interventions have been implemented based on specific student needs in one or more of the five areas of reading: phonemic awareness, phonics, fluency, vocabulary, and/or comprehension.
- ☐ Appropriately qualified and trained staff has provided the interventions, which have been implemented with fidelity (i.e., delivered in the manner in which they were designed and intended to be used). Documentation indicating frequency, duration and type of intervention is either listed on this form or attached.

1. If decoding skills have been identified as an area of weakness:

- ☐ Student's phonemic awareness has been evaluated and if warranted, targeted interventions have been provided. Student has been provided with systematic, explicit phonics instruction.
- ☐ Student has been provided with regular opportunities to practice learned decoding skills in texts.
 - ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

2. If a student's oral reading fluency has been identified as an area of weakness:

- ☐ Student's phonics skills have been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with regular opportunities to practice reading a variety of text at his/her independent level (at least 96% word accuracy and 90% comprehension).
- ☐ Student has been provided with teacher-directed fluency interventions focused specifically on improving oral reading fluency with connected text.
 - ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

3. If a student's reading comprehension skills have been identified as an area of weakness beyond what can be accounted for by identified decoding and/or reading fluency deficits:

- ☐ Student's vocabulary skills have been evaluated and if warranted, targeted interventions have been provided, with application to reading comprehension.
- ☐ Student's broad oral language skills (e.g., listening comprehension) have been evaluated and if warranted, targeted interventions have been provided, with application to reading comprehension.
- ☐ Student has been provided with explicit comprehension interventions (e.g., additional instruction in research-based comprehension strategies such as summarization and use of graphic organizers; additional building of background knowledge and/or knowledge of text structure) to address his/her specific comprehension needs.
 - ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

4. Lack of sufficient progress to meet age or State-approved grade-level standards (Tiers II/III)

- ☐ The student has not made sufficient progress in the supplemental intervention(s) implemented above despite attempts to improve, individualize and intensify the intervention.

Source of Evidence: Attach teacher support and/or intervention team information (including data in numeric and graphic formats) **AND** complete chart below

Scientific research-based interventions used as supplemental and/or intensive interventions. These interventions are in addition to what is provided for all students (i.e., Tier I)	Student's response to interventions Baseline plus at least four additional progress monitoring measurements for each intervention (CBM or other appropriate measure)	Dates of intervention implementation

(Teacher signature)

(Date)

(Signature of person(s) responsible for item #5)

(Date)

Fairfield Public Schools Mathematics Worksheet

(To document that a student has received appropriate instruction and intervention in mathematics)

This checklist must be completed for all elementary, middle, and high school students who have been referred to special education due to a suspected learning disability that affects mathematics. This information should generally be gathered prior to a referral to special education as part of early intervention (i.e., alternative procedures required to be implemented in regular education under CT Special Education Regulations §10-76d-7). (All boxes must be checked with appropriate documentation provided.)

1. Core General Education Mathematics Instruction (Tier I)

- ☐ Student has participated in daily general education mathematics instruction using scientific research-based practices provided to the entire class by the general education teacher.

Description of Instruction Provided: General education instruction should involve a comprehensive, district-wide math curriculum that addresses state standards and all important areas of math, (e.g., through the explicit teaching of strategies that promote conceptual understanding, problem-solving, calculation skills, and procedural accuracy and fluency):

2. Small Group/Differentiated Instruction by General Education Teacher (Tier I)

- ☐ Student has participated in small group, differentiated math instruction by the classroom teacher as part of Tier I general education instruction (i.e., for all students). Materials at the student's instructional level have been used for a minimum of four days per week.

Description –How Core Curriculum was Differentiated to Meet Individual Student Needs in Small Group Setting:

3. Progress Monitoring Assessments (Tier I)

- ☐ Continuous progress monitoring has been provided to establish a basis for instructional decisions and to document a student's response to instruction.

Description/Source of Evidence of Progress Monitoring: ☐ Results attached

Assessment (e.g., curriculum based measurement, curriculum-based assessments, diagnostic assessments)	Skills/Competencies Targeted (e.g., math concepts, problem solving, calculation skills, procedural accuracy and fluency)	Dates

4. Supplemental scientific research-based interventions (Tier II – targeted interventions; Tier III - more targeted and intensive interventions)

- ☐ Interventions have been implemented based on specific student needs in important areas of math such as math concepts, problem solving, calculation skills or procedural accuracy and fluency.
- ☐ Appropriately qualified and trained staff have provided the interventions, which have been implemented with fidelity (i.e., delivered in the manner in which they were designed and intended to be used). Documentation indicating frequency, duration and type of intervention is either listed on this form or attached.

If calculation skills have been identified as an area of weakness:

- ☐ Student's conceptual understanding of numbers has been evaluated and if warranted, targeted interventions have been provided (e.g., additional, more explicit instruction with use of visual representations such as pictures or manipulatives).
- ☐ Student's automatic recall of facts has been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with explicit teaching of algorithms for calculation linking procedures to a conceptual understanding (e.g., written procedures for 2-digit subtraction with regrouping, long division).
- ☐ Student has been provided with regular opportunities to practice learned calculation skills in appropriate contexts, including cumulative review of previously learned skills.
- ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

If problem-solving skills have been identified as an area of weakness beyond what can be accounted for by identified calculation deficits and/or poor reading:

- ☐ Student's math-related vocabulary and other oral language skills have been evaluated and if warranted, targeted interventions have been provided, with application to math problem solving.
- ☐ Student's specific problem-solving skills (e.g., ability to determine which operation to use to solve a problem, identifying relevant vs. irrelevant information) have been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with regular opportunities to practice learned problem-solving skills, including cumulative review of previously learned skills.
- ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

Lack of sufficient progress to meet age or State-approved grade-level standards (Tiers II/III)

- ☐ The student has not made sufficient progress in the supplemental intervention(s) implemented above despite attempts to improve, individualize and intensify the intervention.

Source of Evidence: Attach teacher support and/or intervention team information (including data in numeric and graphic formats) AND complete chart below

Scientific research-based interventions used as supplemental and/or intensive interventions. These interventions are in addition to what is provided for all students (i.e., Tier I)	Student's response to interventions Baseline plus at least four additional progress monitoring measurements for each intervention (CBM or other appropriate measure)	Dates of intervention implementation

(Teacher signature)

(Date)

(Signature of person(s) responsible for item #5)

(Date)

Individualized Education Program Team Worksheet to Determine Eligibility for Special Education Due to Serious Emotional Disturbance

This summary of assessment findings is to be completed by the Individualized Education Program Team (IEP Team) in accordance with procedures defined in the "SED Definition Criteria" section of the *Guidelines for Identifying and Educating Students with Serious Emotional Disturbance*. Attach this completed form to the assessment records.

1. Alternative Strategies Prior to Referral

Have alternative strategies been attempted and found inadequate to address the student's problems and needs? _____ yes _____ no

Sources of Evidence

2. Characteristics and Limiting Criteria

All three limiting criteria must be checked for at least one characteristic in order to qualify for SED eligibility.

Limiting Criteria

- Characteristic has been exhibited over a long period of time (duration).
- Characteristic has been exhibited to a marked degree (i.e., significantly greater frequency and/or intensity than seen in peer group).
- Characteristic has an adverse effect on educational performance.

Characteristic Check all that apply (student must manifest at least one characteristic)	Limiting Criteria		
	Long Time	Marked Degree	Adverse Effect on Educational Performance
a. Inability to learn which cannot be explained by intellectual, sensory or other health factors.			
b. Inability to build or maintain satisfactory interpersonal relationships with peers and teachers.			
c. Inappropriate types of behavior or feelings under normal circumstances.			
d. A general pervasive mood of unhappiness or depression.			
e. A tendency to develop physical symptoms or fears associated with personal or school problems.			

Sources of Evidence for the Characteristic(s) and the Limiting Criteria

3. Social Maladjustment and Serious Emotional Disturbance

If the student exhibits social maladjustment, he or she also demonstrates the condition of serious emotional disturbance. (Refer to the *Guidelines* section, "A Note Regarding Students with Social Maladjustment.")

_____ yes _____ no _____ N/A

4. Elimination of Other Possible Causes

Are temporary situational stressors, intellectual impairment, learning disabilities, medical problems and sociocultural differences ruled out as the primary cause(s) of the student's educational and behavioral problems?

_____ yes _____ no

Sources of Evidence

Conclusion

- Do the members of the IEP Team conclude that the student meets the criteria for having a serious emotional disturbance as defined in Connecticut statutes?

_____ yes _____ no

Note: Best practice suggests that dissenting opinions be recorded in the IEP Team minutes.

SUMMARY OF PERFORMANCE (SOP) Instructions for Completing ED635

Purpose: The Summary of Performance (SOP) is required under the reauthorization of the Individuals with Disabilities Education Act of 2004 (IDEA 2004). The language as stated in IDEA 2004 regarding the SOP is as follows: For a child whose eligibility under special education terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility, the local education agency **shall** provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

The SOP, with accompanying documentation, is also critical as a student transitions from high school to higher education, training and/or employment. This information is necessary under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act to establish a student's eligibility for reasonable accommodations and supports in *postsecondary* settings. It is also important for determining eligibility and programming for the Bureau of Rehabilitation Services (BRS), the Department of Mental Retardation (DMR) or any agency that requires documentation to provide services and/or reasonable accommodations for a student.

The SOP **must** be completed during the final year of a student's high school education. The timing of completion of the SOP may vary depending on the student's post secondary goals. If a student is transitioning to higher education, the SOP, with accompanying documentation, may be necessary as the student applies to a college or university. Likewise, this information may be necessary as a student applies for services from BRS or DMR. In some instances, it may be most appropriate to wait until the spring of a student's final year to provide an agency or employer the most updated information on the performance of the student.

Part 1: Student Demographics – Complete this section as specified. Please note this section also requests that you provide copies of the **most recent** formal and informal assessment reports that document the student's disability and provides information to assist in post-high school planning.

Part 2: Student's Postsecondary Goal(s) – These goals should identify the post-school environment the student intends to transition to upon completion of their high school education.

Part 3: Summary of Performance – This section includes three critical areas of student performance: academic, cognitive, and functional levels of performance. Next to each specified area, please complete the student's present level of performance and the accommodations, modifications and assistive technology that were **essential** in high school to assist the student in making progress. If not applicable, please specify the reason (i.e., age-appropriate, skills mastered, etc.)

An **Accommodation** is defined as a support or service that is provided to help a student fully access the general education curriculum or subject matter. Students with impaired spelling or handwriting skills, for example, may be accommodated by a note taker or given permission to take class notes on a laptop computer. An accommodation *does not change the content* of what is being taught.

A **Modification** is defined as a change to the general education curriculum or other material being taught. Teaching strategies, for example, can be modified so that the material is presented differently and/or the expectations of what the student will master are changed.

Assistive Technology is defined as any device that helps a student with a disability function in a given environment, but does not limit the device to "high-tech or costly" options. Assistive technology can also include simple devices such as laminated pictures for communication, removable highlighter tapes, velcro and other "low-tech" devices.

The completion of this section may require the input from a number of school personnel including the special education teacher, regular education teacher, school psychologist or related services personnel. It is recommended that one individual be responsible for collecting the information required on the SOP.

Part 4: Recommendations to assist student in meeting post secondary goals – This section should describe any **essential** accommodations, modifications, assistive technology or general areas of need that students will require to be successful in a **post-high school** environment, including higher education, training, employment, independent living and/or community participation. If not applicable, please specify the reason (i.e., age-appropriate, skills mastered, etc.).

Part 5: Student Input (Optional). It is highly recommended that the student provide information related to this Summary of Performance. The student's contribution can help (a) secondary professionals complete the summary, (b) the student to better understand the impact of his/her disability on academic and functional performance in the postsecondary setting, and (c) postsecondary personnel to more clearly understand the impact of the disability on this student. This section may be filled out independently by the student or completed with the student through an interview.

A copy of this Summary of Performance can be found on the Department of Education's website at: <http://www.state.ct.us/sde/deps/special/index.htm>.

FAIRFIELD PUBLIC SCHOOLS SUMMARY OF PERFORMANCE

Part 1: Student Information

Student Name: _____ Date of Birth: _____ Year of Graduation/Exit: _____

Address: _____ (street) _____ (town, state) _____ (zip code)

Telephone Number: _____ Primary Language: _____

Current School: _____ Name of person completing this form: _____

Telephone number of person completing this form: _____ Date Summary was completed: _____

Date of most recent IEP: _____ Student's secondary disability, if applicable: _____

Student's primary disability: _____

When was the student's disability (or disabilities) formally diagnosed? _____

Please attach copies of the most recent assessment reports that address academic, cognitive and functional performance and were instrumental in making a determination of the student's disability or diagnosis, and/or that will assist in postsecondary planning.

Part 2 – Student's Postsecondary Goal(s)

Part 3 – Summary of Performance

ACADEMIC CONTENT AREA	Present Level of Performance (grade level, standard scores, strengths, weaknesses)	Essential accommodations/ modification and/or assistive technology utilized in high school
Reading (Basic reading/decoding; reading comprehension; reading speed)		
Math (Calculation skills, math problem solving)		

Language (Written composition, written and oral expression, spelling)		
Learning Skills (class participation, note-taking, keyboarding, organization, homework management, time management, study skills, test-taking skills)		
COGNITIVE AREAS	Present Level of Performance	Essential accommodations/modification and/or assistive technology utilized in high school
General Ability and Problem Solving (reasoning/processing)		
Attention and Executive Functioning (energy level, sustained attention, memory functions, processing speed, impulse control, activity level)		
Communication (speech/language, augmentative communication)		
Additional Relevant Factors (other cognitive strengths/weaknesses, conducive learning environments, effective learning strategies, etc.)		
FUNCTIONAL AREAS	Present Level of Performance	Essential accommodations/modification and/or assistive technology utilized in high school
Career/Vocational/Transition (Career interests, career exploration opportunities, job training opportunities)		

Social Skills and Behavior (Interactions with teachers/peers, level of initiation in asking for assistance, responsiveness to services and accommodations, degree of involvement in extracurricular activities, confidence and persistence as a learner, emotional or behavioral issues related to learning and/or attention)		
Independent Living Skills (Self-care, leisure skills, personal safety, mobility, transportation, banking, budgeting)		
Self-Determination/Self-Advocacy Skills (Ability to identify and articulate learning strengths and weaknesses, ability to ask for assistance with independence)		
Additional important considerations that can assist in making decisions about disability determination and needed accommodations (e.g., medical problems, family concerns, sleep disturbance, etc.)		

Part 4 – Recommendations to assist student in meeting post secondary goals

What are the **essential** accommodations, modifications, assistive technology or general areas of support that students will need to be successful in the following **post-high school** environments:

<p>Higher Education or Vocational Training:</p> <p>Employment:</p> <p>Independent Living:</p> <p>Community participation:</p>

Part 5 – Student Input (Optional)

SUMMARY OF PERFORMANCE: STUDENT PERSPECTIVE

- A. How does your disability affect your school work and school activities (such as grades, relationships, assignments, projects, communication, time on tests, mobility, extra-curricular activities)?
- B. In the past, what supports have been tried by teachers or by you to help you succeed in school (aids, adaptive equipment, physical accommodations, other services)?
- C. Which of these accommodations and supports has worked best for you?
- D. Which of these accommodations and supports has not worked?
- E. What strengths and needs should professionals know about you as you enter the college or work environment?
- F. Are you independent in advocating for your needs?

Student Signature: _____ Date: _____

Chapter 5 — Planning and Placement Team (PPT)

The Planning and Placement Team (PPT) is the decision-making body central to the process of ensuring that the student meets the eligibility requirements of the IDEA. It is through this process that the District ensures that students with disabilities receive a free and appropriate public education.

❖ Purpose of the PPT

The PPT meeting is initiated and conducted for the purpose of determining eligibility, developing, reviewing and revising the IEP, and designing and reviewing evaluations and reevaluations. The purpose of the PPT meeting includes, where appropriate, developing and reviewing functional behavior assessments, developing, reviewing and/or modifying behavioral intervention plans, conducting manifestation determinations, and making interim alternative educational placement decisions. Additionally, the PPT meets to consider transition service needs and/or transition services that might be necessary.

❖ Prior to a PPT

Prior to a PPT our District personnel may engage in informal or unscheduled conversations on issues such as teaching methodology, lesson plans, or coordination of services if those issues are not addressed in the student's IEP. They may engage in activities to prepare for the PPT such as developing a proposal or response to a parent proposal.

❖ PPT Timelines

The Planning and Placement Team reviews the student's IEP periodically, at least annually, to determine whether the goals for the student are being achieved. The PPT revises the IEP, as appropriate, to address:

- any lack of progress toward the annual goals and in the general curriculum;
- the results of any reevaluation;
- information about the student provided to, or by, the parents;
- the student's anticipated needs; and
- other matters.

Parents must receive notice of PPT meetings at least five school days prior to the meeting.

❖ PPT Membership

The Planning and Placement Team in our District is composed of a group of certified and/or licensed professionals from teaching, administrative and pupil personnel staffs, the parent(s) of the student, the student when appropriate, and other individuals having knowledge or special expertise regarding the student. Administration is represented by someone qualified to provide or supervise the provision of special education. This person need not be the principal, but is not the student's teacher. In our District, school personnel that are knowledgeable in the areas necessary to determine an appropriate educational program for a student with a disability attend PPTs.

Each PPT that (1) develops, reviews and revises an IEP; (2) designs and conducts an initial evaluation or reevaluation; (3) determines eligibility; (4) conducts a manifestation determination; (5) develops a functional behavioral assessment; or (6) develops, reviews or modifies a behavioral intervention plan, includes:

- The parents of the student with a disability;
- At least one regular education teacher of the student (if the student is, or may be participating in the regular education environment);
- At least one special education teacher of the student, or if appropriate, at least one special education provider of the student;
- A representative of the District who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum and about the availability of resources within the District;
- A representative of the pupil personnel staff;
- An individual who can interpret the instructional implications of evaluation results (who may be one of the previously listed team members other than the parent);
- If appropriate, the student; and
- At the discretion of the parent or the District, other individuals who have knowledge or special expertise regarding the student, including related services personnel.

PPT Membership for Out-of-District Placements

PPT meetings, conducted to review or revise the program for a student in an out-of-district placement, include a representative from that facility (in addition to the membership identified above) who contributes to the development of short-term instructional objectives.

PPT Memberships for Secondary Transition Considerations

If the purpose of the meeting is consideration of secondary transition services, the student (regardless of age) and a representative of any agency that is likely to be responsible for providing or paying for transition services are also invited. Representatives of outside agencies may only be invited with the consent of the parent or eligible student.

If the student does not attend the PPT, the District takes steps to ensure that the student's preferences and interests are considered.

PPT Attendance [ED 633]

In some instances, a PPT member may be excused from attending a PPT meeting or, their attendance may not be necessary.

- A member of the PPT shall not be required to attend a PPT meeting, in whole or in part, at which a student's IEP is to be developed, reviewed, or revised, if the student's parent and our District agree

that the member's attendance is not necessary because that member's area of the curriculum or related services is not being modified or discussed in the meeting.

- A team member's attendance at a PPT meeting, in whole or in part, at which a student's IEP is to be developed, reviewed, or revised, may be excused from attending the meeting even though it involves a modification to or discussion of that team member's area of the curriculum or related services, if the parent and our District consent to the excusal and the team member submits written input to the parent and PPT prior to the meeting.
- A parent's consent to a team member's absence from a PPT meeting, whether because their attendance is not necessary or they have been excused and have submitted written input to the parent and PPT, must be given in writing and on a form our District provides [ED 633].

Role of the Regular Education Teacher in the PPT

The regular education teacher of the student (as a member of the PPT) will, to the extent appropriate, participate in the development, review and revision of the student's IEP, including the determination of:

- appropriate positive behavioral interventions and strategies;
- supplementary aids and services, program modifications or supports for school personnel that will be provided for the student consistent with the IEP; and
- participation in the general education curriculum.

Parental Involvement in the PPT

Our District takes whatever action is necessary to ensure that parents understand the proceedings at the PPT meeting. This includes, but is not limited to, arranging for an interpreter for parents with deafness or whose native language is other than English.

Meetings are scheduled at a mutually agreed upon time and place. If neither parent can attend the PPT, the District makes reasonable efforts using other methods to ensure parent participation, including individual or conference telephone calls or home visits. If the parent(s) cannot be convinced that they should attend a meeting our District documents the attempts to arrange a mutually agreed on time and place (*see Chapter 5 Appendix*). This documentation may include a record of phone calls made or attempted and results of those calls; copies of correspondence sent to parents and any responses received; and records of visits to parent's home or place of employment and results of those visits.

❖ PPT Responsibilities in the Development of the Individualized Education Program (IEP)

In developing, reviewing and revising a student's IEP, our District's PPTs consider the following:

- The student's strengths and the parent's concern for enhancing their student's education;
- The results of the initial evaluation and most recent evaluation, or the results of any reevaluations;
- The results of the student's performance on any general state or Districtwide assessment programs, as appropriate;
- The communication needs of the student;
- The academic, developmental and functional needs of the student;
- Positive behavioral interventions, strategies and supports to address behavior that impedes a student's learning or that of others;
- The language needs of the student, in the case of a student with limited English proficiency;

- Instruction in Braille and the use of Braille, if a student is blind or visually impaired. The use of Braille and instruction in Braille is provided *unless* the PPT determines that either or these are not appropriate. The determination not to use Braille or not to provide instruction in Braille is made only after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media has been conducted. This evaluation must also include an assessment of the student's future needs for instruction in Braille;
- The student's language and communication needs and opportunities for direct communications with peers and professional personnel, if the student is deaf or hard of hearing. In addition, the PPT will consider this student's academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- Whether the student requires assistive technology devices and services.

If, in considering these factors, the PPT determines that a student needs a particular device or service (including an intervention, accommodation or other program modification) in order to receive FAPE, the team will include a statement to that effect in the student's IEP.

Beginning not later than the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the PPT, a student's IEP must include appropriate measurable postsecondary goals based upon age appropriate assessments related to training, education, employment, and where appropriate, independent living skills, and the transition services needed to assist the student in reaching those goals.

If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the District reconvenes the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

Disciplinary Action

When a student's behavior is in violation of a code of student conduct and the District has made the decision to change the placement, the PPT is responsible for conducting a review of the relationship between the student's disability and the student's behavior to determine if the behavior is a manifestation of the student's disability or if the behavior was the direct result of the district's failure to implement the IEP. Please see chapter 10, *Discipline*, for further explanations.

Interim Alternative Educational Setting ["IAES"]

District personnel may remove a student to an interim alternative educational setting ("IAES") for not more than 45 school days if a student:

- Carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under our jurisdiction;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under our jurisdiction; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under our jurisdiction. (See chapter 10, page 3 for definition of serious bodily injury.)

In such circumstances, the PPT determines the IAES to which the student is removed. Please see Chapter 10, *Discipline*, for further explanation.

Planning and Placement Team Appendix

- Documentation of Attempts to Seek Parent/Guardian Participation
- Manifestation Determination Form (District Supplied Form)
- Functional Behavior Assessment Form (District Supplied Form)
- ED 633 Planning and Placement Team Attendance

FAIRFIELD PUBLIC SCHOOLS
DOCUMENTATION OF ATTEMPTS TO SEEK PARENT/GUARDIAN PARTICIPATION

Student: _____ Date of Birth: _____
 Parent/Guardian: _____ Telephone No.: _____
 Address: _____

Responses: <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> 1. Parent was contacted 2. Unable to contact parent(s) 3. Received reply requested 4. Did not receive reply requested </div> <div style="width: 48%;"> 5. Attended meeting/conference 6. Did not attend meeting 7. Second written notice sent 8. Other (specify) </div> </div>	
---	--

Date	Type of Communication	Purpose	Response Number	Professional Initiating Contact

Instructions:

1. Enter the date of each contact or attempt to contact the student's parent/guardian in the first column.
2. Describe the type of communication. For example: letter, telephone, conference, etc. in column two.
3. Briefly describe the purpose for contacting the student's parent or guardian in column three. (Example: *review evaluation results, PPT meeting, discuss IEP, etc.*)
- 4. Indicate the outcome by entering a response number in the fourth column.**
5. Enter your name in column five.



FAIRFIELD PUBLIC SCHOOLS MANIFESTATION PPT CHECKLIST

THE TEAM CONSIDERED:

- Evaluation and diagnostic results
- Information presented by parents
- Observation of or interview with student
- Student's IEP and placement
- Any behavior management plan already in place

THE TEAM ASKED THE FOLLOWING QUESTIONS:

- What is the behavior for which the school seeks to impose discipline?
- What is the student's disability and what are the individual characteristics or manifestations of the disability?
- Is the IEP appropriate to meet the student's needs?
- Is the placement appropriate to meet the student's needs?
- Does the student require a behavior intervention plan, and if so, was one provided?
- If there was a behavior management plan in place, was it being implemented appropriately (i.e., consistently across staff and settings)?
- Was the student receiving related services as required by his IEP?
- Does the student's disability impair his ability to understand the impact and consequences of the behavior in question?
- Does the student's disability impair his ability to control the behavior in question?

THE TEAM CONDUCTED A FUNCTIONAL BEHAVIOR ASSESSMENT AS FOLLOWS:

- Identified and defined the target behavior(s) for this student;
- Collected information from a variety of sources, people, instruments;
- Determined duration, frequency, and intensity of behavior patterns;
- Identified antecedent events and consequences;
- Identified the function or purpose of the behavior(s);
- Developed hypotheses about the behavior(s);
- Developed a plan of intervention based on the proposed hypotheses.

IF THE TEAM FINDS THAT THE BEHAVIOR WAS NOT A MANIFESTATION OF THE STUDENT'S DISABILITY, THE TEAM FOUND THAT:

- The IEP and placement were appropriate, and were being implemented properly;
- The behavior intervention plan, if needed, was in place and being implemented appropriately;
- Any related services or supplementary aids and services were being provided as specified in the IEP;
- The student's disability did not impair his ability to understand the impact and consequences of the behavior;
- The student's disability did not impair his ability to control the behavior.

FINALLY, THE TEAM HAS DOCUMENTED ALL OF THESE DISCUSSIONS IN THE PPT MINUTES OR IN DOCUMENTS ATTACHED TO THE MINUTES.

Conclusion: All four statements must be judged accurate in order to make the determination that the misbehavior was not a manifestation of the disability (use page 1A to record discussion):

- The IEP and placement were appropriate, and were being implemented properly;
- The behavior intervention plan, if needed, was in place and being implemented appropriately;
- Any related services or supplementary aids and services were being provided as specified in the IEP;
- The student's disability did not impair his ability to understand the impact and consequences of the behavior;
- The student's disability did not impair his ability to control the behavior.

IEP SUMMARY STATEMENT AND RECOMMENDATIONS:

_____ Request a change in placement/IEP Review
_____ Revise Behavior Management Plan
_____ Request additional assessment/evaluation
_____ Other: _____

Action recommended by administrator:

_____ In-school suspension of _____ days
_____ Out-of-school suspension of _____ days
_____ 45 day (maximum) Interim Alternative Educational Placement
(description of proposed IAEP attached)
_____ Other: _____

Date documents* were mailed to parent, if parent was not present: _____

*(Notification of Meeting, Manifestation Determination, IEP Review, Written Notification to Parent, District Suspension Form, copy of parent Due Process Rights).

It is the consensus of the following IEP team members that the stated offense is / is not related to the student's disability.

Signature of Team Members	Agree	Disagree
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FAIRFIELD PUBLIC SCHOOLS
FUNCTIONAL BEHAVIOR ASSESSMENT SUMMARY
OF IEP/504 STUDENTS

Student: _____

Date Completed: _____

Review of Information:

- Number of disciplinary notices this academic year: _____
- Number of disciplinary notices since last suspension: _____
- Number of tardies this academic year: _____ absences: _____
- Medication changes: _____
- Participates in counseling: _____
- Changes in living arrangements: _____
- Changes in family structure: _____
- Additional parent information: _____

Identify behavior that triggered need for Functional Behavior Assessment:

Results of student interview and observation:

- Student's interpretation of events:

- Student's perceived sense of blame:

- Student's perceived level of control:

- Student's perceived level of remorse:

- Student's perceived sense of justice or need for restitution:

Review of Psychological Evaluations:

- Is there evidence to suggest that this behavior was predictable given the student's disability?

Explain:

- Is additional assessment required before making this determination? Yes No

Review of IEP/Accommodation Plan implementation, current program design and behavior management plan:

- Is there evidence to support that this misbehavior was related to inappropriate placement in special or regular curriculum? Yes No

Explain:

- Is there evidence to document that the behavior plan was implemented appropriately and consistently? Yes No

Explain:

- Is there evidence to suggest that the student requires additional supplementary aids or services to ensure performance success? Yes No

Explain:

- Are the target behaviors addressed by the Behavior Management Plan? Yes No

Explain:

Development of new/revised Behavior Management Plan:

Identify target behaviors to be addressed by Behavior Management Plan:

Identify sources of information used in this Assessment:

Identify duration, frequency and intensity of target behaviors:

Identify antecedent events and consequences of the target behaviors:

Identify the function or purpose of the target behavior(s):

Summarize progress on target behaviors addressed by Behavior Management Plan (if already in place):

Develop hypotheses and/or a proposed Behavior Management Plan to address the target behavior(s); use Behavior Management Plan if needed.

FAIRFIELD PUBLIC SCHOOLS BEHAVIOR MANAGEMENT PLAN

Student: _____

Date Completed: _____

State the student's behavior to be encouraged:

Describe three actions the student will demonstrate to illustrate this behavior:

1. _____
2. _____
3. _____

Monitoring process:

Classroom or School Consequences and Rewards:

1. _____
2. _____
3. _____
4. _____

Home Consequences and Rewards:

1. _____
2. _____
3. _____
4. _____

Date Plan will be reviewed: _____

Student

Parent

Classroom Teacher

Administrator

**FAIRFIELD PUBLIC SCHOOLS
PLANNING and PLACEMENT TEAM (PPT) ATTENDANCE**

Student: _____ DOB: _____ Grade: _____
School: _____ Date of PPT: _____
Parent/Guardian: _____

NOTE: THIS AGREEMENT IS OPTIONAL. Waiver of the attendance of a teacher or related service provider at a PPT meeting is optional. The district or parent/guardian may refuse to excuse such attendance.

We agree to excuse the attendance of _____ at the PPT
Teacher or related service provider
meeting scheduled for _____ because (check one):
Date

_____ This staff member's area of the curriculum *or* related services is not being modified or discussed in this meeting.

OR

_____ Although the meeting involves a modification to or discussion of this staff member's area of the curriculum *or* related services, he/she has submitted in writing, to the parent and IEP team, input into the development of the IEP prior to the meeting.

_____ Parent/Guardian Signature	_____ Date
_____ School District Representative	_____ Date

This agreement must be signed by a representative of the school district who has full authority to sign such a document on behalf of the school district and who, as described by federal statute, is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum and is knowledgeable about the availability of resources of the public agency.

Section 614(d)(1)(C) of H.R. 1350, the revised Individuals with Disabilities with Education Act, the "IDEA," provides as follows:

ATTENDANCE NOT NECESSARY: A member of the IEP Team is not required to attend a meeting, in whole or in part, if the parent of a child with a disability and the public agency (school district) agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. (Section 614 (d)(1)(C)(i) and (iii))

EXCUSAL: A member of the IEP team may be excused from attending a meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent and the public agency (school district) consent, in writing, to the excusal, and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting. (Section 614(d)(1)(C)(ii) and (iii))

Chapter 6 — Individualized Education Programs (IEPs)

The District develops a written plan for each student requiring special education and related services. This plan is called an Individualized Education Program (IEP). Our PPT develops, reviews, and or revises the IEP to meet the needs of each student who requires special education and related services.

❖ District Responsibilities Regarding IEPs

Our District provides a free, appropriate public education for all students with disabilities aged 3 through 21 who require special education and related services, who have not graduated with a regular high school diploma or exceeded the age of eligibility including:

- students with disabilities who have been suspended or expelled from school for more than 10 school days in a school year;
- students suspended for less than 10 school days in a school year if services are provided to students without disabilities who have been similarly removed; and
- students who are advancing from grade to grade.

The District provides educational opportunity to all students with disabilities. An IEP is developed, implemented, maintained, reviewed, revised and evaluated for all special education students served by our District. This includes students placed in or referred to a private school or facility by our District. Special education and related services are provided in accordance with the student's IEP.

3-Year-Olds from Birth To Three System

An IEP is developed and implemented by the third birthday for each student eligible for special education and related services who is transitioning from the Birth to Three System. A free appropriate public education is available to each eligible student no later than the student's third birthday and an IEP is in effect by that date. If a child is scheduled to transition from Birth to Three programs to the LEA and the child turns three years of age during the summer months, the District will determine if the child is eligible for a free appropriate public education (FAPE) and whether the child requires extended school year services (ESY) prior to the student's third birthday. If the student is eligible for FAPE and requires ESY services, the District will implement the IEP by the student's third birthday, regardless of the fact that this occurs during the summer months. If the student is eligible for FAPE and does not require ESY services, the IEP will be implemented on the first day of school.

Private School

Before our District places a student with a disability in, or refers a student to, a private school or facility the District initiates and conducts a meeting to develop an IEP for the student.

A representative of the private school or facility attends the IEP meeting. If the representative cannot attend, the District uses other methods to ensure participation by the private school or facility, including individual or conference telephone calls. Compliance with IDEA Part-B and CGS Section 10-76 remains the responsibility of the District even in those instances where the District has a private facility implementing a student's IEP. This responsibility includes conducting PPT meetings to develop, review and revise the student's IEP and determine eligibility for special education services.

No placement is made unless it is in accordance with a student's IEP as developed by our District PPT. Placement in a private facility after a three-year period requires the annual approval of the State Department of Education, or annually, after two years if the placement is in an out of state facility.

Charter School, InterDistrict Magnet School, and Regional Vocational Agricultural Centers

Students with disabilities, who attend charter schools, interdistrict magnet schools and regional vocational agricultural centers retain all rights under IDEA. For students with disabilities who are enrolled in any of these public choice programs, the LEA of residence (our District) will convene the planning and placement team (PPT) meeting for such student and invite representatives of the choice program to attend the PPT.

The responsibility for ensuring the provision of services to students in any of these choice programs belongs to the school in which the student is enrolled. If a student is attending a charter school, the District will discuss with representatives of the charter school how the services will be provided (by charter school staff or District staff). The District will pay the charter school, on a quarterly basis, an amount equal to the difference between the reasonable costs of special education and related services and the sum of the amount received by the charter school from federal, state, local and private sources calculated on a per pupil basis.

In the case of a student attending an interdistrict magnet school, the District shall pay the interdistrict magnet school an amount equal to the difference between the reasonable cost of special education and related services and the sum of the amount received from federal, state, and local and private sources calculated on a per pupil basis.

In the case of a student attending a vocational agricultural center who resides in our District, our District is responsible for the costs of special education and related services.

Open Choice and Connecticut Technical High Schools

Students with disabilities, who attend Open Choice schools and the CT Technical High Schools, retain all rights under IDEA. Students who attend Open Choice schools and the CT Technical High Schools "belong" to the receiving District. The receiving District convenes the Planning and Placement Team (PPT) meeting and develops the IEP for the student. For students in open choice schools, the LEA of residence is invited to attend the PPT/IEP meetings. It is the responsibility of the District of residence to pay the receiving District an amount equal to the difference between special education and related service costs and the sum of the amount received by the receiving District for the state open choice program.

The CT Technical High Schools are responsible for the provision of services for students with disabilities. Pursuant to Section 10-76q(c) of the Connecticut General Statutes, if the Planning and Placement Team of one of the CT Technical High Schools determines that a student requires special education and related services which precludes such student's participation in the program offered by a technical high school, the student shall be referred to the board of education in the town in which the student resides for the development of an IEP and such board of education shall be responsible for the implementation and financing of such program.

IEP Development and Timelines

The services and placement needed by each student with a disability to receive FAPE are based on the student's unique needs and not on the student's disability.

An IEP is in effect before special education and related services are provided to an eligible student. The District implements each IEP within 45 school days of the initial referral, exclusive of time required to

obtain parental consent, for in-district placements and 60 school days, exclusive of time required to obtain parental consent, for out-of-district placements.

At the beginning of each school year, an IEP is in effect for each student with a disability and who requires special education and related services for whom the District is educationally responsible. Throughout the school year, changes to the IEP will be implemented as agreed upon following a PPT in which the IEP is reviewed or revised.

IEP Access

The student's IEP is accessible to each regular education teacher, special education teacher, related services provider and other service provider who is responsible for its implementation. Each regular education teacher, special education teacher, related services provider and other service provider is informed of her/his responsibilities related to implementing the IEP and specific accommodations, modifications and supports that must be provided in accordance with the IEP.

A full copy of the IEP is given to parents at no cost within five school days after the PPT meeting.

❖ IEP Components

Our District uses a standard IEP form. This form has numerous legally required components that help guide the team in the development, review, revision and implementation of the student's program. These various components are listed and described in this section of the procedures.

Present Levels of Academic and Functional Performance

Present Levels of Academic and Functional Performance include a description of how a student is currently performing in many important academic, behavioral, vocational and adaptive areas. In addition, Present Levels of Academic and Functional Performance include a description of strengths, concerns and needs that require specialized instruction and a description of how the student's disability impacts their involvement and progress in the general education curriculum (the same curriculum as for nondisabled children) or appropriate preschool activities. The Present Levels of Academic and Functional Performance directly ask for parent and student input and concerns as part of the planning process.

Services Provided to the Student

The IEP will include a statement of the special education and related services and supplementary aids and services based upon 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 accommodations and modifications and supports for school personnel that will be provided so that the student will:

- advance appropriately toward attaining the annual goals;
- be involved and progress in the general curriculum;
- participate in extracurricular activities and other nonacademic activities; and
- be educated and participate with students with and without disabilities.

The IEP will specify supplementary aids and services provided to or on behalf of the student, program accommodations and modifications and supports for school personnel, as appropriate:

- The specific required accommodations and modifications including assistive technology devices and services as appropriate,
- The location and duration of the accommodations and modifications that will be included, and,

- The frequency and duration of supports for school personnel to implement the IEP.

The IEP will include a description of the extent to which the student will participate in general education. For special education and related services related to specific annual goals and objectives, the IEP will specify:

- The frequency of the service;
- The responsible staff and service implementer;
- The start and end date of the services provided;
- The location of these services; and
- If needed, a description of the instructional service delivery.

Nonacademic and Extracurricular Activities/Services

Our District takes steps to provide nonacademic and extracurricular services and activities to students with disabilities. These may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the District and assistance in making outside employment available, in such manner as is necessary to afford students with disabilities an equal opportunity for participation in those services and activities.

Justification for Removal from Regular Education

For each student who is removed from regular education for any portion of her/his school day, a justification for that removal is indicated on the IEP. Additionally, an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities, will be included in the IEP.

Length of School Day and Year

The IEP will specify the length of the school day and school year. The length of the school day and year for students requiring special education and related services is the same as for students in the regular education program, unless otherwise specified in the IEP.

Extended school year services (ESY) are available as necessary to provide a free appropriate public education. Our District provides extended school year services only if the PPT that develops the student's IEP determines, on an individual basis, that the services are necessary for the provision of FAPE. The District does not limit extended school year services to particular categories of disabilities and does not unilaterally limit the type, amount, or duration of those services.

Transportation

The District provides, as a related service, safe and appropriate transportation as needed to implement the IEP for each student requiring special education and related services. Total travel time does not exceed one hour each way to and from a special education facility and all decisions relating to travel time shall take into account the nature and severity of the student's exceptionality and the student's age. If an appropriate placement cannot be made without exceeding the one-hour travel time limit, written parental consent is obtained prior to implementing the transportation service. Transportation services are specified on the IEP.

Physical Education

The IEP will specify the physical education services for the student. Physical education services, specially designed if necessary, are made available to every student with a disability receiving a free, appropriate

public education in our District. Each student with a disability has the opportunity to participate in the regular physical education program available to nondisabled students. This is the case unless the student is enrolled in a separate facility or the student needs specially designed physical education as prescribed in the student's IEP. Students enrolled in a separate facility receive appropriate physical education services, including specially designed services, if necessary.

Assistive Technology

Assistive technology (AT) devices or services or both are made available to a student with a disability as required to assist the student to benefit from special education. In such cases, assistive technology may be a part of one or more of the following: special education, related services, and/or supplementary aids and services. The District provides the AT devices in all settings specified in the student's IEP, including school, home and community work sites.

The District makes efforts to ensure that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly. In addition, the District will ensure that the external components of surgically implanted medical devices are functioning properly.

The IDEA, adopted the National Instructional Materials Accessibility Standard (NIMAS) for the purpose of increasing the availability and timely delivery of textbooks and other core instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools. Our District will coordinate with the National Instructional Material Access Center (NIMAC) to assure the timely provision of instructional material for blind or other persons with print disabilities. Our District requires the publisher to submit a NIMAS file sent to the NIMAC, or we may purchase instructional materials from the publisher that are produced in, or may be rendered in specialized formats. However, our District remains responsible for ensuring that accessible specialized formats are provided to students with print disabilities in a timely manner.

Vocational Education

All students requiring special education and related services have access to all career and vocational education services available to students in general education. Vocational services are provided for each student whose IEP requires such services; and such vocational services shall contain an academic component. Vocational education services are specified in the IEP.

Secondary Transition

Beginning not later than the first IEP to be in effect when a child is 16 or younger, if deemed appropriate by the PPT, and updated annually thereafter, the IEP must include appropriate measurable postsecondary goals. These goals must be based upon age-appropriate transition assessments related to training, education, employment and where appropriate, independent living skills and the identification of the transition services (including courses of study) needed to assist the child in reaching those goals.

Transition services are a coordinated set of activities for a student with a disability that is designed to be a results-oriented process, focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including:

- Postsecondary education;
- Vocational education;
- Integrated employment (including supported employment);
- Continuing and adult education;

- Adult services [e.g., Bureau of Rehabilitation Services (BRS), Department of Mental Retardation (DMR), Board of Education and Services for the Blind (BESB), Department of Mental Health and Addiction Services (DMHAS)];
- Independent living; and/or
- Community participation.

Transition services, written as goals and objectives in the IEP, are based on the individual needs of each child, taking into account the child's strengths, preferences and interests and include activities in the areas of:

- Instruction and related services;
- Community experiences;
- The development of employment and other post-school adult living objectives; and
- If appropriate, the acquisition of daily living skills and provision of a functional vocational evaluation.

For children with disabilities, who are convicted as adults under state law and incarcerated in adult prisons, transition planning and services do not apply if their eligibility under Part B will end (due to age) before they are released from prison (based on their sentence and eligibility for early release).

When a child's eligibility for special education and related services is ending due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility the District will provide the student with a summary of his or her academic achievement and functional performance, which will include recommendations on how to assist the student in meeting their postsecondary goals. This information is included in the Summary of Performance (ED 635) and is not a formal part of the IEP but is required under IDEA.

When appropriate, and with the consent of the parent or eligible student, the District will invite to the PPT meeting a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If the participating agency fails to provide the transition services described in the IEP, the District will reconvene the PPT to identify alternate strategies to meet the transition objectives in the IEP.

Measurable Annual Goals and Short-Term Objectives

Measurable annual goals and short-term objectives are in the IEP and relate to meeting:

- the needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled students) or for preschool students, as appropriate, to participate in appropriate activities; and
- the other educational needs that result from the student's disability.

In order to determine on a regular basis whether the student's short-term objectives are achieved, the District includes additional information in the IEP: performance criteria; evaluation procedures; evaluation schedule; and a statement of how the student's progress toward the annual goals will be measured.

Progress Reporting

The IEP includes information on when parents will be periodically informed of the student's progress toward meeting the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the school year.

Exit Criteria

A statement of the criteria that would be necessary to consider a student no longer eligible for special education and related services is included in the IEP.

Assessment

Students with disabilities must be included in state and district-wide assessment programs, with appropriate accommodations, where necessary. The PPT determines for each individual special education student the need for accommodations to the Connecticut Mastery Test (CMT) and the Connecticut Academic Performance Test (CAPT). District staff and families should reference the *Assessment Guidelines* (www.csde.state.ct.us/public/cedar/assessment/agl/index.htm) to determine what accommodations are allowable and the conditions under which they may be used.

It is also the PPT's responsibility to determine if a student will be assessed with an alternate assessment. Every state must have an alternate assessment available for those students with disabilities who are unable to participate in the standard grade level assessment, even with accommodations. Only students with significant cognitive impairments may participate in an alternate assessment. In Connecticut, the alternate assessment is the CMT/CAPT Skills Checklist. There are seven Checklists, one for each grade 3-8 and 10 and students must be assessed with the Checklist that corresponds to their enrolled grade.

If the PPT determines that a student will not participate, even with accommodations, in the standard administration of a district-wide assessment of achievement, or will not participate in any part of a district-wide assessment, the IEP must include a statement explaining why that assessment is not appropriate for the student and how the student will be assessed. In this case only, the PPT will determine the procedure for the alternate assessment.

Age of Majority

Beginning at least one year before the student reaches age 18, a statement is set forth in the IEP that the student has been informed of her/his rights under IDEA Part B (i.e., those included in the procedural safeguards document) and that rights will transfer to the student upon reaching age 18.

Agreement to Change an IEP Without Convening a PPT Meeting [ED 634]

In making changes to a child's IEP after the annual PPT meeting for a school year, our District and the parent of a child with a disability may agree not to convene a PPT meeting to make those changes through the use of Form ED 634 (see appendix to this chapter). In that situation, the IEP may be amended (without redrafting the entire IEP) by attaching to Form ED 634 pages 1 and 2 of the IEP, as revised, the Prior Written Notice page and those pages of the IEP that will be different as a result of the changes made, and attaching these pages to the *front* of the original IEP. Other members of the PPT shall be informed of the changes made to the IEP. Upon request, the parent will be provided with a revised copy of the IEP with the amendments incorporated.

Individualized Education Programs Appendix

- Individualized Education Program Form (ED 620, January 2006)
- Agreement to change an IEP Without Convening a Planning and Placement Team Meeting (ED 634)

Student: Last Name, First Name

DOB: mm/dd/yyyy

District:

Meeting Date: mm/dd/yyyy

Current Enrolled School: Yes ☐ No ☐ Specify:

Home School: Yes ☐ No ☐ Specify:

School Next Year: Home School: Yes ☐ No ☐ Specify:

ID#: Case Manager:

Student Address:

Parent/Guardian (Name):

Parent/Guardian (Address): Same ☐

Surrogate:

(Name and Address):

Age:

Current Grade:

H.S. Credits:

Gender: ☐ Female ☐ Male

Race/Ethnicity: ☐ Am.Ind. or Alaska. Nat. ☐ Asian / Pacif. Is ☐ Black or Af.Am. ☐ White ☐ Hispanic

If your school district does not have its own high school, is the student attending his/her designated high school? Yes ☐ No ☐ NA ☐

Student Instructional Lang: ☐ English ☐ Other (specify)

Home Dominant Lang: ☐ English ☐ Other (specify)

Student Home Phone: Parent Home Phone:

Parent Work Phone: Misc. Phone:

Most Recent Eval. Date: mm/dd/yyyy Next Reevaluation Date: mm/dd/yyyy

Reason for Meeting²: ☐ Review Referral ☐ Plan Eval/Reeval ☐ Review Eval/Reeval ☐ Determine Eligibility ☐ Develop IEP

☐ Review or Revise IEP ☐ Conduct Annual Review ☐ Transition Planning ☐ Manifestation Determination ☐ Other(specify)

☐ Autism

☐ Emotional Disturbance

☐ Multiple Disabilities

☐ Speech or Language Impaired

☐ Other Health Impairment

☐ Deaf – Blindness

☐ Hearing Impairment

☐ Orthopedic Impairment

☐ Traumatic Brain Injury

☐ OHI – ADD/ADHD

☐ Developmental Delay (ages 3-5 only)

☐ Intellectual Disability

☐ Specific Learning Disabilities

☐ Visual Impairment

☐ To be determined

The next projected PPT meeting date is:

• Eligible as a student in need of Special Education (The child is evaluated as having a disability, and needs special education and related services) Yes ☐ No ☐

• Is this an amendment to a current IEP? Yes ☐ No ☐

• If yes, what is the date of the IEP being amended?

• Amendments attached Yes ☐ No ☐

Team Member Present (required)

Admin/Designee:

Parent/Guardian:

Parent/Guardian:

Surrogate Parent:

Student:

Student's Reg. Ed. Teacher:

Spec. Educ. Teacher: OT:

School Psych: PT:

Social Work: Agency:

Speech/Lang: Other (specify)

Guidance: Other (specify)

Nurse: Other (specify)

¹ Address of student's primary residence. ² May choose more than one

mm/dd/yyyy

[illegible][illegible]

Student: _____ Last Name, First Name _____ DOB: _____ mm/dd/yyyy _____ District: _____ Meeting Date: _____ mm/dd/yyyy

PRIOR WRITTEN NOTICE

Actions Proposed	Reasons for proposed actions	Evaluation procedure, assessment, records, or reports used as a basis for the actions proposed (dated)	Date These actions will be implemented (Minimum five school days from date parent received prior written notice) date(s):
<input type="checkbox"/> Educational performance supports proposed actions <input type="checkbox"/> Evaluation results support proposed actions <input type="checkbox"/> Previous IEP goals and objectives have been satisfactorily achieved <input type="checkbox"/> Student has met Exit Criteria <input type="checkbox"/> Other _____	<input type="checkbox"/> Achievement <input type="checkbox"/> Adaptive <input type="checkbox"/> Classroom Observation <input type="checkbox"/> Cognitive <input type="checkbox"/> Communication <input type="checkbox"/> Developmental <input type="checkbox"/> Health/Medical	<input type="checkbox"/> Motor <input type="checkbox"/> Report Cards <input type="checkbox"/> Review of Records <input type="checkbox"/> Social Emotional Behavior <input type="checkbox"/> Teacher Reports <input type="checkbox"/> Other (specify and dated) _____	
Actions Refused	Reasons for Refused actions <input type="checkbox"/> Educational performance supports refusal <input type="checkbox"/> Evaluation results support refusal <input type="checkbox"/> Previous IEP goals and objectives have been satisfactorily achieved <input type="checkbox"/> Student has met Exit Criteria <input type="checkbox"/> Other _____	Evaluation procedure, assessment, records, or reports used as a basis for the refusal <input type="checkbox"/> Achievement <input type="checkbox"/> Adaptive <input type="checkbox"/> Classroom Observation <input type="checkbox"/> Cognitive <input type="checkbox"/> Communication <input type="checkbox"/> Developmental <input type="checkbox"/> Health/Medical	<input type="checkbox"/> Motor <input type="checkbox"/> Report Cards <input type="checkbox"/> Review of Records <input type="checkbox"/> Social emotional Behavior <input type="checkbox"/> Teacher Reports <input type="checkbox"/> Other (specify and dated) _____
Other options considered and rejected in favor of the proposed actions <input type="checkbox"/> Full-time placement in general education with supplementary aids and services. <input type="checkbox"/> No other options were considered and rejected. <input type="checkbox"/> Other options considered and rejected in favor of this action: _____	Rationale for rejecting other options <input type="checkbox"/> Options would not provide student with an appropriate program in the least restrictive environment <input type="checkbox"/> Other: (specify) _____	Other factors that are relevant to this action <input type="checkbox"/> There are no other factors that are relevant to the PPT decision <input type="checkbox"/> Information/concerns shared by the parents <input type="checkbox"/> Information/preferences shared by the student <input type="checkbox"/> Other (specify) _____	Exit Information <input type="checkbox"/> Date of exit from Special Education <input type="checkbox"/> Returning to general education <input type="checkbox"/> Reason for exiting Special Education: _____

Parents please note: Under the procedural safeguards of IDEA, a copy of the Procedural Safeguards in Special Education shall be given to the parents of a child with a disability only one time per year, except that a copy also shall be given to the parents: 1) upon initial referral or parental request for evaluation, 2) upon the first occurrence of the filing of a complaint under Section 615(b)(6), 3) upon request by a parent, and 4) upon a change of placement resulting from a disciplinary action. A copy of Procedural Safeguards in Special Education which explains these protections ☐ **was made available previously this school year (date)** ☐ **is enclosed with this document**. A copy of Procedural Safeguards in Special Education is available on school district website : [http://www \[Delete if not available on line\]](http://www.ct.gov/deps/special/index.htm). If you need assistance in understanding the provisions of IDEA, please contact your child's principal, the district's special education director or the CT's federally designated Parent Training and Information Center (CPAC at 800-445-2722). For a copy of "A Parent's Guide to Special Education in CT" and other resources contact SERC (800-842-8678) or go to: www.state.ct.us/sde/deps/special/index.htm.

Student: _____

DOB: _____

District: _____

Meeting Date:

mm/dd/yyyy

Last Name, First Name

PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

(The following information was derived from: report data, documentation from classroom performance, parent/student reports, curriculum based and standardized assessments, observations, including CMT and CAPT results and student samples).

[illegible]

Area (briefly describe current performance)	Strengths (include data as appropriate)	Concerns/Needs (requiring specialized instruction)	Impact of student's disability on involvement and progress in the general education curriculum or appropriate preschool activities.
Academic/Cognitive Language Arts: <input type="checkbox"/> Age Appropriate 			
Academic/Cognitive Math: <input type="checkbox"/> Age Appropriate 			
Other Academic/Nonacademic Areas: <input type="checkbox"/> Age Appropriate 			

Student: _____ District: _____ Meeting Date: _____
Last Name, First Name mm/dd/yyyy mm/dd/yyyy

TRANSITION PLANNING

1. ☐ Not Applicable: Student has not reached the age of 15 and transition planning is not required or appropriate at this time.
2. ☐ This is the first IEP to be in effect following the child's 15th birthday (or younger if appropriate and transition planning is required).
3. Student Preferences/Interests – document the following:
 - a) Was the student invited to attend her/his Planning and Placement Team (PPT) meeting? ☐ Yes ☐ No
 - b) Did the student attend? ☐ Yes ☐ No
 - c) How were the student's preferences/interests, as they relate to planning for Transition Services, determined? ☐ Age appropriate informal/formal assessment

☐ Personal Interviews ☐ Comments at Meeting ☐ Functional Vocational Evaluations ☐ Other: (specify) _____
- d) Summarize student preferences/interests as they relate to planning for Transition Services: _____
4. Anticipated Post Secondary Outcomes: (Check all that apply)
☐ Post-Secondary Education ☐ Vocational Education ☐ Integrated Employment ☐ Adult Services ☐ Independent Living or Community Participation
5. Agency Participation: ☐ NA
 - a) Were any outside agencies invited to attend the PPT meeting? ☐ Yes ☐ No (If no, specify reason) _____
 - b) If yes, did the agency's representative attend? ☐ Yes ☐ No
 - c) Has any participating agency agreed to provide or pay for services/linkages? ☐ Yes ☐ No, (If yes, specify) _____
6. Summary of the Transition Services recommended in this IEP and settings(s) where these services will be provided: (Complete the items below that apply) ☐ NA
(check each that applies) ☐ An Employment/Post Secondary Education goal and related objectives will be developed and implemented in the following setting(s):
☐ Community Based Experiences/Activities
☐ An Independent Living Goal and related objectives will be developed and implemented in the following setting(s):
(check each that applies) ☐ School Based Instruction/Activities ☐ Community Based Experiences/Activities
☐ A Community Participation Goal and related objectives will be developed and implemented in the following setting(s):
(check each that applies) ☐ School Based Instruction/Activities ☐ Community Based Experiences/Activities
7. If the student has transition goals and related objectives, respond to the following:
a) The course of study needed to assist the child in reaching the transition goals and related objectives will include:
(e.g. Student will be enrolled in college prep courses / student will participate in career awareness exploration classes): _____
b) The related services needed to assist the child in reaching the transition goals and related objectives will include: _____
c) The assistive technology devices and/or services needed to assist the child in reaching the transition goals and related objectives will include: _____
8. At least one year prior to reaching age of 18, the student must be informed of their rights under IDEA which will transfer at age 18.
☐ NA (Student will not be 17 within one Year) ☐ The student has been informed of her/his rights under IDEA which will transfer at age 18 ☐ No IDEA rights will transfer
9. For a child whose eligibility under special education will terminate the following year due to graduation with a regular education diploma or due to exceeding the age of eligibility, the Summary of Performance will be completed on or before: (specify date) _____

Parents please note: Rights afforded to parents under the Individuals with Disabilities Education Act (IDEA) transfer to students at the age of 18, unless legal guardianship has been obtained.

Student: _____ Last Name, First Name _____ DOB: _____ mm/dd/yyyy _____ District: _____ Meeting Date: _____ mm/dd/yyyy

☐ Academic/Cognitive ☐ Social/Behavioral ☐ Communication ☐ Gross/Fine Motor ☐ Employment/Post Secondary Education**
☐ Self Help ☐ Community Partic.*** ☐ Independent Living*** ☐ Health ☐ Other: (specify) _____

☐ Check here if the student is 15 years of age. (Note: Page 6, Transition Planning must be completed if this box is checked)

Measurable Annual Goal* (Linked to Present Levels of Performance)# _____

Short Term Objectives/Benchmarks (Linked to achieving progress towards Annual Goal)

Objective #1 _____

Objective #2 _____

Objective #3 _____

Evaluation Procedures		Performance Criteria	
1. Criterion-Referenced/Curriculum Based Assessment	7. Behavior/Performance Rating Scale	A. Percent of Change	F. Duration
2. Pre and Post Standardized Assessment	8. CMT/CAPT	B. Months Growth	G. Successful Completion of Task/Activity
3. Pre and Post Base Line Data	9. Work Samples, Job Performance or Products	C. Standard Score Increase	H. Mastery
4. Quizzes/Tests	10. Achievement of Objectives (Note: use with goal only)	D. Passing Grades/Score	I. Other: (specify) _____
5. Student Self-assessment/Rubric	11. Other (specify) _____	E. Frequency/Trials	J. Other: (specify) _____
6. Project/Experiment/Portfolio	12. Other (specify) _____		

Progress Reporting Key: (indicating extent to which progress is sufficient to achieve goal by the end of the year) **M** = Mastered **S** = Satisfactory Progress – Likely to achieve goal
U=Unsatisfactory Progress – Unlikely to achieve goal **N** = No Progress – Will not achieve goal **NI** = Not Introduced **O** = Other: (specify)

* Related to meeting the student's needs that result from the individual's disability, to enable the student to be involved in and make progress in the general curriculum, and to meet each of the student's other educational needs that result from the student's disability.
** It is recommended that, at a minimum, a goal and related objectives be developed for the area of Employment/Post Secondary Education if transition services are addressed.
*** Note: If transition services are addressed, *Transition Planning*, Page 6 (Item 5 and 6) must be completed.

Student: _____ Last Name, First Name _____ District: _____ Meeting Date: _____ mm/dd/yyyy

Program Accommodations and Modifications - INCLUDING NONACADEMIC AND EXTRACURRICULAR ACTIVITIES/COLLABORATION/SUPPORT FOR SCHOOL PERSONNEL

Accommodations and Modifications to be provided to enable the child:	Sites/Activities Where Required and Duration
<ul style="list-style-type: none"> - To advance appropriately toward attaining his/her annual goals, - To be involved in and make progress in the general education curriculum, - To participate in extracurricular and other non-academic activities, and - To be educated and participate with other children with and without disabilities. 	
Accommodations may include Assistive Technology Devices and Services	
Materials/Books/Equipment: _____	

Tests/Quizzes/Assessments: _____	

Grading: _____	

Organization: _____	

Environment: _____	

Behavioral Interventions and Support: _____	

Instructional Strategies: _____	

Other: _____	

Note: When specifying required supports for personnel to implement this IEP, include the specific supports required, how often they are to be provided (frequency) and for how long (duration)

Frequency and Duration of Supports Required for School Personnel to Implement this IEP include: _____

STATE AND DISTRICT TESTING AND ACCOMMODATIONS

The CMT/CAPT section or Districtwide section must be completed

<div> <div>CMT/CAPT-CHECK THE GRADE OF THE STUDENT WHEN THE TEST IS SCHEDULED</div> <div> <div> <input type="checkbox"/> Grade 3: <input type="checkbox"/> Grade 4: <input type="checkbox"/> Grade 5: </div> <div> <input type="checkbox"/> Grade 6: <input type="checkbox"/> Grade 7: <input type="checkbox"/> Grade 8: </div> <div> <input type="checkbox"/> Grade 10: <input type="checkbox"/> Grade 10 (Retest): <input type="checkbox"/> Grade 11: </div> </div> </div>	<div> <div>DISTRICTWIDE ASSESSMENT- CHECK THE GRADE OF THE STUDENT WHEN THE TEST IS SCHEDULED</div> <div> <div> <input type="checkbox"/> Grade Pre-K: <input type="checkbox"/> Grade K: <input type="checkbox"/> Grade 1: </div> <div> <input type="checkbox"/> Grade 3: <input type="checkbox"/> Grade 4: <input type="checkbox"/> Grade 5: </div> <div> <input type="checkbox"/> Grade 7: <input type="checkbox"/> Grade 8: <input type="checkbox"/> Grade 9: </div> <div> <input type="checkbox"/> Grade 11: <input type="checkbox"/> Grade 10: </div> </div> </div>
<div> <div>CMT/CAPT-check the appropriate option</div> <div> <div> <input type="checkbox"/> 1. Standard Administration* <div> <input type="checkbox"/> CMT/CAPT accommodations form was completed and is attached. </div> </div> <div> <input type="checkbox"/> 2. Utilize the CMT/CAPT Skills Checklist </div> <div> <input type="checkbox"/> 3. Exempt** </div> </div> <div> <div>*Complete the accommodations form (CMT/CAPT) for the standard administration only if necessary. File one electronically, attach one to the IEP and keep a copy for the teacher's file.</div> <div>**Exempt will only apply to a special education student who has also been identified as an English Language Learner and has been enrolled in a U.S. school for fewer than 10 school months AND the student has taken the Language Assessment Scales (LAS/LAS Links) at least once in that time period.</div> </div> </div>	<div> <div>DISTRICTWIDE ASSESSMENT- check the appropriate option</div> <div> <div> <input type="checkbox"/> 1. NA - No districtwide assessment is scheduled during the term of this IEP </div> <div> <input type="checkbox"/> 2. Standard Administration </div> <div> <input type="checkbox"/> 3. Specify accommodations </div> <div> <input type="checkbox"/> 4. Exempt: Explain why the standard administration is not appropriate and how the student will be assessed (required) </div> </div> </div>

Student: _____ Last Name, First Name _____ DOB: _____ mm/dd/yyyy _____ District: _____ Meeting Date: _____ mm/dd/yyyy

SPECIAL FACTORS, PROGRESS REPORTING, EXIT CRITERIA

CONSIDERATION OF SPECIAL FACTORS

- For students whose behavior impedes her/his learning or that of others, the PPT has considered strategies, including positive behavioral interventions and supports to address that behavior, and:
☐ NA ☐ A behavioral intervention plan has been developed ☐ IEP Goals and Objectives have been developed to address the behavior ☐ Other (specify) _____
- For students with limited English proficiency, the PPT has considered the language needs of the student as they relate to the student's IEP and recommended the following:
☐ NA ☐ Recommendation: (specify) _____
- For students who are blind or visually impaired: ☐ NA ☐ Instruction in braille or the use of braille is being provided, as required ☐ The PPT has determined, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future need for instruction in braille or the use of braille), that instruction in braille or the use of braille is not appropriate for this student.
- For students who are deaf or hard of hearing, the PPT has determined (after considering the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode, and considering whether the student requires assistive technology devices and services) that the following services are required: ☐ NA ☐ No services required
☐ Services/modifications required: (specify) _____

PROGRESS REPORTING

- A report of progress toward meeting the Measurable Annual Goals and Short Term Objectives included in this IEP will be sent to parents periodically, according to the following schedule:
☐ Quarterly _____
☐ Consistent with grade level report cards ☐ Other: (Specify) _____

EXIT CRITERIA

- Exit Criteria: Student will be exited from _____
Special Education upon: (Check One) ☐ Ability to succeed in Regular Education without Special Education support ☐ Graduation ☐ Age 21 ☐ Other: (specify) _____

Meeting Date:

mm/dd/yyyy

Special Education Services	Goal(s) #	Frequency	Responsible Staff	Service Implementer	Start Date (mm/dd/yyyy)	End Date (mm/dd/yyyy)	Site*	If needed - description of Instructional Service Delivery (e.g., small group, team taught classes, etc.)
Related Services								
*Instructional Site: Description of participation in General Education								
	1. Regular Classroom	2. Resource/Related Service Room	3. Self-Contained Classroom	4. Community-Based	5. Other:			

Note: Each

Item #1-13 Technology:

include a

4. Transport

9. Special Education Hours/Week: (Specify)

10. Hours per week the student will spend with children/students who do not have disabilities (time with non-disabled peers):

☐ Yes ☐ No

☐ Required: See service delivery grid above or an additional page 11 for services to be provided

13. a) The extent, if any, to which the student will not participate in regular classes and in extracurricular and other nonacademic activities, including lunch, recess, transportation, etc., with students who do not have disabilities:

☐ Not Applicable: Student will participate fully

b) If the IEP requires any removal of the student from the school, classroom, extracurricular, or nonacademic activities, (e.g., lunch, recess, transportation, etc.) that s/he would attend if not disabled, the PPT must justify this removal from the regular education environment.

☐ Not applicable: Student will participate fully

c) The IEP requires removal of the student from the regular education environment because: (provide a detailed explanation – use additional pages if necessary)

Note: The LRE Checklist (ED632) must be completed and attached to this IEP if the student is to be removed from the regular education environment for 60% or more of the time. It is recommended that the LRE Checklist be utilized when making any placement decision to ensure conformity with the LRE provisions of the Individuals with Disabilities Education Act.

Student: _____ Last Name, First Name _____ DOB: _____ mm/dd/yyyy _____ District: _____ Meeting Date: _____ mm/dd/yyyy

Required Data Collection

(Collect at the initial development of an IEP and subsequent Annual Reviews: Not a component of the IEP)

For Children 3 to 5 years of age

- ☐ Date the PPT met to write the original IEP: _____ ☐ Effective date of the child's original IEP (date first service began): _____
- ☐ Did the child ever receive Birth to Three services? ☐ Yes ☐ No
- ☐ If the effective date of the child's original IEP (date first services began) was not on or before the child's 3rd birthday, why?
☐ Late referral / moved into district late (less than 90 days before 3rd birthday) ☐ Parent Choice ☐ Other (Specify) _____

Placement/Settings for 3-5 year olds:

- ☐ Early Childhood Preschool or Kindergarten Program ☐ Early Childhood Special Education Program ☐ Early Childhood Special Education Program in Residential Facility
- ☐ Home ☐ Service Provider Location (Itinerant Services)

Education Placement 3 to 21 years of age

1. Education Location (3-21 year olds):

- ☐ Approved, Private Sp. Ed. Program ☐ Comm. Based Pre-K ☐ Endowed and Incorporated Academy* ☐ Head Start ☐ Hospital or Homebound
- ☐ In-District ☐ Magnet ☐ Non-approved Sp. Ed. Program ☐ Other Private Agency ☐ Other Public School District
- ☐ Out of State ☐ Parochial/Private School ☐ RESC (Special Ed Program) (Including Public Charter)

2. Primary reason for Educational Location

- ☐ Charter School ☐ Court Order Following Due Process ☐ CTHSS (Parental Choice) ☐ Due Process Hearing Decision ☐ Expulsion ☐ Homeless
- ☐ Inter-district Magnet (Parental Choice) ☐ Interim Alternative Education Setting (IAES) ☐ Mediation Agreement (Hospital/Homebound) ☐ None (Awaiting Placement) ☐ Non-Educational Restriction / Treatment Boundary
- ☐ Open Choice (Parent Placement) ☐ Parent/BOE Placement Resolution ☐ PPT ☐ Service plan only (Parent Placement) ☐ Vo-Ag School (Parental Choice)

2a. If above response is "non-educational restriction/treatment boundary," who established the restriction/boundary?

- ☐ DCF ☐ DMR ☐ Department of Mental Health and Addiction Services ☐ Judicial Department ☐ Physician

3. If student doesn't live at home, where does he/she live?

- ☐ Correctional Facility ☐ Foster Home ☐ Hospital ☐ Municipal Detention Center ☐ Permanency Diagnostic Center ☐ Other (Specify)
- ☐ Permanent Family Residence ☐ Private Detention Center ☐ Private Group Home ☐ Private Residential Treatment Center ☐ Public Group Home
- ☐ Public Residential Treatment Center ☐ Safe Home ☐ Supported housing ☐ Temporary Shelter ☐ Transitional Foster Home

3a. If student is placed out-of-home for other than educational reasons, who was the placing agent?

- ☐ DCF ☐ DMR ☐ Department of Mental Health and Addiction Services ☐ Govt. of a Federally Recognized Native American Tribe ☐ Judicial Department ☐ Physician

GRADUATION

- ☐ 4 years ☐ Other (specify) _____

1. The student is projected to graduate in:

(Check the box that applies at the annual review during the students 9th grade)

- ☐ 5 years ☐ 6 years ☐ 7 years

*Gilbert School, Norwich Free Academy, Woodstock Academy

FAIRFIELD PUBLIC SCHOOLS
AGREEMENT TO CHANGE AN INDIVIDUALIZED EDUCATION PROGRAM WITHOUT CONVENING A
PLANNING AND PLACEMENT TEAM MEETING

Student: _____ DOB: _____ Grade: _____
School: _____ IEP being changed: _____
Date the IEP was developed _____
Parent/Guardian: _____

We agree to make the changes to the student's IEP as described in the documents specified below and which are attached to this agreement. We understand that these changes were not made at a PPT meeting. We agree only to the changes described in the attached documents. We understand that this agreement is optional and that the parent can request a PPT meeting at any time to review the IEP. We understand that this agreement can be made only if the changes are not part of an Annual Review of the student's program.

_____ Parent/Guardian Signature	_____ Date
_____ School District Representative	_____ Date

This agreement must be signed by a representative of the school district who has full authority to sign such a document on behalf of the school district and who, as described by federal statute, is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum and is knowledgeable about the availability of resources of the public agency.

The following documents are attached to this agreement:

____ Revised Pages 1 and 2 of the IEP dated: _____ Prior Written Notice
____ Amendments (please specify) _____

It is expected that, at minimum, a Prior Written Notice, the revised pages 1 and 2 of the IEP being changed and any other pages of the IEP that will be different as a result of the changes made (e.g. goal and objectives pages, service delivery grid, etc.) will be attached to this agreement as verification of the changes made to the IEP.

Section 614(d)(3)(D) of H.R. 1350, the revised Individuals with Disabilities Education Act, the "IDEA," provides as follows:

AGREEMENT NOT TO CONVENE: In making changes to a child's IEP *after* the annual IEP meeting for a school year, the parent of a child with a disability and the public agency (school district) may agree not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. Such changes may be made by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

Chapter 7 — Least Restrictive Environment

The District ensures that, to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are nondisabled. Placement of students in special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

❖ Continuum of Alternative Placements

The District provides a continuum of alternative placements to meet the needs of students with disabilities who require special education and related services. These alternative placements are available to the extent necessary in order to implement the IEP. This continuum of placements includes instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions. In addition, supplementary services (such as a resource room or itinerant instruction) are provided in conjunction with regular class placement.

Determining Placement

In determining the educational placement of a student with a disability, including a preschool student with a disability, the District ensures that the placement decision is made in conformity with the LRE provisions of IDEA. The placement decision is made by the PPT.

The placement of each student with a disability is determined, at least annually, based upon his/her IEP. Unless the IEP requires some other arrangement, students are educated in the school they would attend if they did not have a disability. Students are educated as close to their home as possible.

In selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services the student needs. Each IEP includes an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities, and a justification for removal from regular education. A student with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Each student requiring special education and related services is educated in the school that he or she would attend if he or she did not require special education and related services, unless the IEP requires another placement.

Parental Involvement

The District must take steps to ensure that one or both of the parents are present at each PPT meeting or are afforded the opportunity to participate at each PPT meeting with respect to decisions related to identification, evaluation, educational placement and the provision of FAPE. If neither parent can participate in a meeting at which a decision is made related to changing the IEP of their student, the District will use other methods to ensure parent participation (including individual or conference telephone calls or video conferencing).

If the District is unable to obtain parent participation in a placement decision, the District may make a placement decision. In this situation, the District would attempt to ensure parent involvement by arranging a meeting at a mutually agreed upon time and place. Records of phone calls made, or attempted, and results of those calls, copies of correspondence sent to parents and any responses received, and documentation of visits to parents' homes or places of employment and results of those visits are examples of methods that could be used by our District staff.

The District presumes that divorced parents have equal rights under state and federal law to participate in all aspects of their child's education, unless either or both parents do not have authority under applicable state law governing matters such as guardianship, separation or divorce.

The District makes reasonable efforts to ensure that parents understand, and are able to participate in any group discussions relating to the educational placement of their student. Such efforts would include arranging for an interpreter for parents with deafness or whose native language is other than English.

Nonacademic and Extracurricular Activities

Our District ensures that in providing for nonacademic and extracurricular activities and services, each student with a disability participates with nondisabled students to the maximum extent appropriate to the needs of the student. The provision of these activities and services includes meals and recess periods. Other activities and services that are available to students with disabilities are counseling, athletics, transportation, health services, recreational activities, and special-interest groups or clubs sponsored by the District. The District also makes referrals to agencies that provide assistance to individuals with disabilities and employment of students, including employment by the District and assistance in making outside employment available.

Students with disabilities have available to them the variety of educational programs and services that are available to nondisabled students in our District. These programs and services include but are not limited to art, music, industrial arts, consumer education and vocational education.

Private Special Education Programs

A student with a disability who is placed in a private school or facility or other private special education program by our District is provided special education and related services in conformity with the student's IEP. This is done at no cost to the parents. The placement is at a school or facility that meets the standards that apply to state and local districts. Prior to the student's placement, our District convenes a PPT meeting to develop the IEP. A representative of the private program must attend the meeting or participate via telephone. The student has all of the rights of a student with disabilities who is served within our District schools. The student's IEP will be fully implemented in the private facility and, if necessary, by other providers authorized by our District. All out-of-state facilities will meet the educational standards for private special education facilities of the receiving state. If no such standards exist, the District will provide the Connecticut State Board of Education with documentation that the private placement is appropriate to the student's needs as set forth in the student's IEP.

Residential Placement

If placement in a private residential program is necessary to provide special education and related services to a student with a disability, the program (including nonmedical care, room and board) is at no cost to the parents. In the case of a student placed in a residential facility because of the need for services other than educational, the financial responsibility of our District is limited to the reasonable costs of special education instruction unless the placement is acquired in order for the student to benefit from education.

Homebound or Hospital Instruction

Placement involving homebound and hospital instruction is provided when recommended by the PPT. One or more of the following conditions must apply:

- A physician certifies in writing that the student is unable to attend school for medical reasons and states the expected date that the student will be able to return to the school program;
- The student has a handicap so severe that it prevents the student from learning in a school setting or the student's presence in school endangers the health, safety, or welfare of the student or others;
- A special education program recommendation is pending and the student was at home at the time of referral; or
- The student is pregnant, or has given birth, and a physician certifies in writing that homebound instruction is in the student's best interests and should continue for a specified period of time.

Homebound and hospital instruction is provided when a student's condition causes an absence of at least three weeks duration. The instruction (as specified in the student's IEP) is subject to the following:

- If a student was not previously receiving special education and related services the requirements of evaluation and an IEP apply if there is reason for the PPT to believe that the student will require special education and related services; and
- If a student has been receiving special education and related services the PPT modifies, if necessary, the short-term instructional objectives in the student's IEP. When recommended by a PPT, a student receives related services while instructed at home or in the hospital

The instruction begins no later than two weeks from the first day of absence, provided nothing in the student's condition precludes it. Instruction is provided for *at least* one hour per day or five hours per week for students in kindergarten through grade 6, and two hours per day or ten hours per week for students in grades 7 through 12. The PPT may, when appropriate, increase or decrease instruction time if the student's mental or physical condition warrants. Instruction is provided in the home or hospital setting to which the student is confined.

When a student is not otherwise in need of special education and related services, homebound and hospital instruction shall maintain the continuity of the student's regular program and an IEP is not required. For purely medical reasons, a PPT meeting need not be held and an IEP need not be written.

Least Restrictive Environment Appendix

- Least Restrictive Environment Checklist (ED 632)

**FAIRFIELD PUBLIC SCHOOLS
LEAST RESTRICTIVE ENVIRONMENT (LRE) PROCEDURAL CHECKLIST**

STUDENT: _____ DOB: _____
SCHOOL: _____ DATE OF PPT: _____

Note: This form is to be completed by the PPT only after all other IEP components have been fully addressed.

I. Section A: LRE Screen (This section must be completed.)

YES NO

- | | | |
|---|--------------------------|--------------------------|
| 1. All of the child's classes are in the regular educational environment. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. The child has the opportunity to participate in nonacademic and extracurricular services and activities (including meals, recess periods, and services and activities such as counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the child's LEA, and employment of students, including both employment by the LEA and assistance in making employment available) to the same extent as peers who do not have disabilities. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The child is educated in the school that he or she would attend if nondisabled. | <input type="checkbox"/> | <input type="checkbox"/> |

II. Section B: LRE Factors and Considerations (Complete only if "NO" has been checked for one or more of the items in Section A. Respond to all items unless otherwise indicated.)

YES NO

- | | | |
|---|--------------------------|--------------------------|
| 1. The PPT based the educational placement of the child upon the child's IEP. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. The PPT ensured that the child is educated to the maximum extent appropriate with children who are nondisabled. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The PPT ensured that the child participates in nonacademic and extracurricular services and activities with nondisabled children to the maximum extent appropriate to the needs of the child. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. The PPT considered the use of supplementary aids and services (such as resource room, itinerant instruction, assistive technology devices or assistive technology services) in conjunction with regular class placement. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. The PPT determined that the nature and severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. The PPT selected the placement within the continuum of alternative placements which is required to implement the child's IEP. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. The PPT considered any potential harmful effect of the placement on the child. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. The PPT considered any potential harmful effect of the placement on the quality of the services that the child needs. | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. The PPT considered any potential harmful effect of the placement on the education of other children. | <input type="checkbox"/> | <input type="checkbox"/> |

- | | <u>YES</u> | <u>NO</u> |
|---|--------------------------|--------------------------|
| 10. <i>Complete if the child is not being educated in the school that he or she would attend if nondisabled.</i>
The child's education program is provided as close as possible to the child's home. | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. <i>Complete if the child's education program has been modified as the result of procedures related to discipline.</i> The child is receiving education services in an alternative educational setting. | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. <i>Complete if the child has been hospitalized.</i> For medical reasons the child must remain within the hospital during the school day. | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. <i>Complete if the child has been placed in a residential facility for other than educational reasons.</i> It has been determined, in accordance with the March 15, 1993 SDE-DCF Memorandum of Agreement, that for clinical reasons the child must remain within the facility during part or all of the school day. | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. <i>Complete if the child is confined to a detention or correctional facility.</i> The child must remain within the facility during the school day. | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. <i>Complete if the child's parent has placed the child in a privately-operated facility.</i> The child receives education services within the privately-operated facility. | <input type="checkbox"/> | <input type="checkbox"/> |

Comments/Additional Information:

(Signature of PPT Chairperson)

(Date)

Chapter 8 — Students Participating in Private/Religiously Affiliated Schools

Note: In this chapter, the terms “private schools,” “students attending private schools,” “students with disabilities in private schools” or “private school students with disabilities” refer to parentally placed private school children with disabilities who attend those private schools that are located *within* our District.

The District has procedures for identifying all students with disabilities attending private schools located in our District who were not placed or referred by public agencies (See Chapter 1). No private school child with a disability has an individual right to receive some or all of the special education and related services (FAPE) that the child would receive if enrolled in a public school.

❖ Comparability of Services

Students with disabilities in private schools may receive a different amount of services than students with disabilities in public schools. Our District determines which services will be provided to private school students with disabilities. Parents seeking FAPE for their children must contact their school district of residence. However, parental consent must be obtained before personally identifiable information is released between the school district where the private school is located and the district of residence.

For each student designated to receive services, the District initiates and conducts meetings to develop, review and revise a Services Plan consistent with the requirements for the development, review, and revision of IEPs. For students with disabilities enrolled in private schools and determined by the District to receive services, our District will:

- ensure that a representative of the religious or other private school attends meetings to develop, review and revise a services plan; and
- use other methods to ensure participation by the private school, including individual or conference telephone call, if the representative cannot attend the meeting.

The District will develop and implement a services plan for each student designated to receive services, which describes the specific special education and related services that the District will provide in light of the services that the District has determined will be available to private school children with disabilities. To the extent appropriate, the services plan will meet the requirements of an IEP with respect to the services provided. The same standards apply to personnel providing services in private schools as those providing the same services in the District except that private elementary and secondary school teachers who provide equitable services to parentally placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements.

The District may provide on-site services to private school students with disabilities, including religious schools.

❖ Consultation with Representatives of Private School Students

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

- The child find process including how parentally placed private school children suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;
- The determination of the proportionate share of the federal funds available to serve parentally placed private school children with disabilities including the determination of how the proportionate share of those funds was calculated;
- The consultation process among our District, private school officials, and representatives of parents of parentally placed private school children with disabilities including how the process will operate through the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- How, where and by whom special education and related services will be provided for parentally placed private school children with disabilities including the types of services, how special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children with disabilities and how and when those decisions will be made; and
- How, if our District disagrees with the views of the private school officials on the provision of services of the types of services, our District will provide to the private school officials a written explanation of the reasons why our District chose not to provide services directly or through a contract.

The District gives these representatives a genuine opportunity to express their views regarding the number of private school students with disabilities, the needs of these students and their location. Consultation occurs before the District decides which services will be provided to private school children with disabilities.

After consulting with appropriate representatives of eligible private school students, the District will make the final decision with respect to the services to be provided including:

- Which students will receive services;
- What services will be provided;
- How and where the services will be provided; and
- How the services provided will be evaluated.

❖ Transportation

The District provides transportation if it is necessary for the student to benefit from or participate in the services identified in the services plan. Transportation is provided:

- from the student's school or home to a site other than the private school; or

- from the service site to the private school, or to the student's home, depending on the timing of the services.

If transportation is necessary for the private school student with a disability to benefit from or participate in the services provided by our District, transportation costs may be included in calculating the amount our District must spend on providing special education and related services.

The District is not required to provide transportation from the student's home to the private school.

❖ Use of Funding

Our District spends the following to provide special education and related services to parentally placed private school children with disabilities: For children ages 3 thru 21, an amount that is the same proportion of our total subgrant under section 611 (f) of the IDEA as the number of private school children with disabilities ages 3 through 21 who are enrolled by their parents in private schools located in our District, is to the total number of children with disabilities in our jurisdiction ages 3 through 21. For children ages 3 through 5, an amount that is the same proportion of our subgrant under section 619 (g) of the IDEA as the number of parentally placed private school children with disabilities ages 3 through 5 who are enrolled by their parents in a private school located in our District, is to the total number of children with disabilities in our jurisdiction ages 3 through 5.

Our District may use funds, available under Sections 611 and 619 of IDEA to make public school personnel available in other than public facilities:

- to the extent necessary to provide services for private school students with disabilities designated to receive services; and
- if those services are not normally provided by the private school.

The District may use funds available under Sections 611 or 619 of IDEA to pay for the services of an employee of a private school to provide services if:

- the employee performs the services outside of his or her regular hours of duty; and
- the employee performs the services under public supervision and control; and
- the employee is appropriately qualified, licensed or certified.

The District will not use funds available under Sections 611 or 619 of IDEA for:

- the needs of the private school;
- the general needs of the students enrolled in the private school;
- financing the existing level of instruction in a private school;
- repairs, minor remodeling or construction of private school facilities; and
- to otherwise benefit the private school or meet the needs of a private school.

The District will not use funds available under Sections 611 or 619 of IDEA for classes that are organized separately, on the basis of school enrollment or religion, if the classes:

- are at the same site; and
- include students enrolled in public schools and students enrolled in private schools.

❖ Equipment and Supplies

The District keeps the title and exercises administrative control of all property, equipment and supplies that the District acquires with IDEA funds under Sections 611 or 619 for the benefit of private school students with disabilities.

The District may place equipment and supplies in a private school for the period of time needed for the program (provided that equipment and supplies are used only for IDEA Part B purposes). Equipment and supplies will only be provided if they can be removed from the private school without remodeling the facility. Equipment and supplies will be removed from a private school if:

- the equipment and supplies are no longer needed for IDEA Part B purposes; or
- removal is necessary to avoid unauthorized use for other than IDEA Part B purposes.

Students Participating in Private/Religiously Affiliated Schools Appendix

- [School District may insert an appropriate document such as an example of how the proportionate share of federal funds is determined]

Chapter 9 — Personnel

The District employs the number of certified and/or licensed personnel and support personnel, consistent with the highly qualified teacher standards under the No Child Left Behind Act, necessary to implement the special education and related services required in each child's IEP. The District ensures that all personnel necessary to carry out Part B of IDEA are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

❖ Consultation Time

Time is scheduled during the school day for personnel who provide special education and related services or regular education to consult with each other, other personnel and parents.

❖ Personnel Development

The District provides a system of personnel development to meet the requirements of special education regulations, including, but not limited to, in-service training on special education and related services, to regular and special education instructional, related services and support personnel.

Training is provided, as appropriate, to regular and special education staff, related services staff and transportation operators. This training addresses issues of confidentiality; the specific needs of special education students being transported, and implementation of the least restrictive environment.

❖ Paraprofessionals/Instructional Assistants

In our District, each paraprofessional in special education is appropriately trained and a qualified person (certified and/or licensed in the area of specialization to which such paraprofessional is assigned) provides direct supervision.

Personnel Appendix

Chapter 10 — Discipline

❖ Overview

For all students requiring special education, the school's code of conduct applies. Students requiring special education may be suspended. A set of specific procedural requirements must be followed in the event a student requiring special education engages in a behavior that requires a disciplinary intervention.

If the District and parents of a child with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time that child can be removed from his or her current placement will be determined as indicated in IDEA and state statutes (see Sections 10-233a to 10-233k, inclusive, of the Connecticut General Statutes).

"Exclusion" in state statutes is defined as any denial of public school privileges to a student for disciplinary purposes. An exclusion from school privileges, or from transportation only, for less than 10 consecutive school days, is a suspension; any exclusion from school privileges for greater than 10 consecutive school days is an expulsion. The District will notify the parents using an effective means, of any exclusion from school privileges exceeding 90 minutes; such notification will occur within 24 hours of the time the student was excluded.

At the point in time when a student will be excluded from school for more than 10 (cumulative) school days in a school year, a change in placement may occur; where the student is excluded for more than 10 consecutive school days, a change in placement does occur. If a change in placement does occur, the District engages in several activities designed to address the behavior subject to the disciplinary action, whether it be assessment activities, reviewing the IEP or determining if the misconduct is related to the child's disability. If a change in placement occurs, the child must:

1. Continue to receive educational services that enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

❖ Authority of School Personnel to Remove a Student from School

Removal by School Personnel for up to 10 School Days During a School Year

District personnel may suspend a student with a disability from school for as many as 10 school days during a school year without providing educational services. Both in-school suspension and suspension from bus transportation count toward the total 10 days of suspension.

NOTE: All students who are suspended in Connecticut shall be given an opportunity to complete any class work including, but not limited to, examinations which the student missed during the period of suspension; this includes state assessments.

However, in-school suspensions will not count toward the 10-day total if the student is afforded the opportunity to continue to progress appropriately in the general curriculum, continue to receive the services specified in his or her IEP and continue to participate with non-disabled peers to the extent they would have in their current placement.

Portions of the day in which the student is excluded may also count toward the 10-day total if the student is not afforded these same opportunities to continue to progress appropriately in the general curriculum, continue to receive the services specified in his or her IEP and continue to participate with non-disabled peers to the extent they would have in their current placement.

Bus suspensions are counted toward the 10-day total if the transportation is a part of the child's IEP. The days do not count toward the 10-day total if during this period of bus suspension the District provides transportation to the student in some other manner.

A suspension occurs if a child is sent home from school; such partial day removals count toward the 10-day total.

Our District makes a prompt referral to a PPT of all children who have been suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of acceptance.

Removal by School Personnel for More Than 10 Cumulative School Days during a School Year

NOTE: In Connecticut, no student may be suspended more than 10 times or a total of 50 school days in one school year, whichever results in fewer days of exclusion.

Removal for More than 10 Cumulative School Days in a School Year that is a Change in Placement

If a student is to be removed from school where the removal is for more than 10 cumulative school days, school personnel must determine whether the removal is a change in placement. The criteria for a change in placement are as follows:

- Removal for more than 10 consecutive school days; **or**
- The student has been subjected to a series of removals that constitute a pattern because:
 - The series of removals total more than 10 school days in a school year; and
 - The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - Such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

If school personnel determine that the current removal is a change in placement, then the PPT must convene to determine whether the misconduct is a manifestation of the child's disability (please see "Manifestation Determination Review").

Removal for More than 10 Cumulative School Days in a School Year that is not a Change in Placement

If a student is to be removed from school where such removal has been determined not to be a change in placement, then a manifestation determination is not required and the student may be disciplined in the same manner as students without disabilities. If the current removal is not more than 10 school days, school personnel, in consultation with at least one of the child's teachers, must determine the extent to which educational services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The student shall also receive, as appropriate, a Functional Behavior Assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

School District's Authority: Interim Alternative Educational Setting (IAES)

School personnel may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate alternative educational setting for not more than 10 consecutive school days to the extent that those alternatives are also applied to children without disabilities.

School personnel may remove a student to an appropriate IAES not to exceed 45 school days, without regard to whether the behavior is a manifestation of the child's disability, if the student: 1) carries or possesses a weapon at school, on school premises or at a school function, 2) knowingly possesses, uses, sells or solicits the sale of a controlled substance while at school or a school function, or 3) has inflicted serious bodily injury upon another person at school, on school premises or at a school function. Serious bodily injury is defined as an injury that results in: (1) a substantial risk of death; (2) extreme physical pain, (3) protracted and obvious disfigurement, or (4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

School personnel cannot remove a student to an IAES for a student's behavior in the community that involves either weapons or controlled substances. However, students may be suspended or expelled for behavior occurring in the community in accordance with the provisions of the general statutes. (Refer to Sections 10-233c(a) and Section 10-233d(a)(1) of The Connecticut General Statutes)

In our District, the authority to expel a student for behavior occurring in the community rests with the Board of Education

In order to suspend or expel a student for behavior occurring in the community, the District has to show that the conduct off school grounds is violative of a publicized policy of our District and is seriously disruptive of the educational process. To find that the behavior is seriously disruptive of the educational process, the Board of Education will review factors related to the behavior, including whether:

- the behavior happened close to school;
- other students from school were involved, or whether there was any gang involvement;
- the conduct involved violence, threats of violence or the unlawful use of a weapon;
- any injuries occurred; and
- the conduct involved the use of alcohol.

❖ Authority of Hearing Officers, Judges and Courts

Hearing Officer's Authority to Order an IAES

The District may ask a special education hearing officer to order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days.

The hearing officer may place a child in an interim alternative educational setting through an expedited due process hearing if the hearing officer determines that the District has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the student or to others.

Judges and Courts Authority Re: Removal

A judge or the courts continue to have the authority to remove a student from educational settings and services in accordance with state and federal laws. The District may seek a temporary restraining order that orders the student to be placed in an IAES.

❖ Determination of Interim Alternative Educational Settings

The PPT selects the IAES in which a student is to be placed by the District for drugs/weapons/serious bodily injury violations, or by a hearing officer. The IAES must be selected so as to:

- Enable the student to continue to participate in the general curriculum, although in another setting;
- Allow for the continuation of those services and modifications, including those described in the student's current IEP, that will enable the student to progress towards meeting the goals in the student's IEP; and
- Include services and modifications to address the behavior that resulted in the removal to the IAES or that are designed to prevent the behavior from recurring.

These requirements also apply to students for whom there has been a change in placement that exceeds 10 consecutive school days.

❖ **Manifestation Determination Review**

The Process

Whenever the District is considering an action for a removal of a student to an IAES by school personnel or by a hearing officer or other removal that constitutes a change in placement, the District must notify the parents not later than the date on which the decision to remove the student to an IAES or other change of placement is made and provide the parents with a copy of the procedural safeguards notice.

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the PPT must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- if the behavior in question was caused by, or had a direct and substantial relationship to the child's disability, or;
- if the behavior in question was the direct result of the District's failure to implement the IEP.

Determination that the Behavior was a Manifestation of the Disability

If in conducting the manifestation determination, the team finds that either standard has been met, the behavior of the child **must be** considered a manifestation of the child's disability. In this case, the Team must either: 1) conduct a functional behavioral assessment unless the District conducted one before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP); or 2) if a BIP had been developed, review the plan and modify it as necessary. In this case the student may not be expelled but must be returned to the placement from which the child was removed unless the parent and our District agree to a change in placement. If in conducting the manifestation determination, the team identifies deficiencies in the IEP or in its implementation, the team must take immediate steps to remedy those deficiencies.

However, the student may still be placed by the District in the IAES for drugs, weapons or causing serious bodily injury, or by the hearing officer, even if the parents file for due process to challenge the manifestation determination.

Determination that the Behavior was Not a Manifestation of the Disability

The team may find that the behavior **was not** a manifestation of the child's disability only if the team finds that:

- The student's conduct in question **was not caused** by, or **did not have** a direct and substantial relationship to, the child's disability; and
- The student's conduct in question **was not** the direct result of the District's failure to implement the IEP.

If the team concludes that the behavior subject to the discipline is not a manifestation of the student's disability, the student may be disciplined to the same extent that students without disabilities would be disciplined for the same behavior. However, students with disabilities must continue to receive educational services so as to enable the student to continue to participate in the general education curriculum although in another setting, and to progress towards meeting the goals set out in the student's IEP. The PPT determines the educational services to be received and the setting for those services. If disciplinary procedures are initiated, the special education and disciplinary records of the student are transmitted for consideration to the person or persons making the final determination regarding the disciplinary action.

❖ Protection for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and related services under the IDEA and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in IDEA if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The District would be deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent of the student submitted to District supervisory or administrative personnel or a teacher of the child, a written statement of their concerns that the student is in need of special education and related services. This may be a parent referral for special education or any such written expression that the parent provides the District. This expression of concern can be provided orally if the parent does not know how to write or if they have a disability that prevents a written statement;
- The parent of the student requested an evaluation of the student to determine her/his eligibility for special education and related services under IDEA; or
- The teacher of the student, or other District personnel, expressed concern about the behavior or performance of the student to the director of special education of the District or to other supervisory personnel.

If the District does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student is subject to the same disciplinary measures as applied to students without disabilities who engage in comparable behavior.

The District will **not** be deemed to have knowledge that the student has a disability if the student's parents had not allowed an evaluation of the student, or has refused services under the IDEA, or the student has been evaluated and determined not to be a student with a disability under the IDEA.

If a request is made to evaluate the student to determine eligibility for services during the time period in which the student is subject to the disciplinary measures, the evaluation must be conducted in an expedited

manner. Pending the results of the evaluation, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion. Due to the specific requirements of the state expulsion statutes, educational services may or may not be required during the period of expulsion. The District's code of student conduct explains in detail the provision of services during periods of expulsion.

If the student is determined to be a student with a disability and in need of special education and related services, special education and related services must be provided according to the IDEA, including the disciplinary provisions of the Act, as outlined in this chapter of the District's Special Education Policy and Procedures Manual.

❖ Expedited Due Process Hearings

An expedited due process hearing will be scheduled when a hearing is requested:

- By the District to remove the student to an IAES because the District believes that keeping the student in the current school program is substantially likely to result in injury to the child or to others;
- By the District to maintain the student in an IAES or another appropriate placement after the expiration of the IAES where the parents disagree with the proposed change and the District believes that maintaining the student in the current school program is substantially likely to result in injury to the child or to others;
- By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 consecutive days in a row without the school following proper steps;
- By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 days in a school year without the school following the proper steps;
- By the parent where the parent does not agree with the IAES placement; or
- By the parent where the parent does not agree that the child's behavior was not a manifestation of the child's disability.

During the expedited hearing, the child must remain in the IAES or other disciplinary setting pending the decision of the hearing officer or until the expiration of the additional suspensions, expulsion or 45 school day IAES unless the parent and the LEA otherwise agree.

An expedited hearing must meet the general hearing requirements. The state due process regulations contain procedural requirements that are specific to expedited hearings. The hearing is limited to the above issues and the hearing officer has the authority to limit the introduction of exhibits and testimony as may be necessary to rule on the issue presented. In addition, a resolution meeting must occur within 7 days of receiving notice of the due process complaint. The hearing may proceed unless the matter is resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint. The hearing will be held within 20 school days of the date the hearing is requested and will result in a decision within 10 school days after the hearing.

Each party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least two business days prior to the commencement of the expedited hearing; and, each party must disclose to the other and to the hearing officer at least two business days prior to the commencement of the expedited hearing all completed evaluations and recommendations based on the offering party's evaluation that the party intends to offer or rely on at the expedited hearing.

❖ Referral to and Action by Law Enforcement & Judicial Authorities

The District may report criminal acts committed by a student with a disability to the appropriate authorities in the same manner as crimes committed by students without disabilities are reported by the District to the proper authorities.

Discipline Appendix

- See Chapter 5 for Manifestation Determination Form
- Functional Behavior Analysis Form
- Family Educational Rights and Privacy Act (FERPA) located at <http://www.ed.gov/policy/gen/guid/fpcopdf/ferparegs.pdf> in the Family Policy Compliance Office of this website.

FAIRFIELD PUBLIC SCHOOLS
FUNCTIONAL BEHAVIOR ASSESSMENT SUMMARY
OF IEP/504 STUDENTS

Student: _____

Date Completed: _____

Review of Information:

- ξ Number of disciplinary notices this academic year: _____
- ξ Number of disciplinary notices since last suspension: _____
- ξ Number of tardies this academic year: _____ absences: _____
- ξ Medication changes: _____
- ξ Participates in counseling: _____
- ξ Changes in living arrangements: _____
- ξ Changes in family structure: _____
- ξ Additional parent information: _____

Identify behavior that triggered need for Functional Behavior Assessment:

Results of student interview and observation:

- ξ Student's interpretation of events:

- ξ Student's perceived sense of blame:

- ξ Student's perceived level of control:

- ξ Student's perceived level of remorse:

ξ Student's perceived sense of justice or need for restitution:

Review of Psychological Evaluations:

ξ Is there evidence to suggest that this behavior was predictable given the student's disability?

Explain: _____

ξ Is additional assessment required before making this determination? Yes No

Review of IEP/Accommodation Plan implementation, current program design and behavior management plan:

ξ Is there evidence to support that this misbehavior was related to inappropriate placement in special or regular curriculum? Yes No

Explain: _____

ξ Is there evidence to document that the behavior plan was implemented appropriately and consistently? Yes No

Explain: _____

ξ Is there evidence to suggest that the student requires additional supplementary aids or services to ensure performance success? Yes No

Explain: _____

ξ Are the target behaviors addressed by the Behavior Management Plan? Yes No

Explain: _____

Development of new/revised Behavior Management Plan:

Identify target behaviors to be addressed by Behavior Management Plan:

General Appendix

Family Educational Rights and Privacy Act Regulations

34 CFR Part 99

Subpart A-General

Section

99.1 To which educational agencies or institutions do these regulations apply?

99.2 What is the purpose of these regulations?

99.3 What definitions apply to these regulations?

99.4 What are the rights of parents?

99.5 What are the rights of students?

99.7 What must an educational agency or institution include in its annual notification?

99.8 What provisions apply to records of a law enforcement unit?

Subpart B-What are the Rights of Inspection and Review of Education Records?

Section

99.10 What rights exist for a parent or eligible student to inspect and review education records?

99.11 May an educational agency or institution charge a fee for copies of education records?

99.12 What limitations exist on the right to inspect and review records?

Subpart C-What are the Procedures for Amending Education Records?

Section

99.20 How can a parent or eligible student request amendment of the student's education records?

99.21 Under what conditions does a parent or eligible student have the right to a hearing?

99.22 What minimum requirements exist for the conduct of a hearing?

Subpart D-May an Educational Agency or Institution Disclose Personally Identifiable Information from Education Records?

Section

99.30 Under what conditions is prior consent required to disclose information?

99.31 Under what conditions is prior consent not required to disclose information?

99.32 What recordkeeping requirements exist concerning requests and disclosures?

99.33 What limitations apply to the redisclosure of information?

99.34 What conditions apply to disclosure of information to other educational agencies or institutions?

99.35 What conditions apply to disclosure of information for Federal or State program purposes?

99.36 What conditions apply to disclosure of information in health and safety emergencies?

99.37 What conditions apply to disclosing directory information?

99.38 What conditions apply to disclosure of information as permitted by State statute adopted after November 19, 1974, concerning the juvenile justice system?

99.39 What definitions apply to the nonconsensual disclosure of records by postsecondary educational institutions in connection with disciplinary proceedings concerning crimes of violence or non-forcible sex offenses?

Subpart E -What are the Enforcement Procedures?

Section

99.60 What functions has the Secretary delegated to the Office and to the Office of Administrative Law Judges?

99.61 What responsibility does an educational agency or institution have concerning conflict with State or local laws?

99.62 What information must an educational agency or institution submit to the Office?

99.63 Where are complaints filed?

99.64 What is the investigation procedure?

99.65 What is the content of the notice of investigation issued by the Office?

99.66 What are the responsibilities of the Office in the enforcement process?

99.67 How does the Secretary enforce decisions?

(Authority: 20 U.S.C. 1232g, unless otherwise noted).

PART 99 – FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

The authority citation for this part continues to read as follows:

(Authority: 20 U.S.C. 1232g, unless otherwise noted).

Subpart A-General

§ 99.1 *To which educational agencies or institutions do these regulations apply?*

(a) Except as otherwise noted in § 99.10, this part applies to an educational agency or institution to which funds have been made available under any program administered by the Secretary, if-

(1) The educational institution provides educational services or instruction, or both, to students; or

(2) The educational agency is authorized to direct and control public elementary or secondary, or postsecondary educational institutions.

(b) This part does not apply to an educational agency or institution solely because students attending that agency or institution receive nonmonetary benefits under a program referenced in paragraph (a) of this section, if no funds under that program are made available to the agency or institution.

(c) The Secretary considers funds to be made available to an educational agency or institution if funds under one or more of the programs referenced in paragraph (a) of this section-

(1) Are provided to the agency or institution by grant, cooperative agreement, contract, subgrant, or subcontract; or (2) Are provided to students attending the agency or institution and the funds may be paid to the agency or institution by those students for educational purposes, such as under the Pell Grant Program and the Guaranteed Student Loan Program (Titles IV-A-1 and IV-B, respectively, of the Higher Education Act of 1965, as amended).

(d) If an educational agency or institution receives funds under one or more of the programs covered by this section, the regulations in this part apply to the recipient as a whole, including each of its components (such as a department within a university).

(Authority: 20 U.S.C. 1232g)

§ 99.2 What is the purpose of these regulations?

The purpose of this part is to set out requirements for the protection of privacy of parents and students under section 444 of the General Education Provisions Act, as amended.

(Authority: 20 U.S.C. 1232g)

Note to § 99.2: 34 CFR 300.610 through 300.626 contain requirements regarding the confidentiality of information relating to children with disabilities who receive evaluations, services or other benefits under Part B of the Individuals with Disabilities Education Act (IDEA). 34 CFR 303.402 and 303.460 identify the confidentiality of information requirements regarding children and infants and toddlers with disabilities and their families who receive evaluations, services, or other benefits under Part C of IDEA. 34 CFR 300.610 through 300.627 contain the confidentiality of information requirements that apply to personally identifiable data, information, and records collected or maintained pursuant to Part B of the IDEA.

§ 99.3 What definitions apply to these regulations?

The following definitions apply to this part:

"Act" means the Family Educational Rights and Privacy Act of 1974, as amended, enacted as section 444 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232g)

"Attendance" includes, but is not limited to-

(a) Attendance in person or by paper correspondence, videoconference,

satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and

(b) The period during which a person is working under a work-study program.

(Authority: 20 U.S.C. 1232g)

"Biometric record," as used in the definition of "personally identifiable information," means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.

(Authority: 20 U.S.C. 1232g)

"Dates of attendance"

(a) The term means the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter.

(b) The term does not include specific daily records of a student's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g (a)(5)(A))

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

(a) Directory information includes, but is not limited to, the student's name;

address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended.

(b) Directory information does not include a student's –

(1) Social security number; or

(2) Student identification (ID) number, except as provided in paragraph (c) of this section.

(c) Directory information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user.

(Authority: 20 U.S.C. 1232g(a)(5)(A))

"Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

(Authority: 20 U.S.C. 1232g(b)(1) and (b)(2))

"Educational agency or institution" means any public or private agency or institution to which this part applies under § 99.1(a).

(Authority: 20 U.S.C. 1232g (a)(3))

"Education Records"

(a) The term means those records that are:

(1) Directly related to a student; and

(2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include:

(1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

(2) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

(3)(i) Records relating to an individual who is employed by an educational agency or institution, that:

(A) Are made and maintained in the normal course of business;

(B) Relate exclusively to the individual in that individual's capacity as an employee; and

(C) Are not available for use for any other purpose.

(ii) Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under paragraph (b)(3)(i) of this definition.

(4) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution;

(5) Records created or received by an educational agency or institution after an

individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.

(6) Grades on peer-graded papers before they are collected and recorded by a teacher.

(Authority: 20 U.S.C. 1232g(a)(4))

"Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary education.

(Authority: 20 U.S.C. 1232g(d))

"Institution of postsecondary education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

(Authority: 20 U.S.C. 1232g(d))

"Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

(Authority: 20 U.S.C. 1232g)

"Party" means an individual, agency, institution, or organization.

(Authority: 20 U.S.C. 1232g(b)(4)(A))

"Personally Identifiable Information"

The term includes, but is not limited to--

(a) The student's name;

(b) The name of the student's parent or other family members;

(c) The address of the student or student's family;

(d) A personal identifier, such as the student's social security number, student number, or biometric record;

(e) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

(f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(Authority: 20 U.S.C. 1232g)

"Record" means any information recorded in any way, including, but not limited to, hand writing, print, computer media, video or audio tape, film, microfilm, and microfiche.

(Authority: 20 U.S.C. 1232g)

"Secretary" means the Secretary of the U.S. Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority.

(Authority: 20 U.S.C. 1232g)

"Student," except as otherwise specifically provided in this part, means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

(Authority: 20 U.S.C. 1232g(a)(6))

§ 99.4 What are the rights of parents?

An educational agency or institution shall give full rights under the Act to either parent, unless the agency or institution has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

(Authority: 20 U.S.C. 1232g)

§ 99.5 What are the rights of students?

(a)(1) When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student.

(2) Nothing in this section prevents an educational agency or institution from disclosing education records, or personally identifiable information from education records, to a parent without the prior written consent of an eligible student if the disclosure meets the conditions in § 99.31(a)(8), § 99.31(a)(10), § 99.31(a)(15), or any other provision in § 99.31(a).

(b) The Act and this part do not prevent educational agencies or institutions from

giving students rights in addition to those given to parents.

(c) An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have the rights under this part with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution.

(Authority: 20 U.S.C. 1232g(d))

§ 99.7 What must an educational agency or institution include in its annual notification?

(a)(1) Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Act and this part.

(2) The notice must inform parents or eligible students that they have the right to-

(i) Inspect and review the student's education records;

(ii) Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

(iii) Consent to disclosures of personally identifiable information contained in the student's education records, except to the

extent that the Act and § 99.31 authorize disclosure without consent; and

(iv) File with the Department a complaint under §§ 99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and this part.

(3) The notice must include all of the following:

(i) The procedure for exercising the right to inspect and review education records.

(ii) The procedure for requesting amendment of records under § 99.20.

(iii) If the educational agency or institution has a policy of disclosing education records under § 99.31 (a) (1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

(b) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

(1) An educational agency or institution shall effectively notify parents or eligible students who are disabled.

(2) An agency or institution of elementary or secondary education shall effectively notify parents who have a primary or home language other than English.

(Approved by the Office of Management and Budget under control number 1875-0246)

(Authority: 20 U.S.C. 1232g (e) and (f))

§ 99.8 What provisions apply to records of a law enforcement unit?

(a) (1) "Law enforcement unit" means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to-

(i) Enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the agency or institution itself; or

(ii) Maintain the physical security and safety of the agency or institution.

(2) A component of an educational agency or institution does not lose its status as a "law enforcement unit" if it also performs other, non-law enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.

(b) (1) Records of law enforcement unit means those records, files, documents, and other materials that are-

(i) Created by a law enforcement unit;

(ii) Created for a law enforcement purpose; and

(iii) Maintained by the law enforcement unit.

(2) Records of law enforcement unit does not mean –

(i) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or

(ii) Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.

(c)(1) Nothing in the Act prohibits an educational agency or institution from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, State, or Federal law.

(2) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act, including the disclosure provisions of § 99.30, while in possession of the law enforcement unit.

(d) The Act neither requires nor prohibits the disclosure by any educational agency or institution of its law enforcement unit records.

(Authority: 20 U.S.C. 1232g(a)(4)(B)(ii))

Subpart B-What are the Rights of Inspection and Review of Education Records?

§ 99.10 *What rights exist for a parent or eligible student to inspect and review*

education records?

(a) Except as limited under § 99.12, a parent or eligible student must be given the opportunity to inspect and review the student's education records. This provision applies to

(1) Any educational agency or institution; and

(2) Any State educational agency (SEA) and its components.

(i) For the purposes of subpart B of this part, an SEA and its components constitute an educational agency or institution.

(ii) An SEA and its components are subject to subpart B of this part if the SEA maintains education records on students who are or have been in attendance at any school of an educational agency or institution subject to the Act and this part.

(b) The educational agency or institution, or SEA or its component, shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request.

(c) The educational agency or institution, or SEA or its component, shall respond to reasonable requests for explanations and interpretations of the records.

(d) If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution, or SEA or its component, shall-

(1) Provide the parent or eligible student with a copy of the records requested; or

(2) Make other arrangements for the parent or eligible student to inspect and review the requested records.

(e) The educational agency or institution, or SEA or its component, shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.

(f) While an educational agency or institution is not required to give an eligible student access to treatment records under paragraph (b)(4) of the definition of "Education records" in § 99.3, the student may have those records reviewed by a physician or other appropriate professional of the student's choice.

(Authority: 20 U.S.C. 1232g(a)(1)(A) and (B))

§ 99.11 May an educational agency or institution charge a fee for copies of education records?

(a) Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution may charge a fee for a copy of an education record which is made for the parent or eligible student.

(b) An educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

(Authority: 20 U.S.C. 1232g(a)(1))

§ 99.12 What limitations exist on the right to inspect and review records?

(a) If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student.

(b) A postsecondary institution does not have to permit a student to inspect and review education records that are:

(1) Financial records, including any information those records contain, of his or her parents;

(2) Confidential letters and confidential statements of recommendation placed in the education records of the student before January 1, 1975, as long as the statements are used only for the purposes for which they were specifically intended; and

(3) Confidential letters and confidential statements of recommendation placed in the student's education records after January 1, 1975, if:

(i) The student has waived his or her right to inspect and review those letters and statements; and

(ii) Those letters and statements are related to the student's:

(A) Admission to an educational institution;

(B) Application for employment; or

(C) Receipt of an honor or honorary recognition.

(c)(1) A waiver under paragraph (b)(3)(i) of this section is valid only if:
(i) The educational agency or institution does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and

(ii) The waiver is made in writing and signed by the student, regardless of age.

(2) If a student has waived his or her rights under paragraph (b)(3)(i) of this section, the educational institution shall:

(i) Give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and

(ii) Use the letters and statements of recommendation only for the purpose for which they were intended.

(3)(i) A waiver under paragraph (b)(3)(i) of this section may be revoked with respect to any actions occurring after the revocation.

(ii) A revocation under paragraph (c)(3)(i) of this section must be in writing.

(Authority: 20 U.S.C. 1232g(a)(1) (A), (B), (C), and (D))

Subpart C-What Are the Procedures for Amending Education Records?

§ 99.20 How can a parent or eligible student request amendment of the student's education records?

(a) If a parent or eligible student believes

the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the educational agency or institution to amend the record.

(b) The educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.

(c) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under § 99.21.

(Authority: 20 U.S.C. 1232g(a)(2))

§ 99.21 Under what conditions does a parent or eligible student have the right to a hearing?

(a) An educational agency or institution shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.

(b)(1) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall:

(i) Amend the record accordingly; and

(ii) Inform the parent or eligible student of the amendment in writing.

(2) If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution, or both.

(c) If an educational agency or institution places a statement in the education records of a student under paragraph (b)(2) of this section, the agency or institution shall:

(1) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(2) Disclose the statement whenever it discloses the portion of the record to which the statement relates.

(Authority: 20 U.S.C. 1232g(a)(2))

§ 99.22 What minimum requirements exist for the conduct of a hearing?

The hearing required by § 99.21 must meet, at a minimum, the following requirements:

(a) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.

(b) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.

(c) The hearing may be conducted by any individual including an official of the educational agency or institution, who does not have direct interest in the outcome of the hearing.

(d) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised under § 99.21. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(e) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.

(f) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

(Authority: 20 U.S.C. 1232g(a)(2))

Subpart D—May an Educational Agency or Institution disclose Personally Identifiable Information from Education Records?

§ 99.30 Under what conditions is prior consent required to disclose information?

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in § 99.31.

(b) The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

(c) When a disclosure is made under paragraph (a) of this section:

(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(d) "Signed and dated written consent" under this part may include a record and signature in electronic form that-

(1) Identifies and authenticates a particular person as the source of the electronic consent; and

(2) Indicates such person's approval of the information contained in the electronic consent.

(Authority: 20 U.S.C. 1232g (b)(1) and (b)(2)(A))

§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) An educational agency or institution may disclose personally identifiable

information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1)(i)(A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(B) A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party--

(1) Performs an institutional service or function for which the agency or institution would otherwise use employees;

(2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and

(3) Is subject to the requirements of § 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

(ii) An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest

requirement in paragraph (a)(1)(i)(A) of this section.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

Note: Section 4155(b) of the No Child Left Behind Act of 2001, 20 U.S.C. 7165(b), requires each State to assure the Secretary of Education that it has a procedure in place to facilitate the transfer of disciplinary records with respect to a suspension or expulsion of a student by a local educational agency to any private or public elementary or secondary school in which the student is subsequently enrolled or seeks, intends, or is instructed to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of-

(i) The Comptroller General of the United States;

(ii) The Attorney General of the United States;

(iii) The Secretary; or

(iv) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(A) Determine eligibility for the aid;

(B) Determine the amount of the aid;

(C) Determine the conditions for the aid; or

(D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(b)(1)(D))

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically-

(A) Allowed to be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or

(B) Allowed to be reported or disclosed pursuant to a State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(I) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6)(i) The disclosure is to organizations conducting studies for, or on behalf of,

educational agencies or institutions to:

- (A) Develop, validate, or administer predictive tests;
- (B) Administer student aid programs; or
- (C) Improve instruction.

(ii) An educational agency or institution may disclose information under paragraph (a)(6)(i) of this section only if--

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted; and

(C) The educational agency or institution enters into a written agreement with the organization that--

(1) Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;

(2) Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

(3) Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and

(4) Requires the organization to destroy or return to the educational agency or institution all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

(iii) An educational agency or institution is not required to initiate a study or agree with or endorse the conclusions or results of the study.

(iv) If this Office determines that a third party outside the educational agency or institution to whom information is disclosed under this paragraph (a)(6) violates paragraph (a)(6)(ii)(B) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(v) For the purposes of paragraph (a)(6) of this section, the term "organization" includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with-

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(C) An *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(iii) (A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an

educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in § 99.37.

(12) The disclosure is to the parent of a student who is not an eligible student or to the student.

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

(14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if-

(A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

(B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.

(16) The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law

Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable Federal guidelines.

(b)(1) *De-identified records and information.* An educational agency or institution, or a party that has received education records or information from education records under this part, may release the records or information without the consent required by § 99.30 after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

(2) An educational agency or institution, or a party that has received education records or information from education records under this part, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that--

(i) An educational agency or institution or other party that releases de-identified data under paragraph (b)(2) of this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

(ii) The record code is used for no purpose other than identifying a de-identified record for purposes of

education research and cannot be used to ascertain personally identifiable information about a student; and

(iii) The record code is not based on a student's social security number or other personal information.

(c) An educational agency or institution must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records.

(d) Paragraphs (a) and (b) of this section do not require an educational agency or institution or any other party to disclose education records or information from education records to any party except for parties under paragraph (a)(12) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A), (b), (h), (i), and (j))

§ 99.32 *What recordkeeping requirements exist concerning requests and disclosures?*

(a)(1) An educational agency or institution must maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, as well as the names of State and local educational authorities and Federal officials and agencies listed in § 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent under § 99.33(b).

(2) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

(i) The parties who have requested or received personally identifiable information from the education records; and

(ii) The legitimate interests the parties had in requesting or obtaining the information.

(4) An educational agency or institution must obtain a copy of the record of further disclosures maintained under paragraph (b)(2) of this section and make it available in response to a parent's or eligible student's request to review the record required under paragraph (a)(1) of this section.

(5) An educational agency or institution must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception in § 99.31(a)(10) and § 99.36:

(i) The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and

(ii) The parties to whom the agency or institution disclosed the information.

(b)(1) Except as provided in paragraph (b)(2) of this section, if an educational agency or institution discloses personally identifiable information from education records with the understanding

authorized under § 99.33(b), the record of the disclosure required under this section must include:

(i) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(ii) The legitimate interests under § 99.31 which each of the additional parties has in requesting or obtaining the information.

(2)(i) A State or local educational authority or Federal official or agency listed in § 99.31(a)(3) that makes further disclosures of information from education records under § 99.33(b) must record the names of the additional parties to which it discloses information on behalf of an educational agency or institution and their legitimate interests in the information under § 99.31 if the information was received from:

(A) An educational agency or institution that has not recorded the further disclosures under paragraph (b)(1) of this section; or

(B) Another State or local educational authority or Federal official or agency listed in § 99.31(a)(3).

(ii) A State or local educational authority or Federal official or agency that records further disclosures of information under paragraph (b)(2)(i) of this section may maintain the record by the student's class, school, district, or other appropriate grouping rather than by the name of the student.

(iii) Upon request of an educational agency or institution, a State or local

educational authority or Federal official or agency listed in § 99.31(a)(3) that maintains a record of further disclosures under paragraph (b)(2)(i) of this section must provide a copy of the record of further disclosures to the educational agency or institution within a reasonable period of time not to exceed 30 days.

(c) The following parties may inspect the record relating to each student:

(1) The parent or eligible student.

(2) The school official or his or her assistants who are responsible for the custody of the records.

(3) Those parties authorized in § 99.31(a)(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(d) Paragraph (a) of this section does not apply if the request was from, or the disclosure was to:

(1) The parent or eligible student;

(2) A school official under § 99.31(a)(1);

(3) A party with written consent from the parent or eligible student;

(4) A party seeking directory information; or

(5) A party seeking or receiving records in accordance with § 99.31(a)(9)(ii)(A) through (C).

(Approved by the Office of Management and Budget under control number 1875-0246)

(Authority: 20 U.S.C. 1232g(b)(1) and (b)(4)(A))

§ 99.33 What limitations apply to the redisclosure of information?

(a)(I) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

(2) The officers, employees, and agents of a party that receives information under paragraph (a)(I) of this section may use the information, but only for the purposes for which the disclosure was made.

(b)(1) Paragraph (a) of this section does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if--

(i) The disclosures meet the requirements of § 99.31; and

(ii) (A) The educational agency or institution has complied with the requirements of § 99.32(b); or

(B) A State or local educational authority or Federal official or agency listed in § 99.31(a)(3) has complied with the requirements of § 99.32(b)(2).

(2) A party that receives a court order or lawfully issued subpoena and rediscloses personally identifiable information from education records on behalf of an educational agency or institution in response to that order or subpoena under § 99.31(a)(9) must provide the notification required under § 99.31(a)(9)(ii).

(c) Paragraph (a) of this section does not apply to disclosures under §§ 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f) (Clery Act), to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense.

(d) An educational agency or institution must inform a party to whom disclosure is made of the requirements of paragraph (a) of this section except for disclosures made under §§ 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Clery Act to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense.

(e) If this Office determines that a third party outside the educational agency or institution improperly rediscloses personally identifiable information from education records in violation of this section, or fails to provide the notification required under paragraph (b)(2) of this section, the educational agency or institution may not allow that

third party access to personally identifiable information from education records for at least five years.

(Authority: 20 U.S.C.1232g(b)(4)(B))

§ 99.34 What conditions apply to disclosure of information to other educational agencies or institutions?

(a) An educational agency or institution that discloses an education record under § 99.31(a) (2) shall:

(1) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(i) The disclosure is initiated by the parent or eligible student; or

(ii) The annual notification of the agency or institution under § 99.7 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;

(2) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(3) Give the parent or eligible student, upon request, an opportunity for a hearing under Subpart C.

(b) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(1) The student is enrolled in or receives services from the other agency or institution; and

(2) The disclosure meets the requirements of paragraph (a) of this section.

(Authority: 20 U.S.C. 1232g(b)(1)(B))

§ 99.35 What conditions apply to disclosure of information for Federal or State program purposes?

(a)(1) Authorized representatives of the officials or agencies headed by officials listed in § 99.31(a)(3) may have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs.

(2) Authority for an agency or official listed in § 99.31(a)(3) to conduct an audit, evaluation, or compliance or enforcement activity is not conferred by the Act or this part and must be established under other Federal, State, or local authority.

(b) Information that is collected under paragraph (a) of this section must:

(1) Be protected in a manner that does not permit personal identification of individuals by anyone other than the officials or agencies headed by officials referred to in paragraph (a) of this section, except that those officials and agencies may make further disclosures of personally identifiable information from education records on behalf of the educational agency or institution in accordance with the requirements of

§ 99.33(b); and

(2) Be destroyed when no longer needed for the purposes listed in paragraph (a) of this section.

(c) Paragraph (b) of this section does not apply if:

(1) The parent or eligible student has given written consent for the disclosure under § 99.30; or

(2) The collection of personally identifiable information is specifically authorized by Federal law.

(Authority: 20 U.S.C.1232g(b)(3))

§ 99.36 What conditions apply to disclosure of information in health and safety emergencies?

(a) An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(b) Nothing in the Act or this part shall prevent an educational agency or institution from-

(1) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(2) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or

(3) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(c) In making a determination under paragraph (a) of this section, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

(Authority: 20 U.S.C. 1232g (b)(1)(I) and (h))

§ 99.37 What conditions apply to disclosing directory information?

(a) An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:

(1) The types of personally identifiable information that the agency or institution has designated as directory information;

(2) A parent's or eligible student's right to refuse to let the agency or institution designate any or all of those types of information about the student designated as directory information; and

(3) The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(b) An educational agency or institution may disclose directory information about former students without complying with the notice and opt out conditions in paragraph (a) of this section. However, the agency or institution must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt out request.

(c) A parent or eligible student may not use the right under paragraph (a)(2) of this section to opt out of directory information disclosures to prevent an educational agency or institution from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

(d) An educational agency or institution may not disclose or confirm directory information without meeting the written consent requirements in § 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

(Authority: 20 U.S.C. 1232g (a)(5) (A) and (B))

§ 99.38 What conditions apply to disclosure of information as permitted by State statute adopted after November 19, 1974, concerning the juvenile justice system?

(a) If reporting or disclosure allowed by State statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records under § 99.31(a)(5)(i)(B).

(b) The officials and authorities to whom the records are disclosed shall certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student.

(Authority: 20 U.S.C. 1232g((b)(1)(J))

§ 99.39 What definitions apply to the nonconsensual disclosure of records by postsecondary educational institutions in connection with disciplinary proceedings concerning crimes of violence or nonforcible sex offenses?

As used in this part:

"Alleged perpetrator of a crime of violence" is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in appendix A to this part:

Arson
Assault offenses
Burglary
Criminal homicide-manslaughter by negligence
Criminal homicide-murder and nonnegligent manslaughter
Destruction/damage/vandalism of property
Kidnapping/abduction
Robbery
Forcible sex offenses

"Alleged perpetrator of a nonforcible sex offense" means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in appendix A to this part.

"Final results" means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

"Sanction imposed" means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.

"Violation committed" means the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed.

(Authority: 20 U.S.C.1232g (b)(6))

Subpart E-What are the Enforcement Procedures?

§ 99.60 What functions has the Secretary delegated to the Office and to the Office of Administrative Law Judges?

(a) For the purposes of this subpart, "Office" means the Family Policy Compliance Office, U.S. Department of Education.

(b) The Secretary designates the Office to:

(1) Investigate, process, and review complaints and violations under the Act and this part; and

(2) Provide technical assistance to ensure compliance with the Act and this part.

(c) The Secretary designates the Office of Administrative Law Judges to act as the Review Board required under the Act to enforce the Act with respect to all applicable programs. The term "applicable program" is defined in section 400 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232g (f) and (g), 1234))

§ 99.61 What responsibility does an educational agency or institution have concerning conflict with State or local

laws?

If an educational agency or institution determines that it cannot comply with the Act or this part due to a conflict with State or local law, it shall notify the Office within 45 days, giving the text and citation of the conflicting law.

(Authority: 20 U.S.C. 1232g (f))

§ 99.62 What information must an educational agency or institution submit to the Office?

The Office may require an educational agency or institution to submit reports, information on policies and procedures, annual notifications, training materials, and other information necessary to carry out its enforcement responsibilities under the Act or this part.

(Authority: 20 U.S.C. 1232g(f) and (g))

§ 99.63 Where are complaints filed?

A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202.

(Authority: 20 U.S.C. 1232g(g))

§ 99.64 What is the investigation procedure?

(a) A complaint must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act or this part has occurred. A complaint does not have to allege that a

violation is based on a policy or practice of the educational agency or institution.

(b) The Office investigates a timely complaint filed by a parent or eligible student, or conducts its own investigation when no complaint has been filed or a complaint has been withdrawn, to determine whether an educational agency or institution has failed to comply with a provision of the Act or this part. If the Office determines that an educational agency or institution has failed to comply with a provision of the Act or this part, it may also determine whether the failure to comply is based on a policy or practice of the agency or institution.

(c) A timely complaint is defined as an allegation of a violation of the Act that is submitted to the Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

(d) The Office may extend the time limit in this section for good cause shown.

(Authority: 20 U.S.C. 1232g(f))

§ 99.65 What is the content of the notice of investigation issued by the Office?

(a) The Office notifies the complainant, if any, and the educational agency or institution in writing if it initiates an investigation under § 99.64(b). The notice to the educational agency or institution--

(1) Includes the substance of the allegations against the educational agency or institution; and

(2) Directs the agency or institution to submit a written response and other relevant information, as set forth in § 99.62, within a specified period of time, including information about its policies and practices regarding education records.

(b) The Office notifies the complainant if it does not initiate an investigation because the complaint fails to meet the requirements of § 99.64.

(Authority: 20 U.S.C. 1232g(g))

§ 99.66 What are the responsibilities of the Office in the enforcement process?

(a) The Office reviews a complaint, if any, information submitted by the educational agency or institution, and any other relevant information. The Office may permit the parties to submit further written or oral arguments or information.

(b) Following its investigation, the Office provides to the complainant, if any, and the educational agency or institution a written notice of its findings and the basis for its findings.

(c) If the Office finds that an educational agency or institution has not complied with a provision of the Act or this part, it may also find that the failure to comply was based on a policy or practice of the agency or institution. A notice of findings issued under paragraph (b) of this section to an educational agency or institution that has not complied with a provision of the Act or this part--

(1) Includes a statement of the specific steps that the agency or institution must take to comply; and

(2) Provides a reasonable period of time, given all of the circumstances of the case, during which the educational agency or institution may comply voluntarily.

(Authority: 20 U.S.C. 1232g(f))

§ 99.67 How does the Secretary enforce decisions?

(a) If an educational agency or institution does not comply during the period of time set under § 99.66(c), the Secretary may take any legally available enforcement action in accordance with the Act, including, but not limited to, the following enforcement actions available in accordance with part E of the General Education Provisions Act--

(1) Withhold further payments under any applicable program;

(2) Issue a complaint to compel compliance through a cease-and-desist order; or

(3) Terminate eligibility to receive funding under any applicable program.

(b) If, after an investigation under § 99.66, the Secretary finds that an educational agency or institution has complied voluntarily with the Act or this part, the Secretary provides the complainant and the agency or institution written notice of the decision and the basis for the decision.

(NOTE: 34 CFR part 78 contains the regulations of the Education Appeal Board.)

(Authority: 20 U.S.C. 1232g(f); 20 U.S.C. 1234)

Appendix A to Part 99 - Crimes of Violence Definitions

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Assault Offenses

An unlawful attack by one person upon another.

(NOTE: By definition there can be no "attempted" assaults, only "completed" assaults.)

(ii) Aggravated Assault

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious injury if the crime were successfully completed.)

(b) Simple Assault

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

(c) Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words or other

conduct, or both, but without displaying a weapon or subjecting the victim to actual physical attack.

(NOTE: This offense includes stalking.)

Burglary

The unlawful entry into a building or other structure with the intent to commit a felony or a theft.

Criminal Homicide-Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide-Murder and Nonnegligent Manslaughter

The willful (nonnegligent) killing of one human being by another.

Destruction/Damage/Vandalism of Property

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Kidnapping/Abduction

The unlawful seizure, transportation, or detention of a person, or any combination of these actions, against his or her will, or of a minor without the consent of his or her custodial parent(s) or legal guardian.

(NOTE: Kidnapping/Abduction includes hostage taking.)

Robbery

The taking of, or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of a person or persons by force or

threat of force or violence or by putting the victim in fear.

(NOTE: Carjackings are robbery offenses where a motor vehicle is taken through force or threat of force.)

Sex Offences, Forcible

Any sexual act directed against another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent.

(a) Forcible Rape (Except "Statutory Rape")

The carnal knowledge of a person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity (or because of his or her youth).

(b) Forcible Sodomy

Oral or anal sexual intercourse with another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

(b) Sexual Assault With An Object

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

(NOTE: An "object" or "instrument" is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc..)

(d) Forcible Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

(NOTE: Forcible Fondling includes "Indecent Liberties" and "Child Molesting.")

Nonforcible Sex Offenses
(Except "Prostitution Offenses")

Unlawful, nonforcible sexual intercourse.

(a) Incest

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(b) Statutory Rape

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

(Authority: 20 U.S.C. 1232g(b)(6) and 18 U.S.C. 16)

[This is not an official version of the regulations. These regulations are codified in 34 CFR Part 99.]

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