



## Special Education Policy

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## CHAPTER 1

### PROCEDURES FOR LOCATING, EVALUATING AND IDENTIFYING CHILDREN WITH DISABILITIES (Child Find)

#### I. Purpose

According to State and federal special education regulations, annual public notice to parents of children who reside within a local educational agency (LEA) is required regarding Child Find responsibilities.<sup>1</sup> LEAs, including Capital City Public Charter School (CCPCS), are required to conduct child find activities for children who may be eligible for services via the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. Child Find at Capital City is referred to as Child Study.

This chapter provides guidance on how Capital City will locate and identify all enrolled children between the ages of 3 and 21 who may need special education and/or related services to address problems that may interfere with their future development and learning, including those students who are advancing from grade to grade.

#### II. Legal Standards

##### Public Awareness

Each LEA must have policies and procedures in effect to ensure that all children with disabilities, regardless of the severity of the disability, who are in need of special education and related services are identified, located, and evaluated.

In order to meet these requirements, each LEA is required to adopt and use public outreach awareness activities sufficient to inform parents and the LEA community concerning the availability of special education and related services and the methods available to request those services and programs. For public charter school LEAs the public notice may be provided through a variety of methods, such as:

- School handbooks and calendars;
- Brochures available in the main office;
- Posting information on the LEA website; and
- Provision of information at parent-teacher conferences.

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<sup>1</sup> Since public charter school LEAs are not neighborhood schools and do not have geographic boundaries, Capital City PCS is only responsible for child find activities within its LEA. See *OSSE Comprehensive Child Find System Guidance*, March 22, 2010.

## **Screening**

Child Find activities may include some type of screening process to determine whether a child should be referred for an evaluation. For children age 3 through 21, even when the LEA does not suspect the child may be disabled and in need of special education or related services, the LEA should utilize a comprehensive screening process, the results of which are provided to the child's parent. This process includes, but is not limited to: (a) observations in a variety of settings; (b) multi-tiered problem solving approach; (c) parent/family interviews; and (d) review of attendance and grades. Screenings must be available for all children in the LEA and include the review of whether:

- Appropriate instruction in the general education setting was delivered by qualified personnel;
- Instruction and interventions were provided at varying intensity levels; and
- Progress monitoring data that was collected which reflected the child's progress during instruction.

## **School-Based Screening**

The screening process shall follow, as appropriate, the procedures for Child Study (CST) described in Chapter 2. Make sure to consider the following areas:

- Academic – for students with academic concerns, an assessment of the student's functioning in the curriculum including curriculum-based or performance-based assessments;
- Behavior – for students with behavioral concerns, a systematic observation of the student's behavior in the classroom or area in which the student is displaying difficulty;
- Intervention – intervention based on the results of the above academic and behavioral screenings;
- Progress Monitoring – progress monitoring of the student's response to the intervention;
- Appropriate Instruction – a determination as to whether the student's assessed difficulties are due primarily to a lack of appropriate instruction in reading or in mathematics;
- Limited English Proficiency – a determination as to whether the student's assessed difficulties are due primarily to a student's limited English proficiency; and
- Parental Involvement – activities designed to gain the participation of the parent and, through written notice, inform the parent of the results of the screening and whether follow-up is required.

### III. Capital City Public Charter School, Public Awareness and Outreach Activities

#### Training

Capital City conducts ongoing professional development activities and ongoing trainings for staff to ensure that Child Find, screening activities, and referrals for special education evaluations are carried out in a manner consistent with the timelines and requirements established by the IDEA and this manual.

#### Annual Public Notification

With a circulation adequate to notify parents throughout the school community, Capital City will publish and announce child identification activities and advise families of the procedures followed to ensure confidentiality of information pertaining to students with disabilities or eligible children. Capital City will accomplish this goal through:

- Posting signage throughout school buildings;
- Providing materials in Parent Resource Centers;
- Disseminating materials at regular parent and family conferences; and
- Including relevant Child Find information in any family recruitment and enrollment materials.

#### Identification Timelines

<u>Constantly</u>	<i>Child Study – Policies and procedures to identify, locate, and evaluate all children with disabilities.</i>
<u>As Early As Possible</u>	<i>Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.</i>
<u>120 Calendar Days</u>	<i>An initial evaluation must be conducted within 120 calendar days from the receipt of the written referral for an initial evaluation<sup>2</sup></i>

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<sup>2</sup> The 120 day timeframe does not apply if: 1) the parent repeatedly fails or refuses to produce the child for evaluation; 2) the parent refuses or fails to respond to a request for consent for the evaluation; or 3) the parent enrolls the child in another LEA after the 120 day timeline has begun, but before a determination is made about whether the child is a child with a disability, and the new LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parent and new LEA agree to a specific time when the evaluation will be completed.

## IV. Frequently Asked Questions

### Does Child Find apply equally to homeless children?

*Yes. Homeless children are expressly included in the child find requirements. The 2006 IDEA Part B regulations clarify that each state must have policies and procedures to ensure that children with disabilities who are homeless and who are in need of special education and related service, are identified, located, and evaluated.*

### Does Child Find apply to children who are doing well academically and advancing from grade to grade?

*Yes. Child Find must include children who are suspected of meeting the criteria for being a child with a disability and in need of special education, even though they are advancing from grade to grade. Child Find also extends to children suspected of having developmental delays. Children do not have to fail or be retained in a course or grade in order to be considered for special education and related services.*

### How does the IDEA define homeless children?

*Broadly. The term “homeless children” include all individuals who lack a fixed, regular, and adequate nighttime residence. Incorporating the definition found in the McKinney-Vento Homeless Assistance Act, the definition specifically includes children and youths:*

- *Who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;*
- *Who are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;*
- *Who are living in emergency or transitional shelters, or who are abandoned in hospitals;*
- *Who are awaiting foster care placement;*
- *Who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;*
- *Who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.*

### What procedural protections are available for students not identified for special education?

*Under certain circumstances, a student who has not yet been identified as eligible for special education may still assert the procedural protections afforded under special education law. A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the code of student conduct, may assert the procedural safeguards of the IDEA if the LEA had knowledge that the student was a child with a disability “before” the behavior that precipitated the disciplinary action occurred. In the absence of such knowledge, the student may be subject to the disciplinary measures applied to children without disabilities who engage in comparable behaviors. If a request is made for an evaluation of the student during the time period in which the student is subjected to such disciplinary measures, the evaluation must be conducted in an expected manner. Until the*

*evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.*

### **When is an LEA deemed to have knowledge that a student has a disability?**

*The 2006 IDEA Part B regulations identify three circumstances under which the LEA will be deemed to have knowledge that a student is with a disability:*

- 1. The parent has expressed concern in writing to district supervisory or administrative personnel, or to one of the child's teachers, that the child is in need of special education and related services;*
- 2. The parent has requested an evaluation of the child;*
- 3. The child's teacher or other LEA personnel have expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other LEA supervisory personnel.*

*The law also clarifies that LEAs shall not be deemed to have knowledge that the child is with a disability if the parent has not allowed an evaluation or has refused services, or if the child has been evaluated and determined not to be eligible.*

## CHAPTER 2

### Child Study Process

#### I. Purpose

This chapter describes supports in regular education settings for students experiencing academic or behavioral difficulty. Child Study is Capital City's framework for student assistance, using the Response to Intervention (RTI) model, governed by federal and state mandates. The Child Study Team (CST) is a multi-tiered collaborative team process, which provides progressive levels of support to students.

#### II. Legal Standard

Pursuant to the IDEA and Section 504 of the Rehabilitation Act, Child Study is the mechanism by which CCPCS provides regular education interventions to students with academic or behavioral difficulties, as appropriate, so that students are not inappropriately referred for an evaluation for special education services.

#### III. Overview

CST performs the following functions:

- Provides staff with a system for ensuring that underachievement is not due to the student's limited English proficiency or ineffective instruction in reading and in math, and that positive behavioral supports are provided to students experiencing barriers to learning;
- Facilitates a process for removing student barriers to learning. This process involves assessment, intervention planning, and progress monitoring by the grade level team, provided through the regular educational program;
- Serves as a screening mechanism for students who may be eligible for special education services under IDEA or for accommodations under Section 504.

NOTE: Parents continue to have a right to request an evaluation for their child, at any time, including prior to or during the conduct of CST activities. Child Study Teams may also refer a student for evaluation for special education services at any time.

## IV. The Child Study Process

### School-wide Intervention (Tier I)

All students are expected to receive Capital City's high-quality instruction on research-based curriculum and participate in school-wide and class-wide behavior interventions (e.g. time out, conferencing, reflection, behavior contracts, etc.).

### Removing Group Barriers to Learning (Tier II)

Students receive Capital City's high-quality, research-based curriculum, and participate in school-wide and class-wide behavior interventions. In addition, Tier II students may receive selected small group interventions. At this level, interventions are standardized, with small groups of students receiving the same intervention. Progress monitoring is key, with the data driving the decision to conclude, continue or change services, or to refer to Tier III.

- **Purpose:** The Tier II level of intervention is designed to support groups of students experiencing similar barriers to learning. Both behavioral and academic issues are addressed at Tier II. The groups can be comprised of multiple students presenting with the same issue from the same classroom or students from multiple classrooms all exhibiting the same need.
- **Description:** Teachers meet regularly with their colleagues to identify challenges and develop effective intervention plans through a strengths-based, problem-solving process. Teachers share effective practices in curriculum, instructional assessment, classroom management, and accommodation for identified groups of students.
- **Timeline:** Progress toward goals set in Tier II is measured over a 30-day period. If an individual child fails to make adequate progress via group intervention, following a 30-day period, that child must be referred immediately to Tier III.

### **Setting up the Tier II Process**

The Director of Student Services (DSS) creates a schedule for Tier II meetings at the beginning of the school year, which is based on a common planning schedule for each grade group and distributed to each teacher in the group, as well as the counselor and consulting personnel at the start of the school year. These Tier II meetings are referred to as "Consult" at Capital City.

The DSS appoints a Tier II Coordinator (Child Study Team Coordinator) for each grade group or team, often the school counselor.

The CST Coordinator ensures teachers are reminded of the meetings bi-weekly and ensures teachers are familiar with the following

- Parent-Teacher Collaboration Form;
- CST Referral form;
- CST Intervention Plan;
- Tracking form.

The CST Coordinator creates the Child Study agenda based upon the Parent-Teacher Collaboration submitted by teachers. The CST Coordinator keeps the record of applied intervention by creating a binder that includes copies of relevant Tier II documentation, including:

- Meeting agendas;
- Meeting attendance sheets;
- Copies of completed Parent-Teacher Collaboration forms, Referral forms, completed and revised Tier II Support Logs (Intervention Plans), and Tracking forms.

The CST Coordinator invites additional personnel for consult, as appropriate. Consulting personnel may be the Principal, Instructional Coach, Counselor, Nurse, Special Educator, and School-Based Behavioral professionals, depending on the presenting concern.

### **During the CST Meeting**

For the identified group of students, the presenting teacher provides copies of the following for review by the CST team:

- CST Referral form;
- Instructional data (e.g. DRA, benchmark data, samples of student work)
- Behavioral data (suspension records, SchoolForce reports, etc.)
- Attendance data

The CST team reviews the data and, using any and all relevant resources, engages in the development of intervention strategies to target the presenting concern. The team sets an indicator or threshold to determine if group members have made improvement on the targeted concern.

The presenting teacher records the developed intervention plan on the CST Form.

The CST Coordinator leads the team in a review of progress made by groups of students previously discussed and updates the Tracking form.

NOTE: Parent/Guardian consultation on CST teams is not required, but is encouraged.

## **Progress Monitoring and Closing Out Tier II**

The CST team reviews the progress of previously addressed groups at the conclusion of each meeting.

Progress should be documented in the ‘progress notes’ section of the CST Intervention Plan and on the Tracking form. If the CST intervention plan is successful, resources are continued, modified, or concluded.

*Those individual students who did not meet the predetermined indicator or threshold, and are still not meeting with success, should be referred to Tier III.*

## **Transitioning from Tier II to Tier III**

If students in Tier II continue to exhibit behavioral or academic concerns after the implementation of research-based classroom interventions, such students should be referred to Tier III.

Students currently in Tier II for group interventions targeting absences must be referred to Tier III once they accrue 8 absences.

Students currently in Tier II for group interventions targeting suspensions must be referred to Tier III once they accrue 3 or more suspensions.

## **Removing Individual Barriers to Learning (Tier III)**

In addition to Capital City’s curriculum and small group interventions, the grade level team develops a set of individualized interventions targeted to the student’s own particular strengths and needs. At this level, progress is carefully monitored to determine whether moving to the referral stage is appropriate.

- **Purpose:** The Tier III level of intervention is designed to address the needs of individual students experiencing barriers to learning and in need of more targeted support. Both behavioral and academic issues are addressed at Tier III.
- **Description:** At Tier III, a core team of trained school staff joins parents at a meeting. Together, this team develops an effective intervention plan through a strengths-based, problem-solving process. This plan can include both school-based and community-based supports, and the team can include auxiliary members as indicated by the presenting concern. Agency partners can also be included with parental permission.

- **Timeline:** Progress toward goals set in Tier III is monitored for up to 60 days and includes weekly progress monitoring. If the intervention activities have produced little or no improvement within 60 days after initiation, the team should follow the Referral process.

Types of issues addressed at Tier III include:

- **Academics** – when a student demonstrates poor academic performance or danger of failing;
- **Behavior** – when a student demonstrates a pattern of classroom behavior that may indicate emotional or behavioral needs that are posing a barrier to learning;
- **Attendance** – when a student demonstrates a pattern of tardiness, absence, or early dismissals;
- **Health** – when a student demonstrates difficulty in accomplishing classroom tasks due to suspected visual, speech, hearing, or other health concern;
- **Transition** – when a student returns from out-of-district placement, or reengages in school after dropping out.

### **Fast-Tracking to Tier III**

Students can be fast-tracked to Tier III for the following reasons:

- The student is in crisis (suicidal, homicidal, or experiencing traumatic response);
- The student is returning from out-of-district placement or treatment (inpatient or partial hospitalization, residential treatment, or delinquency placement);
- The student has hearing or speech needs;
- The student is homeless (if indicated);
- The parent has requested Tier III support for his/her child;
- The student has failed at least one class at the end of the first marking period;
- A Permission to Evaluate form has been signed for the student;
- The student was in Tier III at the end of the previous school year.

### **Setting Up the Tier III Process**

The DSS works with the CST Coordinator. The DSS and CST Coordinator formulate the Child Study Team, which may be made up of:

- Counselors;
- Teachers;
- Lead Teachers;
- Special Education Teachers;

- Non-Instructional School-Based Supports (Parent, Student Advisor, Social Service Liaison or other school-based social worker, etc.);
- School Psychologist;
- School Nurse;
- Administrator;
- The identified student's parent;
- The identified student, as appropriate.

NOTE: Whenever applicable, behavioral health personnel working with the child, foster care social workers and Department of Health Services workers familiar with the child's needs and history should also be included in the team to provide information and expertise.

The CST Coordinator schedules meetings to occur on a weekly basis and communicates this schedule to the Core Team. The CST Coordinator ensures members are familiar with the following Tier III documents:

- CST Referral form;
- CST Student Observation form;
- CST Intervention Plan;
- Tracking form.

A referral is made when the concerned adult submits a CST Referral form to the Coordinator.

When the student is transitioning from Tier II, the referral must include Tier II progress monitoring data to substantiate the lack of progress and the need to advance to Tier III.

Prior to the Tier III Meeting:

The CST Coordinator distributes and collects copies of the Student Observation form for all teachers working with the identified student.

The CST Coordinator notifies the student's parents of the concern and invites them to participate in the CST meeting.

In addition to calling the parents, the CST Coordinator sends out the parent's CST Meeting Letter.

In the event of challenges in reaching the parent, the CST Coordinator should be able to document that three attempts were made to extend an invitation.

Whenever possible, the team should make every effort to accommodate the parent's schedule to meet or arrange phone participation.

### **During the CST Meeting**

For the identified student, the presenting teacher or staff member provides copies of the following for review:

- Completed Parent-Teacher Collaboration form;
- Tier II progress monitoring data (if applicable) to substantiate the lack of progress and the need to advance to Tier III;
- Completed CST Referral form;
- Completed CST Student Observation forms;
- Academic data (the student's functioning in the curriculum including curriculum-based or performance-based assessment, samples of student work);
- Behavioral data (suspension records, pink slips, and systematic observation of the student's behavior in the classroom and across settings);
- Attendance data; and
- The student's strengths.

The Tier II Core Team reviews the data and, using any and all relevant resources, engages in the development of intervention strategies to target the presenting concerns.

If the presenting concern is related to challenging behavior, the intervention plan must include a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP) based on the FBA.

The presenting teacher or staff member records the developed intervention plan on the Tier III Support Log (Intervention Plan):

- **Benchmark Baseline Performance:** The student's baseline performance in the area of concern at initiation of intervention process (e.g., student reads 5 words correctly at the second grade instructional level in 1 minute).
- **Measurable Goal:** The student's targeted performance at the end of the intervention process (e.g., student reads 30 words correctly at the second grade instructional level in 1 minute).
- **Interventions:** The type, duration and frequency of interventions. For students with behavioral concerns, conduct a Functional Behavior Assessment (FBA) and develop a Behavior Intervention Plan (BIP).

- **Indicators of Progress:** The identified progress monitoring tools, such as curriculum-based assessment, benchmark assessments, behavioral observation, etc., and an indicator or threshold to measure the success of the intervention.

The DSS notes the 60-day deadline during which time progress is monitored using the Tracking form on a weekly basis via the Case Management Model (see below).

NOTE: Following multiple documented efforts to engage parent participation in the meeting if the parent does not respond, the Tier III interventions developed by the team must be mailed to the parent with another invitation to meet to discuss or amend those recommendations.

### **Progress Monitoring and Closing Out Tier III**

In order to ensure progress monitoring occurs at Tier III, schools must establish CST Monitoring Meetings where:

- All members gather to meet weekly, prepared with their assigned case files for all active Tier III cases;
- Using the Tracking form the Tier III Coordinator goes through the list of every student in Tier III and team members report out status of each case.

Administrators spend time between meetings checking in with teachers, parents, providers, etc. on the status of the developed intervention plan, or Tier III Support Log (Intervention Plan), ensuring that any obstacles to the identified goals and objectives are removed.

Administrators should update the parent on the student's progress on a regular basis and report any need to adjust interventions that are being provided. If it appears that there is a need for modification of a student's current intervention plan, then the administrator or Tier III Coordinator can reconvene a Tier III meeting for the student.

If the Tier III Intervention plan is successful, resources are continued, modified or concluded.

### **Transitioning from Tier III to Referral**

If an individual is still not meeting with success, the student is referred for evaluation.

- **No Progress after 60 Days:** If the intervention activities have produced little or no improvement within 60 days after initiation, the team should follow the referral process.
- **Referral:** The student is referred for evaluation for possible special education eligibility. Students at this level continue to receive Tier III services. If a student jumps straight to this

level due to parent or staff referral they will continue to receive Tier III services while the evaluation is completed.

- **Purpose:** The focus is on an evaluation for change in placement when a child is still not successfully responding to Tier III interventions. This change in placement may be for educational or behavioral reasons. Team membership, documentation, and timelines are governed by procedural dictates established by the LEA pursuant to District of Columbia and Federal Law.
- **Description:** If the student has not successfully responded to Tier III interventions, the Tier III Team meets with parents to review the educational options and arrange follow-up activities, which may include (following parental consent) a multidisciplinary evaluation to determine eligibility for specially designed instruction and related services under the IDEA. (See Evaluation Chapter.)

**Prior to the Referral Meeting:** The CST team should ensure that all relevant data is gathered and reviewed for accuracy and completeness prior to any further referral. Characteristics that should indicate a referral include:

- Extremely slow rate of academic progress or communication skills in response to interventions that are appropriately designed and measured;
- The continued presence or acceleration of inappropriate behavior that significantly affects a student's educational performance and little or no response to positive behavior supports via an appropriately designed Behavior Support Plan which was implemented and monitored;
- Needs that exceed the functional ability of the regular education program to maintain the student at an appropriate instructional level.

**Exclusionary Circumstances:** Prior to any referral for evaluation, the Tier III Team must determine whether the student's assessed difficulties are due to:

- **Limited English Proficiency (LEP):** The team determines whether the student has been given appropriate instruction to learn English and to address the reasons for the referral;
- **Visual or Hearing Abilities**
- **Lack of Appropriate Instruction:** Appropriate development and implementation of the Intervention Plan would document the following IDEA requirements to support this finding:
  - Documentation of appropriate instruction provided in general education by qualified personnel;
  - Evidence of repeated assessments of achievement at reasonable intervals;
  - Evidence that student progress on formal assessments is provided to the child's parents.

- If any of the above circumstances account for the student's assessed difficulties, the team can not refer the student for an evaluation to determine eligibility for special education services. The CST Coordinator must consult with the administrator to ensure that steps are taken to either address the student's LEP or instructional program.

### **Fast-Tracking to Referral**

- Parents continue to have a right to request an evaluation for his/her child, at any time, including prior to or during the conduct of AS3 activities.
- An immediate referral for special education services outside of the AS3 process would be appropriate for students suspected of having a significant developmental delay or moderate to severe cognitive challenges as compared to peer groups.

NOTE: If a student is not determined to be an appropriate candidate for referral for an evaluation or not determined to be eligible for special education services, s/he should be referred back to Tier III for additional intervention planning.

## CHAPTER 3

### THE EVALUATION PROCESS

#### I. Purpose

This chapter provides guidance on the referral for and provision of full and individualized evaluations and reevaluations of students who are eligible, or thought to be eligible, for special education programs and services.

#### II. Legal Standard

To be eligible for special education programs and services, students must be both determined to have one or more of the disabilities defined by the IDEA, and in need of special education (i.e., specially designed instruction).

#### III. Initial Evaluation, Special and Mandatory Reevaluations

An LEA, including Capital City, must use an evaluation process consisting of a set of procedures and/or assessments used in accordance with the IDEA and District of Columbia law to determine:

1. Whether a child has a disability<sup>3</sup>; and

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<sup>3</sup> 5 DCMR 3001 defines “Child with a Disability” as “a child who satisfies District registration and residency requirements and who has been evaluated in accordance with §§ 3005-3006 of this Chapter as having one of the following conditions and who, as a result of the impairment, needs special education and related services:

- (a) Autism;
- (b) Deaf-blindness;
- (c) Deafness;
- (d) Developmental Delay;
- (e) Emotional disturbance;
- (f) Hearing impairment;
- (g) Intellectual disability (formally MR);
- (h) Multiple disabilities;
- (i) Orthopedic impairment;
- (j) Visual impairment, including blindness;
- (k) Traumatic brain injury;
- (l) Other health impairment;
- (m) Learning disability; and
- (n) Speech or language impairment.

If it is determined, after an appropriate evaluation under the provisions of this Chapter, that a child has one of the disabilities identified in this section, but only needs a related service and not special education instruction, the child is not a child with a disability under this Chapter.

2. The nature and extent of the special education and related services that the child

Capital City is required to evaluate a child at no cost to the parent, pursuant to a written referral from either the parent or LEA. If the student is eligible for special education services and services are requested, then the parent and the LEA may come to an agreement as to what services will be provided and where services will be provided, including private placements, as necessary (see Individual Education Plan development (IEP) at Chapter 5). The LEA is required to provide a continuum of placements, which may include placement in a non-public school, instruction in hospitals, or homebound instruction.

There are three types of evaluations:

- **Initial Evaluations** – conducted to determine whether a student is eligible for special education programs and services;
- **Mandatory Reevaluations** – conducted at least once every three years for students with all other disabilities, unless the parent and Capital City agree that a reevaluation is unnecessary.

NOTE: The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services, and as such, parental consent is not required in this instance.

- **Special – Other Circumstances** – evaluations conducted because of specific concerns about the student communicated outside the regular cycle of evaluations/reevaluations. These evaluations may occur if conditions warrant reevaluation; if the child's parent or teacher requests reevaluation; or before determining a child is no longer a child with a disability as defined by IDEA. A student's eligibility may not be determined without an initial evaluation or changed without a reevaluation.

Other circumstances where special evaluation may occur are:

- **Hearing Order** – A District of Columbia Hearing Officer orders a reevaluation.
- **Terminating Eligibility** – Prior to terminating eligibility EXCEPT:
  - **Graduation from High School** – An evaluation is NOT required before the termination of eligibility due to graduation from high school with a regular diploma or because s/he turns 21 years of age during the academic year.
  - **Summary of Achievement and Performance** – Upon graduation, the case manager must provide the student with a summary of his/her academic

achievement and functional performance, which shall include recommendations on how to assist him/her in meeting postsecondary goals.

### Required Timelines for Evaluation

- **Initial Evaluations** –Capital City *must* complete an initial evaluation, including the determination of the eligibility, of a child suspected of having a disability within 120 calendar days of receiving a written referral. Upon referral for an initial evaluation the school must provide parent with written notification of the referral and the Procedural Safeguards Notice. Once the team determines whether the child is suspected of being a child with a disability, the LEA must provide the parent with prior written notice (PWN) of its intent or refusal to evaluate, the Permission to Evaluate (PTE) form<sup>4</sup> in the event that an initial evaluation is deemed necessary, and the Procedural Safeguards Notice. Within 120 calendar days of the receipt of a written referral for an initial evaluation, the Evaluation Report (ER) Team must conduct the evaluation, prepare an ER, and provide the ER to the parent. The 120 day timeframe does not apply if:
  - The parent of a child repeatedly fails or refuses to produce the child for the evaluation;
  - The parent fails or refuses to respond to a request for consent for the evaluation; or
  - A child enrolls in a school of another LEA after the 120 day timeline has begun, and prior to the determination by the child’s previous LEA as to whether the child is a child with a disability.<sup>5</sup>
  
- **Mandatory 3-Year Reevaluations** – Capital City must hold a reevaluation meeting within three years of the date the previous initial evaluation or reevaluation was completed. The reevaluation meeting must be scheduled in time to allow the IEP team to conduct assessments, if necessary, and to reconvene within three years of the previous eligibility meeting. When appropriate, and for the convenience of both the parent and Capital City, the IEP team should attempt to consolidate the annual meeting and the reevaluation meeting. **NOTE:** When issuing a PWN and PTE, the parent must be provided a copy of the Procedural Safeguards Notice. **NOTE:** When issuing a PTE, because additional data is required, the parent must be provided a copy of the Procedural Safeguards Notice.

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<sup>4</sup> See Consent Requirements (pg 87).

<sup>5</sup> This only applies if the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent LEA agree to a specific time when the evaluation will be completed. See 34 C.F.R. 300.301(d) and (e).

- **Transfer Students** – For students that transfer into Capital City during their evaluation process, Capital City will complete the evaluation process. For these students the evaluation timeframe will apply unless one of the conditions below is met:
  - **Parent and District Agree:** A child enrolls in Capital City after the evaluation timeframe has begun and prior to a determination by the child’s previous school or school district as to whether the child is a child with a disability. Capital City must show sufficient progress to ensure a prompt completion of the evaluation; and the parent and the school must agree to a specific time when the evaluation will be completed; or
  - **Student Not Available:** The parent of the child repeatedly fails or refuses to produce the child for the evaluation.
- **IEP Team Meeting** – If the evaluation team determines that the student is eligible or continues to be eligible, the IEP team must meet within 30 calendar days of the determination of eligibility, or within the 120 day timeframe for initial evaluations, whichever comes first.

**Limitations**

Reevaluations are not to occur more frequently than once a year, unless the parent and the LEA agree otherwise. For student with any disability other than intellectual disability (formally MR), the parent and the LEA can agree that a reevaluation at the 3-year interval is unnecessary.

**Referral for Initial Evaluation and Reevaluations**

An initial evaluation may be initiated pursuant to a Child Study referral (See Chapter 2).

NOTE: The CST process should continue for the student during the eligibility determination process. Follow the evaluation timeframe referenced above, unless extended by mutual written agreement of the student’s parents and the eligibility team. The following persons may request an initial evaluation or reevaluation: Capital City personnel, parent, a student at the age of 18, public agencies, persons having primary care and custody of a child. Upon an initial evaluation referral or any time a parent requests an evaluation, provide the parent with a copy of the Procedural Safeguards Notice.

**Responding to Requests for Initial Evaluations and Special Reevaluations**

Upon receipt of a written request for an evaluation the administrator, along with appropriate staff determines whether the request is appropriate or not. If the evaluation is appropriate, see the evaluation process in this chapter. If the referral is not appropriate, provide a Notice to the parent,

and state the reason the school staff believes the referral is not appropriate. Staff should also work with the family to provide guidance on a proper request for referral and provide the parent with the Procedural Safeguards Notice.

NOTE: Administrator or designee must consult Head of School before making a determination that the referral is not appropriate.

If a Capital City staff member should receive an oral request for evaluation from a parent they should discuss with the parent a possible referral to CST (see Chapter 2). The provision of Child Study shall not be construed to limit or create a right to a free appropriate public education (FAPE) or to delay appropriate evaluation of a child suspected of having a disability. The staff person receiving an oral request must notify the administrator within one day of the request and ask the parent to provide a written request. Assist the parent in preparing a written request, if appropriate. If the parent does not respond with a written request for the evaluation, the administrator and appropriate staff must provide follow up to obtain the request. If the parent continues to be unresponsive, staff must take one of the following actions:

- If the student was not involved with CST, refer the student to that process;
- If the student was involved with CST, request that the CST team provide a recommendation for further action which could involve continuation of CST monitored interventions, evaluation referral, or Section 504 eligibility determination;
- If no referral is appropriate, inform the parent of that decision through a Notice of Recommended Educational Placement (NOREP).

## **Organizing the Evaluation Process**

### **Purpose of Evaluation**

An evaluation is the process by which a multidisciplinary team, including parents, uses a variety of assessment tools and strategies to evaluate current information available for the student to gather relevant functional, developmental, and academic information, including information provided by the parent that may assist in determining whether the student has a disability [NOTE: This includes a determination that the student needs special education services (i.e., specially designed instruction) and related services.]; the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum; or, for preschool children, to participate in appropriate activities.

### **Administrator's Selection of Evaluation Coordinator**

The administrator designates the evaluation coordinator to assemble the evaluation team; monitor completion of the evaluation and assessment activities; and prepares the Evaluation or Reevaluation

Report (see Appendix). The Evaluation Coordinator is the school's Director of Student Services or the related service provider for a student receiving only speech/ language, occupational therapy (OT) or physical therapy (PT) services.

### **Responsibilities of the Evaluation Coordinator**

The evaluation coordinator, in consultation with appropriate staff, ensures timely and appropriate student assessments and distributes and collects forms, reports and data. These responsibilities include the following:

- Provides the parent with the PTE and the Parent Input forms within 10 calendar days of receipt of parent's written request;
- Gathers relevant evaluations from all evaluators, including the student's core academic teachers, and other relevant staff connected with student's education and services using the Staff Input Form for the ER.
- Distributes reports and data (including those from parents) to relevant individuals, including medical information, assessment data, professional evaluations, staff input reports and observations.

The evaluator collects background information for students with special circumstances; for students with communication needs and for students who are English Language Learners (ELL) before the evaluation begins and gathers information regarding the student's language use pattern and cultural background, the student's mode of communication, and if the student has a non-English background, the student's proficiency in English.

The evaluation coordinator organizes the process by inviting participants, including parents, to ER team meetings; schedules meetings to complete ER within the required timeframes; and selects the ER team participants.

### **Evaluation Review (ER) Team Participants**

The ER Team is the group (including parents) that reviews current data, determines need for additional data, and reviews the evaluation results to determine a student's initial and continued eligibility for special education and related services. The ER Team must include the following individuals:

- **Parent/Guardian or Surrogate Parent** – A surrogate parent is someone other than the parent who is designated to make educational decisions for the student, and to receive and execute procedural safeguards (e.g., consent for evaluations). The following circumstances necessitate the designation of a surrogate parent:
  - A child is designated a ward of the State;

- An unaccompanied homeless youth;
  - The whereabouts of the parent is unknown;
  - The rights of the parent have been terminated in accordance with the state law.
- **Capital City LEA Representative** – The person may be the administrator or designee, but must demonstrate the following:
    - Qualified to provide or supervise special education services;
    - Knowledgeable about the general education curriculum and special education services;
    - Knowledgeable about the availability of resources of the school district;
    - Has the authority to commit school district’s resources;
    - Ensures provision of IEP services and materials specific in the IEP; and
    - Chairs the IEP meeting.
  - **Evaluator**– Designated by the administrator, the Evaluation Coordinator may be the related service provider for a student receiving only speech/language, OT or PT services.
  - **Special Education Teacher**
  - **Speech/Language Therapist, OT or PT** (for student considered for, or receiving, only speech/language or OT/PT services.)
  - **Regular Education Teacher** – At least one regular education teacher if the student is or may be participating in the regular education environment. For reevaluations, if the student does not have a regular classroom teacher, a regular classroom teacher qualified to teach the student’s age may be identified to participate. The participation of more than one regular education teacher is not required for a student with more than one regular education teacher. This teacher should be one who does or may implement portions of the IEP, or who instructs or has supervision of the student. Other teachers provide input through the Staff Input form.
  - **Certified School Psychologist** – Required when evaluating a student for autism, emotional disturbance, intellectual disability (formally MR), multiple disabilities, other health impairment, specific learning disability or traumatic brain injury.
  - **An individual who can interpret instructional implication of the evaluation results** (role may be assumed by one of the above participants).
  - **The Student**, as appropriate.

- **Other Individuals** – At the discretion of the parent or school, e.g., bilingual professional, person knowledgeable about positive behavioral supports, interpreter for individuals who are deaf or translator for those who are English Language Learners, an individual familiar with the student’s culture or with specific information about the student, etc.

## V. Evaluation Process

Capital City must ensure that a full and individual evaluation is conducted for each child being considered for special education and related services under IDEA. In conducting the evaluation, the LEA shall use a variety of assessment tools, including information from parent, not use a single measure as the sole criterion for determining eligibility, and use technically sound instruments.

### Determining Scope of Evaluation and Need for Additional Data

- Review the existing evaluation data as part of an initial evaluation (if appropriate) and as part of any reevaluation. Review existing evaluation data on the student, including evaluations and information provided by the parents, local or state assessments, current classroom-based assessments and observations (required in order for a student to be determined eligible in the area of learning disabilities), and observations by teachers and related service providers. This review may be conducted without a meeting. If the team meets, the parent must be notified and invited to attend. The parent may participate by telephone or conference call. The Evaluation Coordinator facilitates the meeting. Parental consent is not required to review existing data by teachers and related service providers. This review may be conducted without a meeting. If the team meets, the parent must be notified and invited to attend. The parent may participate by telephone or conference call. The Evaluation Coordinator facilitates the meeting. Parental consent is not required to review existing data.
- On the basis of review of existing data, and input from the student’s parents, identify what additional data, if any, are needed to determine present disability whether the student has or continues to have a disability and the student’s educational needs; the present levels of academic achievement and related developmental needs; whether the student needs or 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 to participate, as appropriate, in the general education curriculum.
- If additional information is required for the evaluation, the Evaluation Coordinator completes the PWN, indicating any preexisting data and assessments that must be completed, and PTE, and obtains the parent’s consent. Specifically, the Evaluation Coordinator includes the types of measures, assessments, and other evaluation materials that will be used to evaluate the student and the timeframe in which they will be administered. No assessments may be

initiated until the parent signs the PTE form. If a parent refuses consent, the team may request a due process procedure or mediation. In this case, the Evaluator must consult with the Director of Student Services. Parents may withdraw their request for a special education evaluation at any time by so indicating on the PTE form, or by notifying the administrator in writing. In this case, the evaluation process must cease and the school district may initiate due process procedures. Once the Evaluator receives written parental consent for the evaluation, s/he notifies the ER Team of the referral, and the members gather the necessary information and conduct assessments as necessary.

- For a reevaluation follow the above procedures for issuing a PWN and obtaining parental consent, using the Permission to Reevaluate (PTRE) form, except that if the Evaluation Coordinator has documentation of at least three reasonable attempts to obtain the parent's consent and the parent fails to respond, the assessments may proceed without the consent (preferably, based on consultation with the Director of Student Services). Reasonable attempts include:
  - Detailed records of telephone calls made or attempted and the results of those calls;
  - Copies of correspondence sent to the parents and any responses received;
  - Detailed records of visits made to the parent's home or place of employment and the results of those visits; and
  - If there is no need for additional data, the SEL notifies the parent that no additional data is needed. If the parent asks that additional assessments be conducted, then the SEL arranges for the additional assessments to be conducted.

### **Ensuring Evaluations are Nondiscriminatory**

- Assessments and other evaluation materials used to assess a student must be selected and administered so as not to be discriminatory on a racial or cultural basis. Assessments must be provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer. Materials and procedures must be 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. To implement this requirement first determine the student's proficiency in English and the native language, including objective assessments of reading, writing, speaking and understanding. Conduct a comprehensive ecological assessment of the student's home and community environment. Native language is the language normally used by the individual or, in the case of a child, the language normally used by the parents of a child.

- Standardized assessments or measures given to the student must meet the following criteria:
  - Be used for purposes for which the assessments or measures are valid and reliable;
  - Be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments; and
  - Be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information unless clearly not feasible.
  
- Assessments and other evaluation materials must include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Assessors must use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student. Assessments must be selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
  
- No single measure or assessment may be used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student. The student must be 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. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. Assessors must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

### **Independent Educational Evaluations (IEEs)**

- A parent may obtain an IEE at their own expense at any time.
  
- The parent has the right to request an IEE, at the public expense, if the parent disagrees with the evaluation obtained by Capital City subject to the conditions in the IDEA. Parents have the right to request only one IEE each time Capital City conducts an evaluation with which the parent disagrees. The IEE may not be performed by employees of Capital City. The individual performing the IEE must meet state and local standards to conduct the examination. Parents do not have the right to obtain an IEE before the school district

completes its evaluation simply because the parent disagrees with the district's decision to use data from CST as part of its evaluation.

- If the parent requests an IEE of the child, Capital City, without unnecessary delay, must take one of the following actions:
  - Initiate a due process hearing to show that its evaluation is appropriate and hence, that an IEE is not warranted; or
  - Agree to fund an independent evaluation at Capital City's expense and provide information to the parent about how an IEE may be obtained under Capital City policies.
  
- If an IEE at the school district expense is to be provided by either agreement or by order of hearing officer, Capital City provides a letter to the parent with information about where and how an IEE may be obtained and school district criteria for IEEs. It is the parent's responsibility to select the clinician, make the appointment for evaluation, and take the letter to the evaluation appointment. The letter advises the parent that s/he may also obtain an evaluation from someone of his/her own choosing. When the IEE completes the evaluation and report and provides it to the Evaluation Coordinator, the Coordinator forwards the evaluation report to the evaluation team. The ER Team must consider results of all independent evaluations, regardless of whether it was conducted at parent or school district expense as long as the IEE meets school district criteria. In addition, the independent evaluation may be submitted by the parent to an independent hearing officer as part of a due process hearing.

### **Assessment Reports**

- Each person conducting an assessment or reviewing preexisting data, as appropriate, prepares a report. Each report must document the sources and assessment methods used, information and results obtained and the date of the assessment. Use language that is problem/issue focused, educationally relevant, succinct, devoid of as much jargon as possible and written in language that may be readily understood by staff and parents. Reports that are understandable only by other specialized personnel have little value for the student's instructional services. Analyze raw data and interpret results, including strengths and weaknesses. The mere collection of data without analysis or synthesis does not benefit instruction. Report results in a manner that answers the referral questions and addresses implications for instructional intervention (including behavioral interventions). Include recommendations that can be used by school staff to positively impact instruction regardless of whether the student is eligible for special education and related services.
  
- Restrict recommendations to instructional and related service needs, curricular adaptations and/or modifications, and supplemental aids and services. Document whether any

evaluation component could not be completed due to lack of parental involvement, religious convictions of the family or inability of the student to participate, state what components are missing and why they could not be completed. If an assessment is not conducted under standard conditions, describe the extent to which it varied from standard conditions (e.g., qualifications of the person administering the test or method of test administration). Include the assessments used and date(s) administered. Include parental input, teacher summary of student progress and staff input, independent evaluation results, Child Study results, medical information and any other reports and documents considered by the ER Team.

### **Required Evaluations and Assessments**

- **School Psychologist** - Evaluation report of a certified school psychologist when evaluating a child for autism, emotional disturbance, intellectual disability (formally MR), specific learning disabilities multiple disabilities and other health impairments.
- **Teacher Summary** of student progress and performance in the classroom from each teacher who provides instruction.
- **Observation Report** – For students with or suspected of having a learning disability, a classroom observation report must document the student’s academic performance and behavior in the areas of difficulty. At least one ER Team member other than the child’s regular teacher must observe the student’s academic performance in routine classroom instruction and monitoring of the child’s performance that was done before the child was referred for an evaluation; or after the child was referred and parental consent was obtained. For a student less than school age or out of school, the student must be observed in an environment appropriate to the student’s age.
- **Relevant Domain** – Additional assessments and evaluations related to those domains as appropriate to evaluate student (e.g., speech/language therapist, occupational and physical therapist, psychologist, and behavioral specialist).
- **Independent Educational Evaluations (IEEs)** obtained by the parent and presented to the school. However, if the parent does not provide an IEE report in sufficient time to complete the evaluation by mandated timeframes, the process should continue without the IEE report. If the parent provides the independent evaluation after the eligibility decision, the Evaluation Coordinator must reconvene the ER Team to consider the new information.

### **Evaluation Review (ER) Summary Document**

The ER is intended to incorporate the key findings from each evaluation performed and their implications for the education of the student. While interpreting evaluation data, the ER Team draws upon information from a variety of sources, including teachers and related service providers, aptitude and achievement tests, curriculum-based assessments, parent input, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and records, e.g., school attendance, anecdotal, classroom observations, cumulative, discipline, group standardized achievement scores, individualized standardized achievement scores, Child Study results, and ensures that information from all of these sources is documented and carefully considered. The ER Team uses the ER and the attached reports to determine the student's initial eligibility for special education services, and educational needs.

### **Providing ER and Reports to Parent**

- The Evaluation Coordinator must complete the ER and document that a copy was provided to the parent by hand-delivery or first class mail no later than 60 calendar days from the date the school received the signed PTE form and at least 10 school days before the IEP meeting unless the parent agrees to waive the 10-day review period and proceeds immediately to the IEP meeting by signing the 10-day Evaluation Report Review Waiver form. Capital City provides a copy of the ER at no cost to the parent.
- Parents have the right to review assessment reports and protocols in the presence of examiners. Protocols must be released to individuals having expertise in interpreting such protocols (consumable test booklets, behavior ratio scales, drawings, etc.). Protocols must be removed from the student's cumulative file.

### **Extended School Year Services**

These services are defined as special education and related services that are provided to a child with a disability beyond the normal school year (i.e. Intersession), are in accordance with a child's IEP, are provided at no cost to the parents of the child, and meet state standards. Assessments should consider the necessity of extended school year services.

### **Determining Eligibility for Special Education and Related Services**

- The Evaluation Coordinator facilitates the ER Team Meeting using the Invitation to Participate form. If the parent does not attend the meeting the LEA rep must document that s/he has made at least three reasonable attempts to include the parent in the meeting. If this documentation is in place, the meeting may proceed without the parent. Based on all of the information collected during the assessment process, the ER Team determines whether the student is eligible to receive special education and related services. To determine initial eligibility for special education services, the Team must establish all of the following:
  1. That the student has one or more of the following disabilities:

- Autism;
  - Deaf-Blindness;
  - Developmental Delay;
  - Emotional Disturbance;
  - Gifted without Disability;
  - Hearing Impairment, including Deafness;
  - Intellectual Disability—*formally* Mental Retardation;
  - Multiple Disabilities;
  - Orthopedic Impairment;
  - Other Health Impairment;
  - Specific Learning Disability;
  - Speech or Language Impairment;
  - Traumatic Brain Injury;
  - Visual Impairment, including Blindness.
2. That at least one of these disabilities has an adverse effect on the student’s educational performance, and
  3. As a result of one or more of these disabilities, the student needs special education (specially designed instruction) .

When all three factors are present – IDEA disability, adverse effect on educational performance, and need for special education services – the student is eligible or continues to be eligible for special education and related services and an IEP is developed.

- For all disability areas, a student may not be determined to have a disability if the determinant fact for the finding is lack of appropriate instruction in reading, including phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills, and reading comprehension strategies; lack of appropriate instruction in math; or limited English proficiency. Students who are ELL may be eligible for special education services only when it is determined that the disability exists independent of the student’s limited language proficiency in English. The disability must be present in the student’s native language and/or outside of the school environment. Speaking a language other than English is not a disability.
- Three conditions are required of students suspected of having specific learning disability eligibility:
  1. The student does not achieve adequately for his/her age or to meet state-approved grade level standards in one or more of the following areas when provided with learning

experiences and instruction appropriate for his/her age or state-approved grade-level standards. The areas are: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving; and

2. The student does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in above when using a process based on his/her response to scientific, research-based intervention; or the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the ER team to be relevant to the identification of specific learning disability; and
  3. The findings under the above cannot primarily be the result of a visual, hearing or motor impairment, intellectual disability (ID), emotional disturbance, environmental or cultural or economic disadvantage, limited English proficiency, or lack of appropriate instruction in reading (including phonemic awareness, phonemics, vocabulary development, reading fluency, including oral reading skills, and reading comprehension strategies) or lack of appropriate instruction in math.
- To ensure that underachievement is not due to a lack of appropriate instruction in reading or math, the ER Team must review the data demonstrating that prior to or as part of the referral process, the student was provided appropriate instruction in a regular education setting. The ER Team must also ensure delivery by qualified personnel and data-based documentation of repeated assessments of achievement, at reasonable intervals, reflecting formal assessment of student progress during instruction, that was provided to the student's parent or guardian.
    - Specific documentation for the specific learning disability determination in the ER must document if the student participated in a process that assesses his/her response to scientific, research-based intervention; the instructional strategies used and the student-centered data collected; and the documentation that the child's parents were notified about 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; strategies for increasing the student's rate of learning; and the parent's right to request an evaluation. Each team member must certify in writing whether the report reflects his or her conclusion. If it does not so reflect, s/he must submit a separate statement presenting his/her conclusions. If a parent is unable to provide a written dissent, the staff should assist in reducing the dissent to writing.

## **Procedural Safeguards and Next Steps**

- If the ER Team determines that the student is not eligible for special education and related services, give a Non-Eligible Notice of Recommended Education Placement (NOREP) to the parent along with a copy of the parent’s procedural safeguards. If the parent believes the student is eligible and disapproves the Non-Eligible NOREP, the parent may request mediation or a due process hearing. As appropriate, the ER Team may consider providing support for the student through a referral to AS3.
- If the ER Team determines that the student is eligible for special education and related services, give a NOREP to the parent to document this finding along with a copy of the parent’s procedural safeguards. The ER Team (with change in participants as appropriate) may continue on as the IEP Team to develop the student’s IEP under one of the following circumstances:
  - The Parent Invitation to Participate form included reference to both the ER Team and the IEP Team meeting.
  - The parent agrees to waive the 10-day written notice for the IEP meeting.
- If neither of the above circumstances is present, send an Invitation to Participate form to the parent for the IEP meeting. This meeting must be held within 30 calendar days from the determination that the student needs special education and related services or within the 120 timeframe for an initial evaluation, whichever comes first.
- If the student is determined to be eligible for services, regardless of whether any are provided and the student continues to be enrolled in a non-public school located in Washington, D.C., then the school having boundaries within which the non-public school is located is required to reevaluate the student every two years (intellectual disability (formally MR)) or every three years (other disabilities, unless the parent and school district agree that a triennial evaluation is not needed) to comply with Child Find requirements.
- If parents disagree with an initial, continuing, or change in a child’s eligibility, the parent has the right to disagree with the eligibility determination by requesting mediation or a due process hearing.

### **Changing or Terminating Eligibility for Special Education Services**

- A student must be reevaluated in accordance with the above applicable procedures prior to changing or terminating the student’s eligibility for special education services. For example, if a student with a diagnosed learning disability is suspected of having an emotional disturbance, staff would have to initiate a reevaluation to effectuate this consideration. The

IEP team would have to consider relevant information showing that a student required speech services or any other related service, such as PT or OT. If sufficient information was not available to make this determination, a reevaluation or special evaluation would be required. The team would follow the procedures above to initiate the reevaluation or special evaluation to consider the student's need for speech, OT or PT. Speech-language is a related service and is not considered to be a disability. Thus, the speech-language services may be terminated at an IEP meeting based on performance and other data provided by the speech-language clinician and considered by the IEP team. OT and PT services could also be terminated if there was sufficient information provided by the clinicians to support the decision of the IEP team.

## **VI. IDEA Definition of Disability**

### **AUTISM**

A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally (but not always) evident before age three, that adversely affects a child's educational performance. Other characteristics are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences; term does not apply if performance is adversely affected primarily because of an emotional disturbance.

### **DEAF/BLINDNESS**

Concomitant hearing and visual disabilities, the combination of which causes severe communication, developmental, educational and vocational needs that cannot be accommodated by special education services designed solely for students with deafness or blindness.

### **DEAFNESS**

Hearing impairment that is so severe that student is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a child's educational performance.

### **EMOTIONAL DISTURBANCE (ED)**

Includes schizophrenia but does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance. The condition exhibits one or more of the following characteristics, based on multiple sources of data, over an extended period of time and to a marked degree that adversely affects educational performance:

- An inability to learn that cannot be explained by intellectual, sensory or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers/teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of anxiety, unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with potential or school problems.

### **HEARING IMPAIRMENT (HI)**

Impairment in hearing, whether permanent or fluctuating, that adversely affects educational performance but that is not included under the definition of deafness, above.

### **INTELLECTUAL DISABILITY (ID)—*formally known as MENTAL RETARDATION (MR)***

Significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the development period, that adversely affects educational performance.

### **MULTIPLE DISABILITIES**

Concomitant impairments (e.g., intellectual disability (formally MR)-blindness, intellectual disability (formally MR)-physical impairment, etc.), the combination of which causes severe educational needs that cannot be accommodated through special education services solely for one of the impairments. This disability does not include deaf/blindness.

### **ORTHOPEDIC IMPAIRMENT**

A severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations and fractures or burns that cause contractures).

### **OTHER HEALTH IMPAIRMENT (OHI)**

Limited strength, vitality or alertness (including a heightened alertness to environmental stimuli) resulting in limited alertness in the educational environment due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever and sickle cell anemia, that adversely affects performance.

## **SPECIFIC LEARNING DISABILITY (SLD)**

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

## **SPEECH AND LANGUAGE IMPAIRMENT**

A communication disorder, such as stuttering, and/or impaired language, articulation or voice, etc., that adversely impacts performance. For ELL students, the IEP Team must take care to differentiate language differences from a speech/language impairment. If an ELL student has only language differences, ESL services (not speech/language therapy) should be provided.

## **TRAUMATIC BRAIN INJURY (TBI)**

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

## **VISUAL IMPAIRMENT, INCLUDING BLINDNESS (VIB)**

An impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

## **VII. Required Forms**

<b>ACTIVITY</b>	<b>TIMEFRAME</b>	<b>FORM</b>
<b>Initial</b>	Upon receipt of parent's referral	Procedural Safeguards

<b>Referral</b>		Parent Input
		Staff Input
	Upon completion of review of existing data and determination that additional data is required	Consent to Evaluate NOREP/PWN
	Upon completion of review of existing data and determination that no additional data is required	NOREP/PWN
	Upon determination that evaluation is not warranted	NOREP/PWN
	10 days prior to ER Team Meeting	Invitation to Participate ER Report
<b>Special Education</b>	Upon receipt of parent's referral	Procedural Safeguards Parent Input Staff Input
	Upon completion of review of existing data and determination that additional data is required	Permission to Reevaluate NOREP/PWN
	Upon completion of review of existing data and determination that no additional data is required	NOREP/PWN
	Upon determination that evaluation is not warranted	NOREP/PWN
	10 days prior to ER Team Meeting	Invitation to Participate ER Report
	Upon ER Team's eligibility determination	NOREP
<b>2- and 3-Year Reevaluation</b>	Upon initiation of reevaluation	Parent Input Staff Input
	Parent and LEA agree to waive 3-year reevaluation (cannot waive 2-year reevaluation for students with MR.)	NOREP/PWN
	Upon completion of review of existing data and determination that additional data is required	Permission to Reevaluate NOREP/PWN
	Upon completion of review of existing data and determination that no additional data is required.	NOREP/PWN
	10 days prior to ER Team Meeting	Invitation to Participate ER Report
	Upon ER Team's eligibility determination	NOREP/PWN
<b>Independent Evaluation</b>	Upon determination that the LEA will approve the parent's request for an independent evaluation at public expense	OSIS Letter
	Within 10 days of parent's request for a publicly funded independent evaluation if LEA is denying request	Due Process Hearing Request

### VIII. Frequently Asked Questions

#### Who can initiate a Permission to Evaluate?

*Either a parent of a child, teacher, or other appropriate individual can initiate an initial evaluation request to determine if the child is a child with a disability.*

**Is a screening for instructional purposes considered to be an evaluation?**

*No. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.*

## CHAPTER 4

### PROCEDURAL SAFEGUARDS

#### I. Purpose

This chapter provides guidance on parental rights, on when parents must be given notice, when schools must obtain prior consent from parents and what the notice and consent must contain. Procedural safeguards are the formality requirements of the IDEA that are designed to afford parents and guardians of children with disabilities meaningful involvement in the education placement of their children.

#### II. Legal Standard

The IDEA identifies a list of procedural safeguard protections:

- An opportunity for parents to examine records, participate in meetings and obtain an independent educational evaluation;
- Procedures to protect the rights of the child when the parents are not known, cannot be located, or if the child is a ward of the state;
- Prior written notice whenever the district proposes (or refuses) to initiate or change the identification, evaluation of educational placement of the child, or the provision of FAPE;
- Procedures designed to ensure that notices are in the native language of the parents, unless not feasible to do so;
- An opportunity for mediation;
- An opportunity for any party to present a complaint;
- Procedures that require either party (or party's attorney) to provide a due process complaint notice.

#### III. Frequency of Distribution

The case manager must provide parents with a copy of the Procedural Safeguards<sup>6</sup>:

- At each annual review meeting;
- Upon initial referral or parent request for evaluation;
- Upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year;

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<sup>6</sup> A copy of the Procedural Safeguard document can be found at: <http://www.eccpcs.org/resources.html>.

- On the date the decision is made that a student's suspension constitutes a change in placement (i.e., more than 10 consecutive school days or series of suspensions constitutes a pattern of suspension); and
- Upon request by a parent.

#### **IV. Definition and Role of Parent/Legal Guardian/Surrogate Parent**

##### **PARENT**

- Natural or adoptive parent/guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- Individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom a child lives;
- Surrogate parent appointed in accordance with the procedures below.

##### **Authorized unless evidence to the contrary**

Except as provided below, the biological or adoptive parent, when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the school has been provided with evidence that there is a current protective order altering a parent's access or a court order terminating a parent's rights to make educational decisions for his/her child.

##### **Judicial decree or order**

If a judicial decree or order identifies a specific person to act as the parent of a student or to make educational decisions on his/her behalf, that individual is considered to be the parent.

##### **SURROGATE PARENT**

- The person who assumes all rights, duties and responsibilities of the child's parent under IDEA by virtue of voluntary or court appointed status.

##### **Foster Parents**

A foster parent can attend an IEP Team meeting but cannot sign off on the IEP unless the

Office of the State Superintendent of Education (OSSE) approves the appointment of the foster parent as a surrogate.

### **When required**

The IEP Case Manager must request the appointment of a surrogate parent when:

- The child's parent or guardian cannot be located and there is documentation that the parent's whereabouts are unknown or that they are unavailable;
- A child is a ward of the state. This term refers to a child assigned by court order to the custody of a public agency or public official.
- In this case, the surrogate parent may be appointed by the judge overseeing the child's case, provided the surrogate meets the requirements. A termination of parental rights means that a court of competent jurisdiction has taken away the parent's rights to make any decisions concerning the child's education and/or upbringing.

### **Criteria for selection of surrogate parents**

Capital City may select a surrogate parent that meets the following criteria. The person

- Is not an employee of Capital City, any other LEA or D.C. agency that is involved in the education of care of the student;
- Has no personal or professional interest that conflicts with the interest of the student the surrogate parent would represent; and
- Otherwise is qualified to be a surrogate parent and is not an employee of an agency solely because s/he is paid by the agency to serve as a surrogate parent.

### **Unaccompanied homeless youth**

In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all of the criteria for the selection of a surrogate parent.

### **Surrogate parent rights and responsibilities**

A surrogate parent may represent the student in all matters related to the identification, evaluation, and educational placement of the child and the provision of FAPE to the student.

### **Document efforts to locate parents**

The IEP Case Manager must document his/her reasonable efforts to locate the student's parent, including phone calls, letters, certified letters and visits to parents' last known address. To request appointment of a surrogate for a student, complete the required Educational Surrogate Parent Referral form<sup>7</sup>.

### **Notice of transfer of parental rights**

Beginning not later than one year before the student turns 18 years of age the IEP must include a statement that the parent has been informed of his/her rights under the IDEA, if any, that will transfer to the student upon reaching the age of majority.

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<sup>7</sup> Form available at :

<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Educational%20Surrogate%20Parent%20Program%20Referral%20Form.pdf>.

## CHAPTER 5

### INDIVIDUALIZED EDUCATION PROGRAMS (IEP)

#### I. Purpose

The Individuals with Disabilities Education Act (IDEA 2004) requires all LEAs, including charter schools, to provide an Individualized Education Program (IEP) for each student who is eligible to receive special education programs and services.

#### II. Legal Standard

The IEP must offer the following:

- A Free Appropriate Public Education (FAPE) in the Least Restrictive environment (LRE). An “appropriate” program is one that is compliant with mandated timelines, procedures, and offers a student the opportunity to be involved in and progress in the general curriculum.
- The LRE is the environment that offers the student participation with non-disabled peers to the maximum extent appropriate.

#### IEP Purpose

The IEP is a legal document that describes the specially designed instruction (special education) and related services designed by the IEP Team to meet the student’s unique needs. This document identifies the resources that the School District commits to meet the student’s educational needs.

The IEP:

- Records the student’s current levels of achievement, academic and behavioral progress;
- Outlines the specially designed instruction, accommodations, supports, supplementary aids and services, and related services that the LEA will provide the student;
- Sets forth measurable annual goals, and short-term objectives to enable the student to progress;
- Identifies the student’s participation in state and local assessments or alternate assessments;
- Describes the testing accommodations appropriate for the student;
- Addresses measurable postsecondary goals based upon age-appropriate transition, assessments related to training, education, employment, and, where appropriate, independent living skills; and
- Identifies the student’s educational placement, level of intervention and location of services.

### **III. Timelines**

A meeting to develop an IEP must be conducted within 30 calendar days of a determination that a student needs special education and related services [the determination is a completed and signed Evaluation Report (ER) – see Evaluation Chapter] or within the 120 day timeframe for an initial evaluation, whichever comes first. An IEP must be prepared at least once a calendar year for each student with a disability except when a parent refuses or does not consent for the initial provision of special education services. At the beginning of each school year each school must have in effect, for each student with a disability, a current IEP that meets the requirements of this chapter. The IEP should be revised anytime as appropriate to address any lack of expected progress toward the annual goals; any lack of adequate progress in the general curriculum; to consider any changes in services or placement; and new information obtained as a result of a reevaluation or obtained from parents, teachers or other sources.

### **IV. IEP Team Members**

The IEP Team is composed of the following individuals:

#### **LEA REPRESENTATIVE**

The administrator or administrator's designee, who must be qualified to provide or supervise the provision of specially designed instruction; knowledgeable about the general curriculum; knowledgeable about availability of school district resources; authorized to commit school district resources; and authorized to ensure the provision of services and materials as specified in the IEP.

NOTE: When potential resources are outside of the administrator's authority to commit, such as a paraprofessional or extensive assistive technology, the administrator must involve the Head of School, or designee, to collaborate or attend the IEP meeting for this purpose.

#### **IEP CASE MANAGER**

The administrator or administrator's designee appoints the IEP Case Manager. The IEP Case Manager may be the student's special education teacher, who is a member of the IEP Team.

Responsibilities:

- Identifies and selects the IEP Team participants;
- Manages the student assessment, schedules the IEP meeting in accordance with the legally mandated timelines and protocols, sends out appropriate written notices for the meeting, ensures that the IEP is completed appropriately, manages the student's hard file as well as those in the Special Education Data System; and
- Monitors the implementation of the IEP services.

## **SPECIAL EDUCATION TEACHER/INCLUSION STAFF**

At least one special education teacher who provides or oversees instruction for the student is required to be a part of the team. If the student does not yet have a special education teacher, include a special education teacher who will provide services to the student and who provides services to same age students with similar disabilities. If the student receives or is to receive speech/language and/or OT/PT only, include at least one appropriate special education provider of the student.

## **GENERAL EDUCATION TEACHER**

A general education teacher must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student; and supplementary aids and services, program modifications, and support for school personnel consistent. The selected regular education teacher must be one who teaches the student; implements portions of the IEP; or after the completion of the IEP may teach, implement portions of the IEP, or supervise the student.

## **STUDENT**

The student must be invited to participate in the IEP meeting if a purpose of the meeting will be the discussion of the student's postsecondary goals and related transition services. If the student does not attend, the LEA must take other steps to ensure that the student's preferences and interests are considered.

## **PARENT, SURROGATE PARENT, OR LEGAL GUARDIAN**

### **Parent**

- Biological or adoptive parent of a child;
- Foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- Guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- A surrogate parent who has been appointed in accordance with the provisions outlined in IDEA 2004.

## **Surrogate Parent**

General. Each public agency must ensure that the rights of a child are protected when

- No parent can be identified;
- The public agency, after reasonable efforts, cannot locate a parent;
- The child is a ward of the State under the laws of that State; or
- The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act.

A foster parent can attend an IEP Team meeting but cannot sign off on the IEP unless the Office of the State Superintendent of Education (OSSE) approves the appointment of the foster parent as a surrogate. See referral form at: <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Educational%20Surrogate%20Parent%20Program%20Referral%20Form.pdf>.

A surrogate parent may represent the student in all matters related to the identification, evaluation, and educational placement of the child and the provision of FAPE to the student. The IEP Case Manager must document his/her reasonable efforts to locate the student's parent, including phone calls, letters, certified letters and visits to parents' last known address. To request appointment of a surrogate parent for a student, complete the three Surrogate Parent Referral forms. The Surrogate Parent Referral forms must be submitted to OSSE for review, approval and appointment.

Beginning not later than one year before the student turns 18 years of age (age of majority under State Law) the IEP must include a statement that the parent has been informed of his/her rights under the IDEA, if any, which will transfer to the student upon reaching the age of majority.

## **OTHER INDIVIDUALS**

The IEP Case Manager invites other individuals (at the discretion of the parent or the school district) who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise of these individuals must be made by the party (parents or school district) who invited the individual to be a member of the IEP Team. These individuals may include:

- Bilingual Interpreter;
- Person knowledgeable about positive behavioral strategies;
- Interpreter for individuals who are deaf;
- Translator for those who are English Language Learners;

- A person familiar with the student’s culture;
- OT/PT Therapist;
- Psychologist; or
- School Nurse.

If the IEP Case Manager wishes to invite officials from another agency, such as those providing behavioral health or other services, the LEA must obtain parental consent for the individual to participate in the IEP Team meeting because confidential information about the student from his/her education records would be shared at the meeting.

### **Attendance Flexibility**

A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent and the LEA 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. A member of the IEP Team may be excused from attending an IEP Team 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 LEA 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. Excusal is agreed upon in writing via the Parent Consent to Excuse Members from Attending the IEP Team Meeting form. If an IEP team member has been excused, (s)he is not to sign that they have attended.

Although the parent has a legal right to excuse or require an IEP Team member to participate in an IEP Team meeting, it is important to emphasize that the IEP Case Manager determines the specific personnel to fill the roles for the School District’s required participants at the IEP Team meeting. A parent does not have a legal right to require other members of the IEP Team to attend the meeting. The application of these conditions must be met prior to the IEP meeting. When necessary, staff input must be submitted in writing prior to the IEP meeting.

## **V. IEP Case Manager’s Preparation for the IEP Meeting**

### **Scheduling and Notices**

The IEP Case Manager must take steps to ensure that one or both of the parents are present at the IEP Team meeting or are afforded the opportunity to participate, by following the detailed procedures in the Procedural Safeguards Chapter. In summary, these procedures include:

**Procedural Safeguards Notice** – If this is the annual IEP, enclose a copy of the Procedural Safeguards Notice with the Invitation to Participate sent to the parents, or provide parent with

Procedural Safeguards Notice at the annual IEP review meeting. For other IEP meetings, remind the parent that the Procedural Safeguards Notice is available upon request.

**10-Day Notice** – Provide parental written notice of the IEP meeting at least 10 calendar days prior to the scheduled meeting. Written notice should be provided through a phone call followed up by mailing an Invitation to Participate to the parent, hand-delivery to the parent, or first class mail. List the IEP team members on the Invitation to Participate form.

- **Timing of Notice** – Best practice is to give a copy of the parent’s Invitation to Participate to all IEP Team members at the same time this notice is sent to the parent. If the IEP Team is preparing a student’s IEP pursuant to a new ER or Re-Evaluation Report, also give the Invitation to Participate to the parent at least 10 days prior to the IEP meeting. In either regard, the parent may waive the 10-day provision using the Waiver: 10 calendar day Evaluation Review.
- **Age of Majority** – If the student is 18 years of age, provide the student with a Student Invitation to Participate at least 10 calendar days prior to the IEP meeting date by hand-delivery or by first class mail.
- **Scheduling Meeting** – Schedule the meeting at a mutually agreed on time and place.
- **Native Language & Mode of Communication** – Provide the written notice in the parent’s native language and mode of communication, unless it is clearly not feasible to do so.
- **Notice Content** – Indicate the purpose(s), date, time and location of the IEP meeting as well as all of the IEP Team meeting participants.

The IEP Case Manager will take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

An IEP Team meeting may be conducted without the parent in attendance as long as the standards below are documented:

- **Alternative methods of participating** – The parent was advised that s/he may participate by conference call or telephone speaker.
- **At least 3 contacts** – If the parent does not participate, at least 3 contacts were made or attempted to arrange a mutually agreed upon time and place for the meeting including:

- Detailed records of telephone calls made or attempted and the results of those calls;
- Copies of correspondence sent to the parents and any responses received; and
- Detailed records of visits made to the parent's home or place of employment and the results of those visits.

Contacts must be filed in the student's confidential folder including written notice, by hand- delivery to the parent or first class mail, documented phone calls, home visits, documented contact through another adult family member, fax with receipt documented, or e-mails with print- out.

### **Student Considerations**

Before the IEP meeting, the IEP Case Manager should address whether the student has any of the following special circumstances and, if so, what pre-meeting preparation should be taken to address the below-noted considerations:

- **ELL** – For a student with limited English proficiency (LEP) or who is an English Language Learner (ELL), whether the language needs may relate to the IEP.
- **Sensory impairments** – For a student who is blind or visually impaired, evaluative information about the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of future needs for instruction in Braille or the use of Braille) should be available for the IEP to determine whether to provide for instruction in Braille and the use of Braille or that instruction in Braille or the use of Braille is not appropriate.
- **Unique communication needs** – For a student with communication needs and in the case of a student who is deaf or hard of hearing, gather information for the IEP Team's consideration regarding the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student'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.
- **Assistive technology needs** – Gather information that would allow the IEP Team to consider whether the student has any assistive technology needs.
- **Physical or health impairments** – Gather any information that would provide information to the IEP Team regarding any physical or health impairments of the student and support s/he may require.
- **Transition needs** – Determine the age of the student and if over 14 years of age, ensure that the student and other appropriate individuals are invited to participate on the IEP

Team. Gather any information that would provide information to the IEP Team about the student's transition needs.

### **Behavioral issues**

For a student with behavior that impedes his/her own learning or the learning of others, the IEP team must consider strategies and supports, including positive behavioral interventions, to address that behavior. In that case, a positive behavior intervention plan must be developed by the IEP team, based on a functional behavior assessment, and this plan will become part of the student's IEP.

Positive rather than negative measures shall form the basis of behavior support programs. Behavior support programs include a variety of techniques to develop and maintain skills that will enhance an individual student's or young child's opportunity for learning and self- fulfillment. The types of intervention chosen for a particular student or young child shall be the least intrusive necessary.

The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

- **Aversive Techniques** – Deliberate activities designed to establish a negative association with a specific behavior.
- **Behavior Support** – The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.
- **Positive Techniques** – Methods that utilize positive reinforcement to shape a student's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.
- **Restraints** – Devices and techniques designed and used to control acute or episodic aggressive behaviors or to control involuntary movements or lack of muscular control due to organic causes or conditions. The term includes physical and mechanical restraints.

Restraints to control acute or episodic aggressive behavior may be used only when the student is acting in a manner as to be a clear and present danger to him/herself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective. The use of restraints to control the aggressive behavior of an individual student shall cause a meeting of the IEP Team to review the current IEP for appropriateness and effectiveness. The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring him/herself or others or promote normative body positioning and physical functioning.

The following aversive techniques of handling behavior are considered inappropriate and may not be used:

- Corporal punishment;
- Punishment for a manifestation of a student's disability;
- Locked rooms, locked boxes or other locked structures or spaces from which the student can not readily exit;
- Noxious substances;
- Deprivation of basic human rights, such as withholding meals, water or fresh air;
- Suspensions constituting a pattern under §14.143(a) (relating to disciplinary placement);
- Treatment of a demeaning nature;
- Electric shock.

### **Assessments**

- **Behavior** – If the student's behavior affects learning or the learning of others a Functional Behavioral Assessment (FBA) must be completed before the IEP meeting. (The IEP Team would then review the FBA at the IEP meeting and, as necessary, prepare a new Behavior Intervention Plan (BIP) or revise the existing BIP based on the results of the FBA.)
- **Academic and functional performance** – Review the student's current IEP to determine mastery of annual goals; review portfolios, compile anecdotal records, samples of student work, and other information relevant to determine the student's potential for learning, strengths, rate of learning, need for specialized instruction and/or accommodations, and educational needs in relationship to the general education curriculum.
- **Achievement and progress** – Assess current achievement levels and progress toward achieving District of Columbia Learning Standards and IEP goals.
- **Most recent evaluations** – Gather the results of the most recent evaluations of the student.
- **Parent concerns** – Talk to the parent to gather any concerns of the parents regarding the education of his/her child.

- **Student strengths** – Gather information about the student’s talents, hobbies and interests.
- **Attendance and class participation** – Compile data on the student’s attendance and class participation.
- **ELL** – For students who are ELL, compile data on levels of English language proficiency and native language proficiency.
- **Confer** – Gather additional information from regular educators, other special education providers and parents as needed.

### **Parental Accommodations**

The IEP Case Manager considers parental need for accommodations at the IEP Team meeting and:

- Discusses with the parent his/her desire to participate in the IEP Team meeting through conference call or on telephone speaker;
- Determines if the parent requires an interpreter if s/he is deaf or requires assistance understanding the English language, or requires a physically accessible building. If so, the IEP Case Manager must arrange for reasonable accommodations.

## **VI. Ongoing Roles and Responsibilities of IEP Team Members**

### **LEA ADMINISTRATOR OR ADMINISTRATOR’S DESIGNEE**

- **Data communicated.** Ensures that the IEP Case Manager has records and information on the student’s performance, behavior and attendance.
- **Pre-conference activities.** In cooperation with the IEP Case Manager, ensures that all pre-conference activities are completed in accordance with required timelines.
- **Attends meeting.** Attends the IEP Team meeting and carries out the role of the LEA Representative:
  - Provides information about the provision of specially designed instruction and the general curriculum; general education curriculum; and availability of LEA resources.
  - Authorizes the LEA resources contained in the student’s IEP, including services and materials. When potential resources are outside of an administrator’s authority to commit (such as a paraprofessional or extensive assistive technology), the

administrator must involve the regional special education director to collaborate or attend the IEP meeting for this purpose.

- **Implementation.** Locates and identifies the availability of resources needed to implement special education services and accommodations that are necessary to implement the IEP.

## **DIRECTOR OF STUDENT SERVICES**

- **Caseload compliance.** Monitors the composition of regular and special education classrooms to ensure caseload requirements are met.
- **Service delivery.** Monitors service delivery commitments, the implementation of IEPs and the progress of students with disabilities in the general education curriculum.
- **Monitoring.** Periodically reviews the schedule of supportive services staff assigned to the school and ensure that students are receiving the amount of services specified in their IEP.
- **Inclusive activities.** In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, ensures that students with disabilities participate with nondisabled students to the maximum extent appropriate and the IEP-identified supplementary aids and services are provided.
- **Delegation.** The administrator may delegate the functions, but not the responsibilities, of the school district representative to the designee.

## **SPECIAL EDUCATION TEACHER**

- **Information about the child:**

**Current students.** If the student is receiving special education services, review the current IEP, compile anecdotal records, samples of student work, and other information relevant to determining the student's potential for learning, rate of learning and need for specialized instruction and/or accommodations, including a summary of progress monitoring data for the last year.

**Initial IEPs.** Review the evaluation report and other presenting documentation, such as AS3 and CSAT, referral information, etc.

- **Instructional data.** Identify instructional and classroom management strategies that have been successful with the student with any available data to support improved performance.
- **Learning style.** Be prepared to discuss the student's learning style.
- **Special factors.** List or identify special factors that may impede the student's learning.
- **Absences and discipline.** Compile a summary of the student's absences, tardiness, and any disciplinary infractions for the last year.
- **Positive interventions.** Suggest positive intervention strategies for improving the student's behavior, supplementary aids and services, program accommodations or modification or modifications and supports for school personnel that may be necessary for the student to benefit from specialized instruction.

## GENERAL EDUCATION TEACHER

- **Current performance.** Be prepared to discuss the student's current performance in relationship to the general education curriculum. Collaborate with the special education teacher to provide additional information regarding behavior and attendance patterns.
- **Student progress.** Share comments and data on student progress toward achieving IEP goals and state performance standards on regular and alternate assessments, including student's participation in classroom activities, performance on benchmark assessments and curriculum-based assessment.
- **Successful strategies.** Identify instructional and classroom management strategies that have been successful with the student.

## PARENT

- **Meeting date and time.** Discuss and select with the IEP Case Manager a date and time for the IEP meeting.
- **Review the current IEP.**
- **Progress Reports.** Review most recent progress reports from the teacher(s).
- **Child's abilities.** Prepare and share comments regarding his/her child's strengths, abilities and needs.

- **At home performance.** Discuss student’s study habits, organizational skills and behavior at home.
- **Vision.** Think about the skills the parent would like the student to master by the end of the year and formulate a vision of the future, including post-secondary transition goals.

## STUDENT

- Think about preferred school activities and those s/he would like to pursue.
- Think about educational and post-secondary goals (e.g., college, career, job placement).
- Share concerns with parents or teachers.
- Identify accommodations that have been helpful and those which were not useful.

## VII. Structuring the IEP Meeting

### Suggested Guidelines

It is recommended that the IEP Case Manager use the following protocol and guidelines to conduct an IEP Team meeting:

- **Agenda.** Use a structured format/agenda.
- **Student-focused.** Focus discussion on student issues and strengths.
- **Language.** Use user-friendly, jargon-free language.
- **Beginning the meeting.** State the purpose of the meeting, distribute the agenda and introduce all participants.
- **Sign the IEP.** Ask the parent, all other IEP Team members and other participants in attendance to sign the first page of the IEP form. Explain that signing the IEP indicates attendance at the IEP meeting; not agreement with the IEP. The Notice of Recommended Educational Placement (NOREP) issued at the end of the IEP meeting indicates parental agreement or disagreement with the proposed IEP.

- **Provide Documents.** Give the parent copies of procedural safeguards documentation and other informational documents.
- **Confidentiality.** Advise the parent that assessments and results are confidential and will be discussed for educational purposes only.
- **Involve parent.** Offer the parent the opportunity to share his/her expectations and vision of his/her child's future, including short-term and long-term goals. The parent should describe his/her understanding of the student's strengths and personal interests, as well as concerns regarding the student's educational performance, physical development, social and emotional development, independent functioning (including vocational considerations, if appropriate) and participation in home and community.
- **Considerations.** The IEP Team must consider the strengths of the student; the concerns of the parents for enhancing the education of his/her child; the results of the initial or most recent evaluation of the student; and the student's academic, developmental, and functional needs of the child.

### **Review Assessments, Observations and Last Evaluation of the Student**

At least one IEP Team member knowledgeable about the student's progress, assessments and current levels of academic performance, and who can interpret the instructional implications of this data should:

- Identify the type of assessments and evaluations performed and the source of information, such as formal testing, parent and student interviews, observations, alternate assessments (portfolios, performance-based, curriculum-based, etc.), and student progress reports and performance data.
- Discuss and review information about the student's strengths and needs with the IEP Team.

### **VIII. Content of the IEP**

After consideration of the special factors below, the IEP Team prepares a written IEP; which must include the following information:

- **Consideration of Special Factors**

- **Behavior.** In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
- **English Language Learner (ELL).** In the case of a child with limited English proficiency or who is an English Language Learner (ELL), consider the language needs of the child as those needs that relate to the child's IEP.
- **Blind or Visual Impairment.** In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child.
- **Deaf or Hard of Hearing.** Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child'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 child's language and communication mode.
- **Assistive Technology.** Consider whether the child needs assistive technology devices and services.

- **Present Level of Academic Achievement/Functional Performance**

This section provides a summary of the student's performance in his/her current educational program and indicates the student's instructional and functional levels. It includes information regarding classroom performance and the results of any academic achievement or functional performance assessments that have been administered. Information contained in this section provides baseline data for developing the IEP and writing measurable annual goals. The information in this section should consider the most recent results of the Initial Evaluation Report or Reevaluation Report, results of curriculum-based assessments, concerns of the parents for enhancing the education of his/her child, and results of ongoing progress monitoring. The information should be stated in clear and concrete terminology. Any special considerations identified in Section I of the IEP must be addressed in this section.

- **Present Levels of Academic Achievement**

Present levels of Academic Achievement refer to how the student is performing within the general education curriculum, including reading, writing, and mathematics. Describe how the student is progressing within the general education curriculum in relation to his/her peers and grade level standards. Include current instructional levels, description of permanent products, and work completion. Describe classroom strategies or interventions applied and their results. Describe any additional or alternative instructional materials, instructional time or personnel.

- **Present Levels of Functional Performance**

- This section includes information regarding classroom performance and the results of any functional assessments that have been administered. Include current functional levels and strengths and needs that may be developmental. Functional performance is related to activities of daily living, such as hygiene, dressing, basic consumer skills, community-based instruction, etc. Functional performance may also be defined as the ability to access public transportation, social/emotional learning skills or behavioral difficulties, and the consideration of personal safety and socially appropriate behavior.
- If applicable, the information from a functional behavioral assessment should be included in this section. Information included in this section should include performance data and current skill levels, not just a description of academic and behavioral deficits. Information included here does not have to be indicative of a deficit. For example, the IEP team could write, “the student’s functional performance in all areas is age appropriate.”

- **Present Levels Related to Current Postsecondary Transition Goals**

This section should provide a concise description of the student’s current Academic Achievement and Functional Performance based on age appropriate assessments related to the student’s targeted postsecondary goals if the IEP team determines that transition services are needed. Examples of formal or informal assessments that may be listed and explained in this section include: SATs, interest inventories, vocational evaluations, career surveys, as well as academic and functional assessments.

- **Parental Concerns for Enhancing the Education of the Student**

A discussion about the parents' concerns for enhancing his/her child's education is to take place during the IEP Team meeting. The results of that discussion are documented in this section of the IEP.

- **How the Student's Disability Affects Involvement and Progress in the General Education Curriculum**

This section should include statements about the student's progress in the general education curriculum (regardless of where the student currently receives services, s/he should be involved in the general education, and how s/he is accessing the general education curriculum with or without modifications, adaptations, and support services). The information should be clear enough to demonstrate the need for the continuation, elimination, or additional support and services in the student's IEP.

The IEP team must determine how the student will access, be involved in, and make progress in the general education curriculum. This determination should be based on assessments that relate directly to the general education curriculum and grade level content standards, and then be reflected in the IEP statement of the student's present levels. Information in this section will drive the development of the supports and services in the IEP. Reference to the state academic standards, applicable assessment anchors, and/or eligible content may be written in this section.

- **Strengths/Academic, Developmental, and Functional Needs Related to Student's Disability**

In this section, the IEP team will describe or list what the student does well (i.e., strengths). In addition, the IEP team needs to describe the specific needs of the student related to the student's disability and how the disability may make involvement and progress in the general education curriculum and in all grade level standards challenging. This section will also describe kinds of specialized support and service that are necessary for the student to access and make progress in the general education curriculum in the regular education class.

For a student who is transition age (14, or younger if appropriate, during this IEP), the IEP must also include information about the student's needs, taking into account the student's strengths, interests and preferences and includes the development of post-school goals. All needs identified by the IEP team must be addressed in subsequent sections of the IEP. Information in this section will provide for any services included in the IEP.

- **Goals and Objectives**

A statement of measurable annual goals, including academic and functional goals designed to meet the student’s needs that result from his/her disability to enable him/her to be involved in and make progress in the general education curriculum, and a description of benchmarks or short-term objectives.

- **Standards-Based IEPs**

The IEP specifies learning goals for students with disabilities and should be based on or referenced to state standards and/or assessment anchors.

- **Progress Measurement and Reports**

A description of how the student’s progress toward meeting annual goals will be measured, and when periodic reports on the student’s progress toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

- **Statement of Services**

A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum in accordance with the above and to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with and without disabilities in the activities described in this section.

- **Peer-Reviewed Research**

Generally refers to research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published. However, there is no single definition of peer-reviewed research because the review process varies depending on the type of information to be reviewed. The phrase “to the extent practicable,” as used in this context, generally means that services and supports should be based on peer-reviewed research to the extent that it is possible, given the availability of peer-reviewed research.

- **Instructional Methodologies**

There is nothing in the IDEA that requires an IEP to include specific instructional methodologies.

- **Regular Class Removal Explanation**

An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described above.

- **State and District-Wide Assessments**

- **Accommodations.** A statement of any individual appropriate accommodations that is necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.
- **Alternate Assessment.** If the IEP Team determines that a student must take an alternate assessment instead of a particular regular State or district-wide assessment, a statement of why the student cannot participate in the regular assessment, and the particular alternate assessment selected is appropriate for the student.

- **Date**

The projected date for the beginning of the services and modifications described above, and their anticipated frequency, location, and duration.

- **Transition Services**

- **Age of Onset.** Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include:
  - **Post-Secondary Goals** – Appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and;
  - **Description of Services** – The transition services (including courses of study) needed to assist the student in reaching those goals.

- Definition of transition services. A coordinated set of activities (special education or related services) for a student with a disability that meet the following criteria:
  - Results-Oriented. Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement to facilitate movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
  - Student Needs. Is based on the individual student’s needs, taking into account strengths, preferences, and interests, and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
  
- **Least Restrictive Environment (LRE)**
  - The least restrictive environment component of IDEA establishes a preference for educating students with disabilities in general education classes with supplementary aids and services. Consideration of the regular class must be the starting place for any decision-making about the placement of any special education student. Adaptations and modifications to the general education curriculum and activities are provided to ensure the student is receiving instruction appropriate to his needs. The LRE decision is made only after all the goals, modifications and accommodations have been developed in the IEP, and are based on the student’s unique needs.
  - The term “full inclusion” is used by some to mean the inclusion of every student with a disability in a regular classroom, throughout the school day, without exception. Although it may be appropriate for some students to remain in regular education all day, such an absolutist approach would limit educational options for others. In order to ensure that all needs are met, IDEA also requires that a continuum of placements varying in their restrictiveness be available. The school district is required to provide a full continuum of placements that are designed to provide a rich supply of diverse programs that support sound inclusive practices.
  - It is important to understand the difference between “regular education class” and general education curriculum.”
    - **Regular Education Class** refers to the educational environments where students without disabilities receive instruction and participate in activities

throughout the school day. It includes instruction that occurs outside of the actual 'classroom', such as within the school or community where interaction occurs with persons without disabilities.

- **General Education Curriculum** refers to the content of the instruction that is to be taught to students in each grade and subject area.

A student may be educated in a regular education classroom; however, the student may be instructed using modifications to the general education curriculum. This means a curriculum for a student with disabilities that contains some, but not all of the components of the curriculum used to instruct students without disabilities in the same classroom/learning environment.

- **Special education personnel** refers to teachers and related service providers, and does not include services provided by paraprofessionals. Based on the individualized needs of each student, the IEP Team chooses from the following:
  - Itinerant – special education supports and services provided by special education personnel for 20% or less of the school day.
  - Supplemental – special education supports and services provided by special education personnel for more than 20% but less than 80% of the school day.
  - Full-Time – special education supports and services provided by special education personnel for 80% or more of the school day.

### **Reviewing and revising IEPs of students in approved private schools**

After a student with a disability enters an approved private school, any meetings to review and revise the IEP may be initiated and conducted by the private school or facility at the discretion of the LEA.

If the approved private school initiates and conducts meetings, the LEA must ensure parents and the LEA representative are involved in any decision about the student's IEP, and; agree to any proposed changes in the IEP before those changes are implemented.

Even if an approved private school implements a student's IEP, responsibility for ensuring implementation of the IEP remains with the LEA.

- **Explanation.** The IEP team must explain the amount of time that the student with disabilities is removed from the regular education class and justify in writing any amount of time that the student will not be educated with his/her nondisabled peers.
- **Authorized individuals for placements outside of the home school.** If the IEP Team wishes to consider removing the student from Capital City, including placement in a separate school, the Head of School or his/her designee must be a member of the IEP Team. Additionally, the Director of Student Services must authorize the transfer of student and proceed with the Justification for Removal Process via OSSE.

### **Extended School Year Services (ESY)**

- **General.** ESY services must be available as necessary to provide FAPE, consistent with the IEP and the requirements below. ESY services are not limited to particular categories of disability, or unilaterally limited to the type, amount, or duration of services.
- **Definition.** ESY are IDEA Part B special education and related services that are provided to a student with a disability beyond an LEA's regularly scheduled school year. If included in the student's IEP, the ESY services must be provided at no cost to the student's family. The LEA must consider and provide programs and services not currently available at the LEA, if such programs and services are necessary to address the individualized needs of a student.
- **Criteria.** In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors, however, no single factor will be considered determinative:
  - **Regression** – Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occur as a result of an interruption in educational programming.
  - **Recoupment** – Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level demonstrated prior to the interruption of educational programming.

- **Maintenance of skills and behavior** – Whether the student’s difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.
- **Interruption** – The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.
- **Critical skill or behavior** – The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.
- **Withdrawal from learning** – The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.
- **Severity of disability** – Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe intellectual disability (formally MR), degenerative impairments with mental involvement and severe multiple disabilities.
- **Information to consider.** Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential and year-to-year progress may include the following:
  - **Meeting IEP goals** – Progress on goals in consecutive IEPs.
  - **Progress reports** – Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.
  - **Parent reports** – Reports by parents of negative changes in adaptive behaviors or in other skill areas.
  - **Other reports** – Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.
  - **Observations and opinions** – Observations and opinions by educators, parents and others.
  - **Test results** – Results of tests including criterion-referenced tests, curriculum- based assessments, ecological life skills assessments and other equivalent measures.

The need for ESY Services will not be based on any of the following:

- The desire or need for day care or respite care services;
- The desire or need for a summer recreation program; and
- The desire or need for other programs or services which, while they may provide educational benefit, are not required to ensure the provision of FAPE.

### **Nonacademic services**

- **Definition.** Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.
- **Identification of services.** Identify any supplementary aids and services appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford the student with disability an equal opportunity for participation.
- **Participation with nondisabled students.** In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, the administrator/designee must ensure that the student with a disability participates with nondisabled students to the maximum extent appropriate and the IEP-identified supplementary aids and services are provided.

### **Physical Education**

- **General.** Physical education services, specially designed if necessary, must be made available to every student with a disability receiving FAPE to the same extent available to nondisabled students in the same grade.
- **Regular physical education.** Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless the student is enrolled full time in a separate facility, or the student needs specially designed physical education, as prescribed in the student's IEP.
- **Special physical education.** If specially designed physical education is prescribed in a student's IEP, the LEA must provide the services directly or make arrangements for those services to be provided through other public or private programs.

- **Education in separate facilities.** The public agency responsible for the education of a student with a disability who is enrolled in a separate facility must ensure that the student receives appropriate physical education services in compliance with this section.

## IX. Follow-Up to IEP Discussion

The IEP Team discusses and identifies any activities to complete by the next IEP meeting; schedules date(s) of the next IEP meeting and/or team conferences; and identifies strategies for ongoing communication among participants.

### Follow-up for completed IEP

- The IDEA 2004 law and regulation no longer requires the Procedural Safeguards to be provided to parents at the end of each IEP meeting. The Procedural Safeguards must be provided in the parent's native language if they cannot understand or read English unless it is clearly not feasible to do so.
- NOREP/PWN. At the conclusion of the IEP meeting, give the parent the NOREP and request that they review and sign it. The NOREP summarizes the results and recommendations of the IEP Team, documents placement options considered, the placement option chosen, and the reason thereof. By signing the NOREP, the parent indicates whether they approve or disapprove of the placement, level of intervention and location of services determined by the IEP Team.
- Parental response to NOREP. The parent has 10 days to review, sign and return the NOREP to the School District. If the parent chooses s/he may sign the NOREP at the end of the IEP meeting after the IEP Team completes the student's IEP. For students who have been receiving special education services:
  - **Implementation Timeline** – If the parent approves the NOREP, or does not respond, the IEP must be implemented within 30 days.
  - **Parental Disapproval** – If the parent disapproves the NOREP, the IEP Case Manager should inform the parent that (s)he must request an informal meeting, pre-hearing conference, mediation or due process hearing to address their disagreement (See Chapter X). Except for specific rules regarding maintenance of student placement relating to suspensions (See Chapter X), the administrator/designee in consultation with the Director of Student Services may agree but is not required to maintain the student's placement pending resolution of the parent's concern unless

the parent requests a due process hearing, which requires the district to maintain the student's placement pending the duration of the hearing process.

- **No Return** – If the parent does not return the NOREP, the IEP Case Manager implements the IEP.

For students who are receiving initial special education services:

- **Disapproval** – If the parent disapproves the NOREP the student may not receive services under the IDEA and the District may not proceed with due process.
- **Parental Options** – The IEP Team may consider and discuss with the parent a referral of the child to CSAP and/or referral to the Chapter 15 (504) Team to determine if the student is a Protected Handicapped Student.

### **Distributing the IEP and NOREP**

- **Distribution List** – The IEP Case Manager gives a copy of the completed and signed IEP and NOREP to the parents (at no cost), special education teacher, regular education teachers and support personnel who provide services and instruction to student.
- **Access to IEP** – By distributing the IEP in this manner, the School District ensures that each student's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and each teacher and provider is informed of his or her specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.
- **ELL** – Parents whose native language is not English and who cannot read or understand English must be given a copy of the IEP in their native language unless it is clearly not feasible to do so.
- **Other Mode of Communication** – For parents who are deaf or blind or who have no written language skills, the mode of communication must be that normally used by the parent (such as sign language, Braille or oral communication). In addition, the IEP Case Manager may consider providing the information orally on tape.

### **Storage of IEP (Confidentiality)**

The IEP Case Manager must store the original IEP and NOREP in a confidential and locked file. Staff must store their copy of the IEP and NOREP in a confidential and locked file.

## **Initial IEP and Provision of Services**

Immediately upon conclusion of the IEP meeting, but no later than 10 school days following the IEP, the IEP Case Manager takes steps for implementation, i.e., that special education and related services are made available to the student in accordance with his/her IEP.

## **Amending the IEP**

Changes to the IEP may be made either by redrafting the entire IEP at an IEP Team meeting or 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. In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent and the IEP Case Manager with documented collaboration with the LEA representative may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. The agreement to amend the IEP must be written and signed by the parent and the IEP Case Manager prior to or on the date of the IEP amendment. The IEP Case Manager and the parent must meet or discuss on the telephone or through email their agreement to the content of the IEP amendment.

## **Distributing Amendment**

If changes are made to the IEP, the IEP Case Manager must ensure that the IEP Team is informed of those changes.

## **X. Review and Revision of IEPs**

### **General**

Each IEP Case Manager must ensure that the IEP Team reviews each student's IEP periodically, but not less than annually, to determine whether annual goals are being achieved and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate; the results of any reevaluation; information about the student provided to or by the parents; the student's anticipated needs; or other matters.

### **Consolidation of IEP Team Meetings**

To the extent possible, the IEP Case Manager should consolidate reevaluation meetings and other IEP Team meetings for the student.

## **XI. Students Transferring into the LEA with IEPs**

### **Transfer within DC**

If a student with a disability who had an IEP in effect in DC enrolls at Capital City, the IEP Case Manager in consultation with the parents must offer FAPE to the student, which includes services comparable to those described in the student's current IEP until the IEP Case Manager/LEA representative or designee either adopts the student's IEP or develops and implements a new IEP that meets the applicable requirements in this Chapter.

### **Transfer from Another State**

If a child with a disability who had an IEP that was in effect in another State enrolls at Capital City, the IEP Case Manager must offer the student FAPE, including services comparable to those described in the current IEP until Capital City conducts an evaluation of the student and develops, adopts, and implements a new IEP. If there is a dispute between the parent and the IEP Case Manager/LEA representative or designee regarding what constitutes comparable services, the dispute could be resolved by the parent by requesting an informal meeting, pre-hearing conference, mediation, or due process. Stay-put would not apply in the event of a dispute (i.e., maintenance of comparable services) because the evaluation is considered an initial evaluation and not a reevaluation. The comparable services remain in effect until an evaluation is completed (if determined to be necessary by the LEA); and an IEP is developed, adopted and implemented, if appropriate, and parental consent would be required for this initial placement at Capital City.

NOTE: The evaluation would be to determine if the student has a disability and to determine his/her educational needs. Therefore, the evaluation would not be a reevaluation, but would be an initial evaluation requiring parental consent.

### **Transmittal of Records**

The IEP Case Manager must take reasonable steps to promptly obtain the parent's consent for and requesting the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services from the previous LEA in which the student was enrolled; and where an LEA's student enrolls in another LEA, the IEP Case Manager must take reasonable steps to promptly respond to the request for records from the new LEA.

## CHAPTER 6

### AUXILIARY IEP SERVICES AND SUPPORTS (Access to Instructional Materials, Extended School Year, Personnel – Caseload, Positive Behavior Support, Assistive Technology)

#### ACCESS TO INSTRUCTIONAL MATERIALS

##### I. Purpose

The purpose of this chapter is to help increase the availability and timely delivery of print instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools. Agencies act in a timely manner in providing instructional materials if they take all reasonable steps to ensure that children who are blind or other persons with print disabilities have access to their accessible format instructional materials at the same time that students without disabilities have access to the instructional materials.

##### II. Standard

Reasonable steps include:

- Publishers or other contractors should be required to provide instructional materials in accessible formats so that they are available at the beginning of the school year for children whom the LEA has reason to believe will be attending its schools.
- The provision of print materials to accessible formats may, at times, occur a chapter (or other part) at a time. As long as this parallels the provision of material to other students, it is considered timely.

These would not include LEAs withholding instructional materials from other students until instructional materials in accessible format are available.

Reasonable steps must be taken to acquire instructional materials in accessible formats within 10 school days for children who transfer into the LEA after the start of the school year.

## **EXTENDED SCHOOL YEAR (ESY)**

### **I. Purpose**

The term “extended school year services” means special education and related services that are provided to a child with disability beyond the normal school year of the public agency, in accordance with the child’s IEP, and at no cost to the parents of the child; and meet the standards of the SEA. Clearly, this determination must be done on an individual basis. (See Chapter 5 at 5-22 for additional information).

### **II. Legal Standard**

IDEA 2004 requires that each public agency ensure that ESY services are available as necessary to provide FAPE. ESY services must be provided only if a child’s IEP Team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. In implementing the requirements of this section, a public agency may not limit ESY services to particular categories of disability; or unilaterally limit the type, amount, or duration of these services.

### **III. Overview**

At each IEP meeting for a student with disabilities, the school entity shall determine whether the student is eligible for ESY services and, if so, make subsequent determinations about the services to be provided. Additional information can be found on the State Education Agency website at <http://osse.dc.gov/publication/extended-school-year-esy-services-policy>.

Expeditious determinations of ESY eligibility are required for students with severe/multiple disabilities. Student target groups with severe disabilities include:

- Autism/pervasive developmental disorder;
- Serious emotional disturbance;
- Severe intellectual disability (formally MR);
- Degenerative impairments with mental involvement;
- Severe multiple disabilities.

Parents of students with severe disabilities must be notified by the school entity of the annual review meeting to ensure their participation. School entities must consider the eligibility for ESY services of all students with disabilities at the IEP meeting. ESY determinations for students other than those with severe/multiple disabilities are not subject to the same timelines. However, these

determinations must still be made in a timely manner. If the parents disagree with the school entity's recommendation on ESY, the parents will be afforded an expedited due process hearing.

## **PERSONNEL – CASELOAD**

### **I. Purpose**

The purpose of this chapter is to emphasize the shift away from identifying services based on location (which is the language the old terms used) and toward identifying the amount of services. It is important to note that these terms refer to the amount of special education supports and services.

### **II. Legal Standard**

#### **Continuum**

IDEA 2004 requires that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum required in this section must include the alternative placements listed in the definition of special education instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions; and make provision for supplementary services (such as itinerant instruction) to be provided in conjunction with regular class placement.

#### **General LRE Requirements**

IDEA 2004 requires that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if 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.

#### **Overview**

The following words and terms have the following meanings, unless the context clearly indicates otherwise:

- Itinerant – special education supports and services provided by special education personnel for 20% or less of the school day.

- Supplemental – special education supports and services provided by special education personnel for more than 20% but less than 80% of the school day.
- Full-Time – special education supports and services provided by special education personnel for 80% or more of the school day.

The following chart represents the maximum number of students allowed on a teacher’s caseload. The use of this new set of terms emphasizes the shift away from identifying services based on location (which is the language the old terms used) and toward identifying amount of services. Each student with a disability must be assigned to a special education teacher’s caseload.

	<b>ITINERANT (&lt;20%)</b>	<b>SUPPLEMENTAL (&gt;20% BUT &lt;80%)</b>	<b>FULL-TIME (&gt;80%)</b>
<b>Learning Support</b>	50	20	12
<b>Life Skills Support</b>	20	20	12 (grades K-6) 15 (grades 7-12)
<b>Emotional Support</b>	50	20	12
<b>Deaf and Hearing Impaired Support</b>	50	15	8
<b>Blind and Visually Impaired Support</b>	50	15	12
<b>Speech and Language Support</b>	65		8
<b>Physical Support</b>	50	15	12
<b>Autistic Support</b>	12	8	8
<b>Multiple Disabilities Support</b>	12	8	8

## **POSITIVE BEHAVIOR SUPPORT**

### **I. Purpose**

Positive Behavioral Support (PBS) is an empirically validated, function-based approach to eliminate challenging behaviors and replace them with pro-social skills. Use of PBS decreases the need for

more intrusive or aversive interventions (i.e., punishment or suspension) and can lead to both systemic as well as individualized change.

## II. Legal Standard

IDEA 2004 requires schools to have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior management support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures. Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated Functional Behavioral Assessment and Positive Behavior Support Plan shall be required.

## III. Overview

Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children must be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior Support Programs must include research-based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and self-fulfillment. Behavior Support Programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student must be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques.

- **Positive Behavior Support Plan** – a plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive support plan must be developed by the IEP team; be based on a functional behavioral assessment; and becomes part of the individual eligible young child's or student's IEP. Such plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards. Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan must be completed.
- **Restraints** – the application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's body. Does not include briefly holding, without force, a student in order to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's

hand to safely escort him/her from one area to another. Excluded from this definitions are hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents and specified in the IEP.

Excludes such mechanical restraints as:

- Devices used for physical or occupational therapy;
- Seatbelts in wheel chairs or on toilets used for balance and safety;
- Safety harnesses in buses; and
- Functional positioning devices.

Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to him/herself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective. The use of restraints to control the aggressive behavior of an individual student must cause the school entity to notify the parent of the use of the restraint and a meeting of the IEP Team within 10 school days of the inappropriate behavioral causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting.

At this meeting, the IEP Team must consider whether the student needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

The use of restraints may only be included in a student's IEP when:

- It is utilized with specific component elements of positive behavior support;
- It is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior;
- Staff are authorized to use the procedure and have received the staff training required; and
- There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.

#### **IV. Frequently Asked Questions**

##### **What is a Manifestation Determination, and when do we use it?**

*A Manifestation Determination is an assessment, required by IDEA 97, which is done when considering the exclusion of a student with a disability from school that constitutes a change of placement, that is more than 10 school days consecutively; more than 15 school days cumulatively in one school year; when days 11-15 constitute a pattern; or an exclusion of even one school day for a student with intellectual disability (formally MR).*

### **What is Classroom Management?**

*Classroom Management is a set of principles that will help a teacher minimize inappropriate student behavior within his/her classroom. It includes:*

- *Level of Classroom Structure: Will you require a classroom management plan with low, medium, or high structure in order for students to be successful?*
- *Rules: What specific observable behaviors will define the expected behavior of students in your classroom?*
- *Teaching Expectations: What, how, and when will you teach students about behaving responsibly in your classroom?*
- *Monitoring: How will you monitor your classroom so you know that both you and your students are meeting your expectations?*
- *Encouragement Procedures: How will you encourage your students to demonstrate appropriate behavior, and how will you let them know when they are doing well?*
- *Correction Procedures: How will you respond to students' inappropriate behavior in order to decrease these behaviors in the future?*
- *Effective Instruction.*

### **What is meant by a continuum of behavior support services?**

*Each student has unique needs for behavior support. All students benefit from proactive school-wide supports, including clear, explicitly taught, and consistently applied rules and procedures in all school settings. Some students require additional targeted supports, including more frequent monitoring and feedback, increased cues and prompts, and intensified instruction.*

*Even with school-wide and targeted interventions in place, a small percentage of students will require a Functional Behavior Assessment and Behavior Intervention Plan and may need the collaborative support of outside agencies or specialized related services, such as counseling.*

### **What is the function of a behavior?**

*Research tells us that the function of any behavior is to get something or avoid, delay, or escape something (attention, tangible items/ activities, or stimulation)*

## Why is it important to use preventative strategies for behaviors instead of consequences?

*Among the key reasons are the following:*

- *If you can prevent the behavior, all of the consequence activities that usually follow the behavior are avoided.*
- *We tend to get better at the things we practice. Preventing the behavior means that the student is not practicing, and thus getting better at the challenging behavior. We repeat behaviors that work for us. When we teach and reinforce behaviors that we want a student to use, the student will use them because they work better.*
- *When we focus on consequences to try to reduce behaviors, we take away a behavior that has been working for the student without giving her another way to get what she wants. If it is important enough to the student, she will find another behavior that we may dislike even more to meet the same need.*
- *Punishing consequences tends to become less effective with use.*

## Why is it so important to collect data?

*In order for us to be able to design effective and appropriate interventions, we need to first understand a student's behaviors. If we do not understand where the student is starting from, then we will not be able to determine if the intervention is working. We regularly collect and analyze data to make sure an intervention works and continues to work. If it does not, then we much change the intervention. This ongoing data collection and analysis is called progress monitoring. Without it, interventions are more likely to be ineffective and may be harmful to the student or those around him/ her.*

## ASSISTIVE TECHNOLOGY

### I. Purpose

The purpose of assistive technology is to work around specific deficits, rather than fixing them. It helps people with learning differences reach their full potential and live satisfying, rewarding lives. Assistive technology, however, should be a part of an overall program to help individuals with learning differences.

### II. Legal Standard

IDEA 2004 requires that assistive technology devices or assistive technology services, or both, as those terms are defined in Sections 300.5 and 300.6, respectively are made available to a student with a disability, if required, as a part of the student's special education; related services; or supplementary aids and services.

## Overview

An assistive technology (AT) device, as defined by the IDEA 2004, refers to any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. (While this definition covers a broad range of items, both low- tech and high-tech, the term does not include a medical device that is surgically implanted, or the replacement of such device.)

An assistive technology service, also defined by federal law, means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such service may include the evaluation of AT needs, providing for acquisition of AT, selecting, or adapting AT for the student, coordinating AS intervention and services, including training or technical assistance for child, family, and other team members to facilitate successful implementation of AT.

For school-age students, AT devices and services are those that provide access to the general education curriculum and/or a means to meet IEP goals. AT devices and services may be needed for alternative augmentative communication (AAC), computer access, written communication, environmental control, or for sensory (auditory or visual) access. AT may encompass both high-tech and low-tech solutions and allows many students with disabilities to function effectively in the general education curriculum and to meet their educational goals.

## III. Frequently Asked Questions

### Who is responsible for AT device and services?

*It is important to note that assistive devices are one of the special factors that should be considered in the development, review, or revision of the IEP for every student. While not every student with an IEP needs AT, the need for AT should be considered by all teams in the IEP process. The LEA is responsible for providing AT devices and services as specified on the IEPs.*

### How is AT documented on a student's IEP?

*Specific AT devices should not be listed on the IEP/IFSP, instead the IEP should include statements reflecting the student's needs and the features of the AT devices that will assist the student in meeting those needs. The features of the AT device may be listed as part of the intervention strategy, the specially designed instruction, or the means for the student to obtain a goal or outcome. The AT device itself is not as a goal to be accomplished. It is important to document how and when the student uses the assistive technology.*

**I am not sure what assistive technology would be most helpful for my student. How do I begin?**

*Multidisciplinary teams should look at how a student participates in each activity or daily routine. Identify what the student is able to do now, and then look at what is preventing or limiting him from full participation. Simple, low-tech, ideas should be tried first to increase the student's participation. When low-tech devices do not sufficiently allow full participation in an activity or routine, the team should determine what high-tech AT devices will allow the student to participate.*

**I can understand my child but most people cannot. Does he or she need a communication device?**

*If a student has a significant communication impairment that prevents speech from developing normally, consideration should be given to the use of AAC. Becoming an effective communicator allows the student to expand his or her relationships and share information with others. The use of AAC may help prevent or decrease frustration and associated behavior problems while natural speech skills are developing.*

**If a student begins to use AAC, will that keep him or her from learning to talk? Should I wait to be sure that he or she really will need it?**

*Do not wait! Research has shown that the use of a language board or other AAC device or system (e.g., sign language) does not interfere with the development of speech. In fact, the use of AAC actually may result in an improvement in speech. Also, devices that have vocal output (that is, they produce a spoken message) provide a consistent speech model for the student to imitate and may help him/her to learn to say words more clearly.*

**Once it is determined that a particular device(s) is appropriate for a student, how is that device purchased? Who pays for the device?**

*If included on the IEP/IFSP, AT must be provided at no cost to the family. In some instances, however, the team may be interested in exploring ways to fund the device by other sources. For further information on alternate funding sources such as medical assistance, private insurance, charitable or private sources of funding, family-driven funds, or other community or state funding possibilities.*

**Should we teach students what the symbols mean before we start using the AAC device for communication?**

*Both professionals and families often are concerned about using AAC devices that have symbols representing the messages. Objects, photographs, symbols or written words may be used to represent communication messages. The choice of which is best for a student is made after considering the student's motor, cognitive, and visual skills. As you begin to use AAC, however, it is not necessary to teach the meaning of the representation system. The student can associate meaning with symbols as he uses messages and sees how it impacts the behavior of people around him. For example,*

*the student uses a message on a communication device to ask for a cookie and she gets one she will start to associate that message with getting a cookie. Learning the meaning of the symbol occurs as she associates symbol selection with the desired response.*

### **What is Augmentative and Alternative Communication?**

*Augmentative and Alternative Communication (AAC) refers to any device, system or method that improves the ability of a student with communication impairment to communicate effectively. AAC may be used to describe communication devices such as communication boards, voice output devices, or communication systems such as sign language. AAC can also include the use of facial expressions, vocalizations, or gestures. AAC is considered when a student does not develop communication in a typical fashion or experiences a significant delay in language development. An AAC device is not merely a substitute for how the student is currently communicating. Ideally, an AAC system includes more than one mode of communication and it often includes the use of some natural speech.*

## CHAPTER 7

### NOTICE OF RECOMMENDED EDUCATIONAL PLACEMENT (NOREP)/ PRIOR WRITTEN NOTICE (PWN)

#### I. Purpose

The purpose of this chapter is to summarize for parents the recommendations of the Local Education Agency (LEA) for the child's educational program and other actions taken by the LEA.

#### II. Prior Written Notice of School District Decisions

##### Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN)

The IEP Case Manager is responsible for giving the parent a NOREP/PWN to carry out the prior written notice requirements.

##### Required

Capital City must provide the student's parent with prior written notice each time it proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education (FAPE) to a student. Specifically, a NOREP/PWN is required in the following circumstances:

- At the conclusion of the initial IEP;
- At the conclusion of each subsequent IEP meeting;
- Upon decision that a referred student does not require an evaluation;
- When an Evaluation Team determines that a student does not have a disability, establishes a disability, changes the type of disability or upon consideration of additional data does not change the type of disability;
- When the school has conducted an evaluation and considers the data to be valid and comprehensive and therefore refuses to pay for an independent evaluation.

NOTE: In this case, the administrator in consultation with the Director of Student Services would be required to request a due process hearing to demonstrate the appropriateness of the school's evaluation;

- When an IEP Team determines a need for a change in placement or level in service, such as part-time to resource;
- On the date the decision is made that a student's suspension constitutes a change in placement (i.e., more than 10 consecutive school days; more than 15 cumulative school days; or series of suspensions constitutes a pattern of suspension);
- When an IEP Team conducts a manifestation determination;
- When a student is referred to an interim alternative education setting or approved private school;
- At the conclusion of a pre-hearing conference to settle a disagreement between the parent and district/school representatives about a student's program and/or services;
- When a student no longer requires special education services;
- When a student graduates from high school; and
- When a student with intellectual disability (formally MR) is suspended from school for any period of time.

### **III. Requirements of NOREP/PWN General Requirements**

The notice must be written in language understandable to the general public; and provided in the native language of or other mode of communication used by the parent, unless it is clearly not feasible to do so.

#### **Language Not Written**

If the native language or other mode of communication of the parent is not a written language, the IEP Case Manager must take steps to ensure that the notice is translated orally or by other means in the parent's native language; the parent understands the content of the notice; and there is written evidence that the requirements have been met.

#### **Other Mode of Communication**

For parents who are deaf or blind or who have no written language skills, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).

#### Contents

- A description of the action proposed or refused by the school;
- An explanation of why the school proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, test, record, or report the school uses as a basis for the proposed or refused action;
- A statement that the parents of a child with a disability have protection under procedural safeguards and, if the notice is not an initial referral for evaluation, the means by which a copy of the description to the procedural safeguards can be obtained;
- Sources for parents to contact to obtain assistance in understanding these provisions;
- A description of other options the IEP Team considered and the reasons why those options were rejected; and
- A description of any other factors which are relevant to the school's proposal or refusal.

### **III. Notice Regarding Eligibility and IEP Meetings**

#### **Purpose of Notice**

The IEP Case Manager is responsible for taking steps to ensure that one or both of the student's parents are present at each IEP Team meeting or afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed time and place. If a parent indicates that the proposed meeting date or time is inconvenient, the IEP Case Manager must make reasonable efforts to accommodate the parent's schedule.

#### **Notice Contents (Invitation to Participate Form)**

The contents of the Invitation to Participate indicate the purpose, time, and location of the meeting and who will be in attendance. It also informs the parents of the participation of other IEP Team members who have knowledge or special expertise about the child.

- **Transition Goals and Services** – For a student with a disability, beginning with the first IEP to be in effect when (s)he turns 16 years of age (or younger if determined appropriate by the IEP Team), the Invitation to Participate indicates one purpose of the meeting to consider postsecondary goals and transition services; the student; and identifies any other agency that will be invited to send a representative.

### **Other Methods for Parent Participation**

If neither parent can attend an IEP Team meeting, the IEP Case Manager should document other means s/he offered to the parent to participate, such as individual or conference telephone calls.

### **Conducting an IEP Team Meeting without a Parent in Attendance**

A meeting may be conducted without a parent in attendance if the IEP Case Manager is unable to convince the parents that they should attend. In this case, the IEP Case Manager must document at least 3 attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence mailed to the parents, including documentation through certified mail (addressee only, return receipt requested) and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

## **IV. Procedural Safeguards Notice**

### **Frequency**

The IEP Case Manager must provide parents with a copy of the Procedural Safeguards at each annual review meeting; upon initial referral or parent request for evaluation; upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year; on the date the decision is made that a student's suspension constitutes a change in placement (i.e., more than 10 consecutive school days; more than 15 cumulative school days; or series of suspensions constitutes a pattern of suspension; and upon request by a parent.)

### **Required Contents of Procedural Safeguards**

The procedural safeguards notice must include a full explanation of available procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so. It must be written in an easily understandable manner, describing the procedural safeguards available relating to the following:

- Independent educational evaluation;
- Prior written notice;
- Parental consent;
- Access to educational records;
- Opportunity to present and resolve complaints through due process and State complaint procedures, including the time period in which to file a complaint, opportunity for school representatives to resolve the complaint, and difference between due process complaint and State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decision timelines, and relevant procedures;
- The availability of mediation;
- The student's placement while the due process proceedings are pending;
- Procedures for students who are subject to placement in an interim alternative educational setting;
- Requirements for unilateral placement by parents of children in private schools at public expense;
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- State-level appeals;
- Civil actions, including the time period in which to file such actions; and
- Attorney's fees.

A copy of the Capital City procedural safeguards notice is on the LEA's website at <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/ProceduralSafeguardsPartB.pdf>.

The procedural safeguards notice must be communicated in a language understandable by the parent.

## **V. Consent**

### **Parental Consent Requirements**

Parental consent is required prior to conducting an initial evaluation to determine if a student is eligible for special education services or services available pursuant to section 504 of the Rehabilitation Act. The IEP Case Manager must make reasonable efforts to obtain informed consent from the parent for an initial evaluation.

For initial evaluations only, if the student is a ward of the State and is not residing with his/her parents, the IEP Case Manager is not required to obtain informed consent from the parents for an initial evaluation to determine whether the child is a child with a disability if a surrogate parent has not yet been appointed; despite reasonable efforts to do so, the IEP Case Manager cannot discover the whereabouts of the student's parent; the rights of the student's parents have been terminated in accordance with State law; or consent for an initial evaluation has been given by an individual appointed by a judge to represent the student. In this case, the IEP Case Manager must contact and consult with the Director of Student Services.

### **Parental Consent for Reevaluations**

The parent must provide informed consent consistent with the above standards prior to conducting any reevaluation. If the parent refuses to consent to the reevaluation, the school may, but is not required to, pursue the reevaluation by requesting mediation or a due process hearing consistent following the procedures described above.

Informed parental consent is not required if the IEP Case Manager demonstrates that (s)he has made reasonable efforts to obtain such consent. In this case, the IEP Case Manager must keep a record of his/her attempt to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. Informed parental consent is not required if the child's parent failed to respond.

### **Parent Refusal or Failure to Consent to an Evaluation/Reevaluation**

If a student's parent does not provide consent for an initial evaluation, or the parent fails to respond to a request to provide consent, the IEP Case Manager may, but is not required, to pursue the initial evaluation by requesting mediation or a due process hearing. In this case, the IEP Case Manager shall consult with the Director of Student Services. A decision not to pursue the evaluation does not violate the district's child find or evaluation obligations. The IEP Case Manager does not have to convene an IEP meeting. The LEA will not be deemed to have knowledge of the student's disability with respect to the application of procedural safeguards for suspensions and expulsions.

### **Reasonable Efforts**

To implement the above provision, the IEP Case Manager must make reasonable efforts as required by this section. The LEA must document its attempts to obtain parental consent using the procedures in IDEA Regulation §300.322(d).

### **Parental Consent Not Required**

- **Existing Data** – Reviewing existing data as part of an evaluation or a reevaluation.
- **Universal Test** – Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.
- **Screening** – Screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services; therefore, parental consent is not required in this instance.

### **Consent Is Required Prior to Initial Provision of Special Education and Related Services**

The consent for an initial evaluation cannot be construed as consent for the initial provision of special education and related services. If the student's parent refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the LEA will not be considered to be in violation of the requirement to make available a free appropriate public education to the student for the failure to provide the special education and related services related to the requested consent.

The IEP Team is not required to meet or develop an IEP for the special education and related services for which the consent was requested. The LEA will not be deemed to have knowledge of

the student's disability with respect to the application of procedural safeguards for suspensions and expulsions.

### **Requirements for Consent**

- The IEP Case Manager must inform the parent of all information relevant to the activity for which consent is sought, in his/her native language or other mode of communication.
- The parent understands and agrees in writing to the carrying out of the activity for which his/her consent is sought.
- The consent describes the activity and lists any records that will be released and to whom.
- The parent understands that his/her consent is voluntary and may be revoked at any time.
- The school cannot use a parent's refusal to consent to one service or activity under to deny the parent or child any other service, benefit, or activity of the LEA, except as otherwise required in this section.

### **Revocation of Parent Consent**

- **Not Retroactive.** A parent may revoke consent at any time for any action for which (s)he provided consent. If a parent revokes consent, that revocation is effective immediately and is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
- **Not Required to Request Due Process Hearing.** If the parent revokes consent for an evaluation or reevaluation, the administrator, in consultation with the Director of Student Services, may, but is not required, to request a due process hearing to support the need for an evaluation. Staff may not proceed with a (re)evaluation during the hearing process.

## CHAPTER 8

### DISPUTE RESOLUTION

#### I. Purpose

This chapter provides guidance on how to proceed when parents and the LEA need to resolve disputes concerning the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE) for students with disabilities, students who are gifted and children with disabilities served by the early intervention system.

#### II. Resolution of Disputes

When disputes arise between the parent and LEA staff, the formal and informal systems described below are available to assist in resolving the dispute.

##### Overview

- Parents and the LEA have a variety of means to resolve disputes, which are informal schools meetings, pre-hearing conferences, mediation, and due process.
- Informal meetings, pre-hearing conferences and mediation may not be used to delay a parent's right to a timely due process hearing.

##### Informal Meeting

- **Proactive Resolution.** School personnel may meet with parents and attempt to identify and resolve issues proactively and informally.
- **Agreement Reached.** If an agreement is reached, it must be written and signed by the parent, Director of Student Services and administrator or designee. Attach a NOREP/ PWN to the written agreement.
- **Agreement Not Reached.** If an agreement cannot be reached, the parent is given a NOREP/PWN and s/he may request one of the processes described below.

## Pre-Hearing Conference (Prior to a Request for a Due Process Hearing)

- **Purpose.** The pre-hearing conference is an opportunity for the parent and school to try to resolve disagreements about a student's identification, evaluation, program, and/or educational placement. It also gives the parties an opportunity to understand the reason for each other's position.
- **Requirements.** A pre-hearing conference is optional. If a pre-hearing conference is requested, the following general requirements apply:
  - **Time Frame** – Must be held within 10 days from the date the LEA receives a parent's request.
  - **Written Agreement** – If an agreement is reached, it must be written and signed by the parent, Director of Student Services and administrator or designee.
  - **Facilitator** – The pre-hearing conference is usually chaired by a person who is not a member of the school staff and who can assist the parties in resolving the concerns.
  - **Pre-Hearing Conference Report and NOREP/PWN** – The pre-hearing conference is documented using the Pre-Hearing Conference Report and a NOREP/PWN is offered at the conclusion of the meeting.
- **Revoking Agreement.** Within five calendar days of the agreement, a parent may notify the district, in writing, of a decision not to approve the identification, evaluation, recommended assignment or the provision of FAPE. When the parent gives such notice of disapproval or if the pre-hearing conference does not result in an agreement, either party has the right to proceed to due process.

## Mediation: General Requirements

A parent of a child with a disability or the LEA may request mediation when there is a dispute about any matter related to the eligibility, identification, evaluation, or educational placement, or the provision of FAPE to a child.

- The request for mediation shall be voluntary on the part of the parties.
- The request for mediation may not be used to deny or delay a parent rights to due process in accordance with 20 U.S.C § 1415(f).3028.4

- Mediation shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques and special education law.
- A request to initiate mediation shall be made in writing to the SEA (Office of the State Superintendent of Education (OSSE)) using the forms found at: <http://osse.dc.gov/service/request-due-process-hearing>.
- A mediation session shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties of the dispute.
- An agreement reached by the parties to the dispute in the mediation shall be set forth in a written mediation agreement.
- Discussions that occur during mediation shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceeding.
- The parties to the mediation may be required to sign a confidentiality pledge before the commencement of the process.

### **Impartial Due Process Hearings**

A parent of a LEA child or the LEA has the right to initiate a hearing, when there is a dispute about the eligibility, identification, evaluation, educational placement, or the provision of FAPE to a child with a disability, in accordance with 20 U.S.C. § 1415 (f).

A request to initiate a due process hearing shall be made in writing using the forms and process defined by the State Hearing Office, found at: <http://osse.dc.gov/service/request-due-process-hearing>.

A parent request for a due process hearing must include the following:

- The name of the child;
- The address of the residence of the child. In the case of a child who is a ward of the District of Columbia, the request shall so state, provided, that a child who is a ward of the District shall be listed “c/o Child and Family Services”;
- The name of the school the child is attending;
- A description of the nature of the child's problem relating to the proposed or refused initiation or change, including facts relating to the problem; and
- A proposed resolution to the problem to the extent known and available to the parents at the time.

- **Basis of Due Process Hearing Request**
  - **Parents** – A parent may initiate a due process hearing regarding the School District’s proposal or refusal to initiate or change the identification, evaluation, or educational placement of a student, the provision of FAPE, or for issues related to disciplinary behavior (i.e., decisions related to a manifestation determination, educational services in and location of an interim alternative educational setting).
  - **LEA** – The LEA staff may initiate a hearing when the parent refuses to grant permission for an initial evaluation (either by failing to return the Permission to Evaluate/Re-Evaluate form, refusing to sign it or by returning it disapproved) and the school determines that the evaluation is necessary for the student to receive an appropriate educational program.

LEA staff must initiate a hearing when an administrator/designee refuses a parent’s request for an independent evaluation to show that the LEA’s evaluation is appropriate. The LEA may not initiate a due process hearing because a parent refuses to give consent to an initial placement or to sign a NOREP/PWN for initial placement.

### **III. Section 504 and Chapter 15: Protected Handicapped Students**

To request a due process hearing under Section 504 or to respond to a parent’s request, the administrator must immediately notify the Director of Student Services. The Director will forward the request to the Head of School who will contact OSSE and/or arrange for an impartial Hearing Officer at no expense to the family.

### **IV. Parent’s Rights Pertaining to Educational Records**

- **Inspection of Records**

The LEA must permit parents to inspect and review all educational records relating to his/her child with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child, which are collected, maintained, or used by the LEA.

- **Timeframes**

The LEA must comply with a request without unnecessary delay and before any meeting regarding and IEP or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 calendar days after the request has been made.

- **Rights**

The parent's right to inspect and review education records under this section includes:

- **Inspect and Review.** The right to have a representative inspect and review the records.
- **Copies.** The right to request that the LEA provide copies of the records containing the information if the parent indicates s/he would not be able to effectively inspect and review the records at the school.
- **Request Corrections.** The right to request, in writing, that the LEA correct information that the parent believes is incorrect. The request must be addressed to the Director of Student Services and contain information about the alleged error and why the parent believes the information should be removed or replaced.
- **Presumed Parental Authority.** The LEA may presume that the parent has the authority to inspect and review records relating to his/her child unless the LEA has been advised that the parent does not have the authority under applicable State law governing such matter as guardianship, separation and divorce.
- **Log Record Access.** The administrator or administrator's designee must keep a log and record the name of those individual obtaining access to the education records, including the name of the individual, the date access was given, and the purpose of the review.

## CHAPTER 9

### DISCIPLINE OF STUDENTS WITH DISABILITIES

#### I. Purpose

If a student violates the Capital City Code of Student Conduct, before consequences or punishment are imposed, a school must consider whether the student has a disability evidenced by an IEP or 504 Plan. While all students may be disciplined, it is both illegal and unjust to punish a child when the offense is directly related to his disability or when the IEP or 504 Plan is not implemented.

#### II. Legal Standard

Disciplinary actions give students with disabilities extra legal protections when the discipline constitutes a change in placement. A “change in placement” is a legal term that applies to the following situations:

- A suspension or expulsion for more than 10 consecutive school days. If a student has transportation on his IEP, then bus suspensions are also counted.
- Suspensions that may total less than 10 cumulative school days in a school year may be a change in placement if they appear as part of a pattern of suspensions. A pattern of suspensions may be found if the student is suspended for behavior that is “substantially similar” to behavior for which the child has previously been suspended. Factors may include same type of behavior, same victim, same class, same day of the week or same time of day.

If the offense is a change in placement, the school team (including the parent) must advise parents in writing, provide a copy of the IDEA procedural safeguards, and hold a Manifestation Determination meeting to determine two issues:

- Was the student’s misconduct caused by or directly and substantially related to the student’s disability?
- Was the student’s misconduct a direct result of the school’s failure to follow the child’s IEP?

If the team answers yes to either question, then the student’s behavior is a manifestation of his/her disability. The student may not be suspended, expelled or transferred to a remedial disciplinary school as a punishment for misbehavior that is a manifestation of a disability. The team must conduct a functional behavioral assessment and create a behavior plan addressing ways that the school can help a student with a conduct issue. If the student already has a behavior plan, the plan

must be reviewed and modified to address how the school can better assist the student with the conduct issue.

If all team members agree that the student's conduct was not a manifestation of his disability, then the student may be subject to the same consequences as all students. If a parent disagrees with the team's decision that the behavior was not a manifestation of the student's disability, the parent may request a due process hearing to challenge this finding. If the Hearing Officer agrees with the parent, the student will remain in the school where the offense was committed unless the parent and the school agree otherwise. However, during the period of expulsion or transfer to an alternative placement or remedial disciplinary setting, the student must continue to receive special education services prescribed by his IEP and a Behavior Plan must be created or revised to address the offending conduct.

If Capital City orders a disciplinary removal that meets the definition of a change in placement, it must continue to make FAPE available to the student. This means that even if the child is suspended or expelled from a school, the LEA must ensure that the student continues to receive educational services.

### **III. Emergency Circumstances Involving School Safety: Weapons, Drugs or Serious Injury**

If a student: possesses illegal drugs; is selling prescription drugs; carries a weapon; or causes serious bodily injury to another, either at school or during a school related activity, the school may immediately remove the student for up to 45 school days to an alternative or remedial disciplinary setting. To comply with the law, a 45 school day emergency removal for serious bodily injury must be serious, i.e., requiring medical treatment.

Because drugs, weapons and serious bodily injury are so dangerous to a safe school climate, a school may remove a student under these circumstances for 45 school days regardless of whether a child has intellectual disability (formally MR) or even if the team believes that the behavior is a manifestation of the student's disability. During the 45 school-day period, the school must convene a manifestation determination meeting. If the school determines that the conduct is a manifestation, the school may have the child re-evaluated, create or revise an existing behavior plan, or hold an IEP meeting to consider a more intensive special education placement upon the expiration of the 45-day alternative placement or sooner. If all team members determine that the conduct was not a manifestation of the student's disability, then the 45 school day emergency placement may proceed to a disciplinary proceeding afforded to all students.

#### **IV. Emergency Hearing/Dangerousness**

If a school has solid reasons to believe that keeping the student in his current school is “substantially likely to result in injury to the child or to others”, the school should consult with the Special Education Director who may request an emergency hearing to ask a Hearing Officer to transfer the student to an alternative setting for up to 45 school days. Dangerousness may exist even if there is no Code of Conduct violation. It is a consideration based on serious safety concerns for the student and/or the school community.

#### **V. Notice to Parents**

Any time a student with an IEP or 504 plan is removed to an alternative or remedial disciplinary setting, the parent must be given a NOREP stating this decision and a copy of the procedural safeguards.

## CHAPTER 10

### HOMELESS STUDENTS

#### I. Purpose

Capital City ensures that each child of a homeless individual and each homeless youth have access to the same free, appropriate public education (FAPE) including public and preschool education, as provided to other children and youth. Nothing in these policies should be interpreted to conflict with the Homeless Student Policy found in the Capital City Family Handbook.

#### II. Legal Standard

As provided by the McKinney-Vento Homeless Act of 2002, schools must immediately enroll homeless children or youth, even if the children or youth are unable to produce records and materials normally required for enrollment, such as previous academic records, medical records, proof of residence, or immunization records.

#### III. Definitions

- **Homeless Children and Youth** means individuals who lack a fixed, regular and adequate night time residence, and includes children and youth who:
  - Are sharing the housing of other persons due to loss of housing, economic hardship or a similar reason;
  - Are living in emergency transitional shelters, abandoned in hospitals, awaiting foster care placement or living in motels, hotels, or trailer parks due to the lack of alternative adequate housing;
  - Have a primary night time residence that is a public or private place not normally designed or used for human sleeping accommodation;
  - Are living in cars, parks, public spaces, abandoned buildings, substandard housing, train or bus stations; and
  - Are migratory children living in circumstances described above.
- **Unaccompanied Youth** includes a youth not in the physical custody of a parent or guardian.
- **Application of Procedures** – These procedures apply to parents of a student under the age of 21 years, a student who is 21 years of age or older, and unaccompanied students of any

age who are homeless. The term “parent” also applies to a student’s legal guardian. Whenever the term “parent” is used, it will apply to the student if s/he meets one of the criteria above.

- **School of Origin** refers to the school a student attended prior to becoming homeless.

#### IV. Procedures

##### School Enrollment for Homeless Youth

**Right to Remain in School of Origin** – To the extent feasible, the homeless student should be allowed to remain in the school of origin, except when doing so is contrary to the wishes of the student’s parent. When a family becomes homeless during or between school years, the parent may elect to have his/her child remain at their current school during the duration of homelessness.

- **Unaccompanied Youth** are eligible to attend Capital City to the same extent that resident non- homeless students are eligible.
- **Records** – When enrolling at Capital City, school staff must immediately contact the last school attended to obtain the relevant student records.
- **Medical/Immunization Records** – If the student needs to obtain medical or immunization records, school staff must immediately refer the parent or guardian to the D.C. Department of Health to assist in obtaining medical records or immunizations.
- **Documentation Excused** – In relation to the initial enrollment or transfer of homeless students, the documentation normally required (i.e., proof of address and proof of immunizations) is suspended if not produced. The student(s) must be enrolled and school staff is required to assist the parent in obtaining the necessary documentation. If a parent refuses to cooperate with efforts to secure immunizations, consult with the Head of School and Director of Student Services.
- **Transportation** – If, after experiencing homelessness, a parent chooses to have his/her child remain at Capital City transportation to and from school must be at no cost.

#### V. Change in Housing Status of Currently Enrolled Student

- **Required Meeting**

Whenever Capital City staff are informed that a student is or has become homeless, the staff person should notify the administrator who must immediately arrange for a meeting with the parent. The Capital City Homeless Liaison will also be included in the meeting.

- **Discussion about Placement Options**

The administrator and Capital City Homeless Liaison will discuss with the parents the student's options and the best interests of the student. Information concerning issues such as special education delivery should be brought to the parent's attention.

- **If Relevant, Facilitate Transfer**

At the conclusion of the conference with the parent, the Capital City staff will facilitate the immediate transfer of the student, if relevant, in accordance with the parent's decision.

## **VI. Good Cause Placements Against Parental Preference and Appeals**

- **Process**

If Capital City has a sound objection to the parent's request for the student to continue at Capital City, the school must provide the parent with a written explanation of the objection and the proposed school placement and a copy of the Procedural Safeguards Notice. A copy of the written notice must also be provided to the Capital City Homeless Liaison who shall conduct the dispute resolution process.

- **Dispute Resolution**

The Homeless Liaison will schedule and conduct the dispute resolution within three working days whenever possible. If necessary, the dispute resolution process may be carried out via a telephone conference. The student(s) will be placed on the roll of the school pending the decision of the Homeless Liaison.

## **VII. Considerations for Students with Disabilities**

- **Inability to Implement IEP**

In some cases, the parentally-preferred school is unable to provide the services or placement required by the student's IEP and/or is not physically accessible to meet the student's needs.

- Process

The administrator must immediately contact the Capital City Homeless Liaison and the Director of Student Services to which the student seeks to ensure that the administrator's concern about meeting the student's needs cannot be addressed by implementing other available options. In the event that this is not possible, the administrators will work to identify the school closest to the student's new living arrangements that is capable of providing services to the student, and arrange for the student's immediate enrollment in the identified school.

### **VIII. Expulsion or Disciplinary Procedures**

If a student has been expelled or given a disciplinary transfer, the above provisions are not to be used to allow a student or family to overturn the disciplinary action or to exempt the student from appropriate disciplinary proceedings.

## CHAPTER 11

### PROTECTED HANDICAPPED STUDENTS

#### *Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. §794)*

#### **I. Purpose**

This Chapter provides schools with procedures to respond to the needs of students with disabilities that substantially impair their access to educational and extra-curricular activities and who are not eligible for special education services under the IDEA.

#### **II. Legal Standard**

Section 504 of the Federal Rehabilitation Act of 1973 and its implementing regulations, 34 Code of Federal Regulation Part 104 prohibit discrimination and require the LEA to provide accommodations to identified students with disabilities to access schools and school activities and programs.

Capital City must provide each identified Protected Handicapped Student enrolled in the District, without cost to the student or family, those related aids, services or accommodations which are needed to afford the student equal opportunity to participate in and obtain the benefits of the school program and extracurricular activities without discrimination and to the maximum extent appropriate to the student's ability.

#### **III. Definitions**

##### **Parents**

A birth or adoptive parent, a guardian or a person acting as a parent of the student.

NOTE: Procedures applicable to the appointment of surrogate parents apply to Protected Handicapped Students.

##### **Protected Handicapped Students**

##### **Criteria**

- **Age** – Student is of an age at which public education is offered by the LEA.

- **Physical Impairment** – A physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine.
- **Mental Impairment** – Any mental or psychological disorder, such as intellectual disability (formally MR), organic brain syndrome, emotional or mental illness and specific learning disabilities (as defined by the IDEA).
- **Substantial Limitation** – The student’s physical or mental impairment substantially limits or prohibits participation in or access to an aspect of the student’s school program. The physical or mental impairment must substantially impact one or more major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- **Regarded as Having a Disability** – In addition, Section 504 includes persons who are regarded as having a disability. For example, while a student with severe facial deformities may not have a disability, if the student is discriminated against because of such deformities, the student would be “regarded” as having a disability and covered by the Act’s protections.

## **Section 504 Coverage**

While IDEA only covers students with disabilities that require special education services, Section 504 is broader in scope and covers any student that meets its disability definition, including those who do not need special education services and require only accommodations or supplementary aids and services. For example, a student may have diabetes and not require any specific special education services but needs substantial attention from a variety of school staff throughout the day. Such a student would not be covered under IDEA but would be under Section 504 and entitled to a Service Plan.

## **General Requirement**

The LEA must provide each Protected Handicapped Student enrolled at Capital City, without cost to the student or family, those related aids, services or accommodations which are needed to afford the student equal opportunity to participate in and obtain the benefits of the school program and extracurricular activities without discrimination and to the maximum extent appropriate to the student’s abilities.

## **Annual Notice**

On or before the first day of a school year, Capital City informs parents of enrolled students that the District does not discriminate against Protected Handicapped Students and the District's responsibilities under this Chapter. The notice may be included in a document reasonably expected to reach the parents of students enrolled in the School District, such as school calendars or brochures and the Capital City Family Handbook.

## **IV. Procedures for Determining Eligibility**

### **Referral**

- **Written Request** – Capital City staff, parents, and/or AS3 Team members may submit a written request for an evaluation of a student to determine if the student qualifies as a Protected Handicapped Student and if the student is entitled to services. All written requests should be forwarded to the Director of Student Services.
- **Oral** – If the parent makes the request orally, school staff must advise the parent to document the request in writing and assist the parent in writing the request if necessary. The written request should be forwarded to the Director of Student Services.
- **Provide Background Information** – Whenever possible, the parent's written request should state the specific reason the parent believes the student is a Protected Handicapped Student, and the specific aids, services or accommodations the parents believe the student needs.

### **Notice related to School District Referral for Evaluation**

**Basis for Notice.** The administrator's designee sends a written notice to the student's parents if it is believed that the student meets one or more of the following condition:

- Should be identified as a Protected Handicapped Student.
- Should no longer be identified as a Protected Handicapped Student.
- Requires a change in or modification of the student's current service agreement.

**Native Language or Mode of Communication.** The School District's notice to the parents shall be in the parents' native language or mode of communication and shall state the following:

- The School District believes the student is a Protected Handicapped Student or is no longer a Protected Handicapped Student;
- The basis for the LEA's belief;
- The proposed change or modification in the service agreement;
- The parents' right to inspect and review all relevant school records;
- The parents' right to meet with appropriate school officials to discuss the issues associated with evaluating or accommodating the student;
- The specific related aids, services or accommodations the LEA is proposing;
- The requirement that the parents agree to the student's identification as a Protected Handicapped Student and execute a service agreement before the LEA will provide the proposed related aids, services or accommodations;
- The LEA will not modify or terminate the student's current service agreement without the parents' written consent, pending completion of the procedural safeguards described below relating to a request for an impartial hearing; and
- The procedural safeguards available to students and their parents.

**Need for Additional Information.** If the LEA needs additional information before it can make a specific recommendation concerning the related aids, services or accommodations needed by the student, the LEA may ask the parents to provide additional medical records which the parents may have and to grant the LEA permission to evaluate the student.

- **Parental Request.** Parents shall request in writing that his/her child be evaluated and provided services if they believe his/her child meets one or more of the following conditions:
  - Should be identified as a Protected Handicapped Student.
  - Should no longer be identified as a Protected Handicapped Student.
  - Requires a change in or modification of the child's current service agreement.

- **Available Information.** The parents should include available relevant medical records along with their written request for the provision of services.
- **Content of Request.** Whenever possible the parents' request for the provision of services shall state the following:
  - The specific reasons the parents believe the student is nor is no longer a Protected Handicapped Student;
  - The specific related aids, services or accommodations the parents believe the student needs; and
  - The specific modifications the parents would like the LEA to make in the student's current service agreement, if the parents are requesting modification of the student's current service agreement.

### **Response to Referral**

- **Case Manager Appointment.** When a request for eligibility is made, the Director of Student Services (or designee) appoints a Case Manager.
- **Case Manager Selection Criteria.** The Case Manager must be knowledgeable about the student, the meaning of evaluation data, and accommodation options. For example, the school nurse (for health-related plans), counselor (for behavioral plans), teacher (for instructional plans), AS3 Team member (member most knowledgeable about the student).
- **Members of the Planning Team.** The Case Manager brings together a multidisciplinary group of people, including the parents, to comprise the Planning Team that includes:
  - Case Manager;
  - Parent;
  - Administrator or his/her designee;
  - Certified School Nurse;
  - If appropriate, the Case Manager will consider designating or including the student's AS3 Team as the student's Planning Team.
  - The Planning Team may also include other members of the school staff appropriate to plan and implement accommodations (for example, counselor; teachers; school psychologist, occupational therapist, physical therapist, transportation and equipment experts and other professionals with relevant expertise, as appropriate).

- **Time Frame of Response.** The Case Manager must respond to the written request for services within 30 school days of the request by convening the Planning Team.
- **Evaluation of Response.** The Planning Team evaluates the information submitted by the parent and sends a written response to the parent's that must include:
  - Whether the parent's request or a portion of the parent's request is being granted or denied;
  - The parent's right to meet with the appropriate school officials to discuss the issues associated with accommodating the student;
  - The procedural safeguards available to students and their parents; and
  - That in addition to the procedural safeguards available to students and their parents, parents may also file suit in Federal court under Section 504.
- **Language of Notice.** Provide the written response in the parent's native language or mode of communication and provide the information above.

### **Evaluation Process**

- **Information from Parent.** If upon evaluation of the information submitted by the parents, the Case Manager determines that the Planning Team needs additional information before it can make a specific recommendation concerning the parent's request, the LEA shall ask the parents to provide additional medical records and grant the LEA permission to evaluate the student. This information may include physical and behavioral health information from the student's treating physician and/or other health care providers.
- **Information from Other Individuals.** If another individual has possession of the information the parent may agree to obtain the information and provide it to the Case Manager or the parent may sign a Consent of Release of Information form to enable the Case Manager to obtain a copy of the information.
- **Information from District Evaluation**
  - **Notice of Evaluation Components.** If the LEA needs to conduct an evaluation to supplement any information provided by the parent or from other sources, the Case Manager notifies the parent about the procedures and types of tests the LEA proposes to use to evaluate the student, and attaches a Procedural Safeguards Notice. As appropriate, the Planning Team may ask for evaluations by teachers, school

psychologist, occupational or physical therapist, etc. Prior to such evaluations, parental consent is required.

- Request for Informed Parental Consent. Along with the description of the evaluation, the Case Manager provides the parent with a Protected Handicapped Students Permission or Notice of Evaluation. The documents must notify the parent that s/he has the right to give or withhold written consent to these evaluations.
- Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; administering a test or other evaluation that is administered to all children unless before administration of that test or evaluation consent is required of parents of all children; and screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services; therefore, parental consent is not required in this instance.
- Parent Refusal to Sign Consent for the Evaluation or for Release of Information. Notify the Director of Student Services. Arrange an informal conference with a School District representative (administrator, administrator's designee, or other qualified representative) and parent to attempt to amicably resolve the dispute. Whenever possible include the administrator or administrator's designee in the informal conference.
- Review of Evaluation Data. As appropriate, the Chapter 15 Case Manager asks staff to review the evaluation data. For example, the School Nurse would review all information obtained from health care providers and conduct a nursing assessment of the student's health history and current health status, including mandated screenings.

### **Determining Eligibility**

The Planning Team meets to determine if the student meets the criteria as a Protected Handicapped Student as described above. If the student is not eligible, the Case Manager gives the parent written notice of this determination and of his/her procedural rights. If the student is eligible for services, the Team continues to develop the Service Agreement.

## **V. Developing the Service Agreement**

### **Assess Need for Services or Supports**

Determine if the student requires aids, services and/or accommodations to benefit from his/her education, including extracurricular activities, and if so, develop a Service Agreement (504 Plan).

### **Service Agreement**

- If the parents and Team cannot agree as to the related aids, services and accommodations that should or should no longer be provided to the Protected Handicapped Student, either party may use the procedural safeguard system to resolve the dispute, and the Case Manager notifies the parents in writing of their rights in this regard.
- If the parents and the Team agree as to what related aids, services or accommodations should or should no longer be provided to the Protected Handicapped Student, they enter into or modify a service agreement.
- The service agreement must be in writing and signed by the Director of Student Services or a designee and one of the parents. Oral agreements may not be relied upon.
- The agreement shall set forth the date the services shall begin; the date the services shall be discontinued; when appropriate, the procedure to be followed in the event of a medical emergency; specific related aids, services or accommodations the student shall receive, or if an agreement is being modified, the modified services the student shall receive. The agreement shall also specify the date the services shall begin, the date the services shall be discontinued, and, when appropriate, the procedures to be followed in the event of a medical emergency; and factors, such as education resources, physical plant and personnel capacities.

### **Reasonable Accommodations**

- An extra set of books for a student who cannot carry books to and from school;
- Access to school nurse services during school days for intermittent bladder catheterization;
- Access to an elevator;
- Schedule classes to minimize need for stair climbing;
- Allow student more time to pass in the hallway;

- Adjust placement of student within classroom (e.g., study carrel, proximity to teacher, etc.);
- Adjust testing procedures (e.g., length of time, administer orally, tape record answers);
- Utilization of technology (e.g., computers, tape recorders, calculators, etc.);
- Wheelchair ramp.

### **Unreasonable Accommodations**

- Requiring the job description of a LEA staff member to be significantly altered, such as requiring the school nurse (rather than a private duty nurse) to accompany the student throughout the school day to provide continuous nursing care for one student;
- Placing an unreasonable burden on another student or the LEA, such as requiring a student to be a “buddy” to another student rather than asking for student volunteers;
- Preventing another student from having access to or participating in his/her educational program, such as requiring a student to miss classes in order to accompany a student to another activity;

### **Implementation of Service Agreement**

- The Case Manager asks the parent to sign the Service Agreement and provides him/her with a signed copy of the Agreement;
- The administrator ensures that the Agreement is executed and the accommodations are implemented;
- The administrator ensures that the Service Agreement is sent to a receiving school if the student transfers to another school.

### **Review of Service Agreement**

In the Service Agreement, the Planning Team establishes a date to review the document, which should be a maximum of one year from the date of the Service Agreement. If the Service Agreement does not require modification, the Case Manager should complete a new Service Agreement, attaching the current Agreement and indicate that no changes are needed; obtain signatures from the

Team, including the parent; and establish a new review date that is within one year from the date of the Service Agreement.

### **Modification of Service Agreement**

Whenever the parents or school staff believe that a modification of the Service Agreement may be warranted, the Case Manager will utilize the procedures.

### **Reevaluation**

The Case Manager will facilitate a reevaluation of the student when necessary to determine the current needs of the student.

### **Terminating Eligibility**

Whenever the parents or school staff believes that the student no longer qualifies as a Protected Handicapped Student, the Team must be convened to review relevant evaluative data or obtain new data to consider the student's eligibility.

## **VI. Procedural Safeguards**

### **Complaint to Head of School**

In the event that a parent believes that Capital City is not providing the related aids, services and accommodations specified in the student's Service Agreement, and/or failed to comply with the above procedures the parents may raise claims to the Head of School. NOTE: A student or parent filing a claim of discrimination under section 504 does not need to exhaust the procedures in this Chapter prior to initiating a court action.

#### **Resolution**

The Head of School will investigate and respond to requests for assistance and will (unless exceptional circumstances exists) within 60 calendar days of receipt of the request a written response to the request. The response to the parent's request will be in the parent's native language or mode of communication.

### **Informal Conference**

At any time the parent may file a written request with the LEA for an informal conference with respect to the identification or evaluation of a student, or the student's need for related aid, service

or accommodation. Within 10 school days of the request, the Head of School must convene an informal conference. At the conference, every effort must be made to reach an amicable agreement.

## **VII. Confidentiality**

The LEA must protect the confidentiality of personally identifiable information related to a Protected Handicapped Student; require parental consent before releasing personally identifiable information to unauthorized persons; provide access to educational records of the student to the parent or a representative of the parent; and comply with Section 513(a) of the Family Educational Rights and Privacy Act of 1974 and 34 CFR Part 99 (relating to family education rights and privacy).

## **GLOSSARY**

**AAC:** Alternative augmentative communication

**AT:** Assistive technology

**BIP:** Behavior Intervention Plan

**CST:** Child Study Team

**ELL:** English Language Learner

**ER:** Evaluation Report or Evaluation Review

**ESY:** Extended School Year Services

**FAPE:** Free Appropriate Public Education

**FBA:** Functional Behavioral Assessment

**IDEA:** Individuals with Disabilities Education Act

**IEEs:** Independent Educational Evaluations

**IEP:** Individual Education Plan

**LEA:** Local educational agency

**LEP:** Limited English proficiency

**LRE:** Least restrictive environment

**NOREP:** Notice of Recommended Educational Placement

**PBS:** Positive Behavioral Support

**PT:** Physical therapy

**PTE:** Permission to evaluate

**PTRE:** Permission to reevaluate

**PWN:** Prior written notice

**OSSE:** Office of the State Superintendent of Education

**OT:** Occupational therapy