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NORTH DAKOTA DEPARTMENT OF
PUBLIC INSTRUCTION

Parent Guide to Special Education

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Building the Legacy: IDEA 2004

United States Department of Education, Office of Special Education Programs (OSEP)

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First Contact

You have recently learned that your child may have a disability. You may be experiencing a variety of feelings ranging from fear and confusion to anger or even relief. Many parents who have been involved in special education with their own children have shared some valuable advice to make this guide helpful to you.

These parents have told us how valuable it was for them, and will be for you, to begin this process with as much information as possible at the point of "first contact." It is the responsibility of the school to explain and make sure that you fully understand the special education process, including your rights. At any time, feel free to ask questions. Your knowledge and input will benefit your child, and help all of us work together more effectively.

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Introduction

In the past parents of children with disabilities didn't have many educational options for their children. In fact, many children with disabilities received little or no education. In response to the concerns voiced by parents and many educators, the United States enacted a law designed to ensure that local schools would serve the educational needs of students with disabilities. Public law 108-446 is known as the Individuals with Disabilities Education Improvement Act. This law is known more commonly across the nation as IDEA.

An updating of this law took place in 2004, and the U.S. Department of Education issued final regulations for the IDEA in 2006. The North Dakota Department of Public Instruction Office of Special Education carefully reviewed the reauthorized the IDEA and the final regulations. This *Parent Guide to Special Education* was revised to reflect the changes in our nation's special education law and regulations. It was prepared to help parents have a solid understanding about how the special education process works in the schools of our state. It was also written so that parents can have an additional source of information about their procedural safeguards, sometimes referred to as parent rights.

The primary themes of the reauthorized the IDEA 2004 include: early intervention, access to the general education curriculum, scientifically based instruction, paperwork reduction, school-wide approaches, focus on homeless children, streamlined IEP process, highly qualified staff, over identification and disproportionality, and expanded opportunities for parents and schools to resolve differences. The reauthorized IDEA has strengthened the relationship with the No Child Left Behind (NCLB) Act, which promotes improved student achievement and academic proficiency for all children. For information on how NCLB and IDEA work together to improve academic achievement of students with disabilities refer to **Appendix A** for the document titled, "*NCLB and IDEA: What Parents of Students with Disabilities Need to Know and Do.*"

Importantly, the IDEA 2004 supports parents' participation in their children's education. With a clear understanding of the IDEA and your rights, you will be better prepared to take an active role in your child's education. This role involves close collaboration with your school district as you develop an appropriate educational program for your child.

The ND Department of Public Instruction (NDDPI) has written this guide for parents to answer questions you may have as you begin to take part in the special education process in North Dakota. Your knowledge and understanding will help your child benefit from a cooperative support system that includes a positive partnership between home and school.

This guide has three sections, each with a different purpose:

- Section one describes the "big picture" regarding the entire special education process.
- Section two presents a detailed explanation of your procedural safeguards, more commonly referred to as rights.
- Section three provides a glossary of the many terms unique to special education that you may need to understand. This final section begins on page 20 and will also give you the names of other agencies you can contact for additional information about your role and responsibilities. You may want to contact some of the agencies for suggestions about how to be an effective member of your child's educational team.

Explanatory Note
The terms *evaluation* and *assessment* are used interchangeably by the United States Department of Education. However, in North Dakota *assessment* is defined as formal tests, interviews and observations of your child. The term *evaluation* includes assessment procedures used to determine whether your child has a disability and needs special education and related services. The term evaluation describes the overall decision-making process in special education. Further information regarding evaluation and assessment is included in the Department of Public Instruction document, G*uidelines: Evaluation Process* (June 2007).

If any terms used in this table are unfamiliar to you, refer to the glossary beginning on page 20.

Intervention process
For school-age children, follow-up services may be provided through an intervention process. This could be through the Response to Intervention (RTI) process or a building level team process such as Building Level Support Team (BLST). Some schools refer to this as the teacher assistance team (TAT). The BLST process is a general education activity that is used to provide support to the classroom teacher. A structured problem-solving process is used by educators and parents to develop interventions for a student who is experiencing difficulty in classroom achievement or behavior.

What happens if my child is not succeeding in school?

STEP IN THE PROCESS	PARENT ROLE	SCHOOL DISTRICT ROLE
Before A Request for Assistance Is Made	• Contacts teachers to discuss any concerns • Provides any information that might be helpful • Carries out teacher's suggestions for helping child at home; • Asks for intervention process such as BLST or RTI • Actively participates in the intervention process • Makes written request for evaluation for a suspected disability, if needed	• Contacts parent for information • Attempts different strategies and documents results • Uses intervention process to generate additional ideas, if needed • Reviews data from the intervention process (BLST or RTI) implements new interventions and documents results in writing, if needed • Makes a referral for evaluation if the child is suspected of having a disability
Referral	• Receives copy of procedural safeguards information • Asks questions about procedural safeguards as appropriate • Asks for information about parent support resources, if desired • Gives informed written consent for evaluation	• Contacts parent, explains referral process and provides a copy of *Parent Guide to Special Education* • Explains procedural safeguards to parent and answers questions • Asks parent for consent to evaluate
Evaluation	• Provides evaluation data and other relevant information about your child • Actively participates in the evaluation planning process • Actively participates in the decision-making process regarding whether child has a disability under IDEA	• Initiates the evaluation planning process with the multidisciplinary team, including the parent • Conducts and completes the team evaluation within 60 days from the date the parental consent to evaluate is received • Summarizes and interprets evaluation results with parents • Determines with parent whether the child has a disability under IDEA and the educational needs • Informs parents of the right to an independent evaluation if parent disagrees with the district's evaluation
Before the Individualized Education Program (IEP) Meeting	• Reviews parent role and responsibilities as a team member • Gathers information from parent resources, if desired • Begins writing questions, suggestions, and concerns to bring to the IEP meeting • Discusses with case manager any requests for team member excusal and decides to either consent to team member excusal with written input (if needed) or asks to reschedule the IEP meeting.	• Notifies parent of IEP meeting and who will participate • Determines mutually agreed upon time and place for the meeting • Gathers relevant information to share with team members • Identifies any required team members who will be unable to attend in part or whole and either reschedules the meeting or receives parent's consent to proceed with the meeting

STEP IN THE PROCESS	PARENT ROLE	SCHOOL DISTRICT ROLE
During the IEP meeting	• Shares information about child's strengths and academic, developmental and functional needs • Participates in development of the IEP • Gives written consent for initial provision of special education and related services	• Responds to questions parent may have • If child is eligible and needs special education services, jointly develops IEP which includes: - The child's strengths and academic, developmental and functional needs - Annual goals and, when appropriate, short term objectives - Appropriate special education and related services **OR** • If the child does not need special education services under IDEA: - Determines appropriate modifications and/or interventions - Considers eligibility for services under Section 504, Title I, or other support services
Annual Review	• Reviews procedural safeguards information • Reviews child's academic progress and progress on current IEP goals • Participates in the revision of the IEP	• Provides notice to parent of the IEP annual review • Gathers and reports information on child's progress • Reviews and revises the IEP
Reevaluation	• Participates in the decision-making process when the team is determining whether additional information is needed to determine if the child continues to be a child with a disability. • If the child's team determines that no additional information is needed, an Integrated Written Assessment Report (IWAR) will be completed to verify agreement that all current and relevant data have been gathered to make disability determination decisions.	• Following the completion of the Student Profile, the child's IEP team may decide that no additional information is needed to determine if the child continues to be a child with a disability. • If the IEP team determines that no additional information is needed, complete Integrated Written Assessment Report (IWAR) to verify agreement that all current and relevant data have been gathered to make disability determination decisions. • Document team decision that no additional information is needed and that the parents were notified of their right to request additional assessments on IWAR • A copy of the IWAR must be given to the parents.

STEP IN THE PROCESS	PARENT ROLE	SCHOOL DISTRICT ROLE
Independent Educational Evaluation (IEE)	• If parent disagrees with the school district's evaluation, the parent may request an independent educational evaluation (IEE) at public expense • Assists in the identification of the independent evaluator(s) • Obtains IEE (Can request one IEE per evaluation conducted by the school district)	• Informs parent of their right to an independent educational evaluation (IEE) if there is disagreement about the school's evaluation • Provides information about where an independent evaluation can be obtained • Pays for the IEE or requests mediation and/or a due process hearing if the assessment team feels that the school's evaluation is fair and accurate

For information related to children transitioning into educational services at age 3 refer to the DPI-Special Education website for Early Childhood Transition Guidelines: https://www.nd.gov/dpi/Educators/SpecialEducation/EarlyChildhoodSpecialEducation/ or call (701) 328-2277.

Answers to Questions You Might Have About the Special Education Process

What are procedural safeguards?

Procedural safeguards for children and parents are legal protections to ensure that an individual's rights are not denied.

What is a free appropriate public education?

Under the law, a free appropriate public education (FAPE) means special education and related services that:

- are provided to children and youth with disabilities at public expense, under public supervision and direction, and without charge to the parents;
- meet the standards of the state education agency, including the requirements of the IDEA;
- include an appropriate preschool, elementary, and secondary school education in North Dakota; and
- are provided according to requirements for the individualized education program.

Who is eligible for services under the IDEA?

The regulations for the IDEA defines a child with a disability as including a child: (a) who has been evaluated in accordance with IDEA requirements; (b) who has been determined through this evaluation to have one or more of the disabilities included in IDEA; and (c) who, because of a disability, needs special education and related services.

If my child is not eligible for or in need of special education services under IDEA, is other help available from the school?

If your child is not eligible under the IDEA, but has a disability, your child may be eligible for assistance under Section 504. Section 504 is a civil rights act that protects the rights of people with disabilities. If you have additional questions, contact your local school and ask to speak with the Section 504 Coordinator. Other options at your child's school may include Title I services or other support services. School districts must make their programs and activities accessible as well as usable to all individuals with disabilities.

What are the disability categories as defined in IDEA?

In IDEA 2004 (Sect. 300.8), children who have one or more of the following disability categories may be eligible for special education services:

AUTISM means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined below.

DEAF-BLINDNESS means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

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

EMOTIONAL DISTURBANCE is a term that means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects a child's educational performance:

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

The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

HEARING IMPAIRMENT means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

INTELLECTUAL DISABILITY means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

ORTHOPEDIC IMPAIRMENT means 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 means having limited strength, vitality or alertness including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that

- is 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, sickle cell anemia, and Tourette syndrome; and
- adversely affects a child's educational performance.

SPECIFIC LEARNING DISABILITY means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not apply to children who have learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

SPEECH OR LANGUAGE IMPAIRMENT means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

TRAUMATIC BRAIN INJURY means 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 function; 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 means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

NOTE: For younger children in North Dakota, the Non-Categorical Delay (NCD) eligibility option may be used for a child who is at least three years of age but less than ten years of age if the child exhibits a developmental profile in which cognitive, fine motor, vision, hearing, communication, preacademic, socialization, or adaptive skill acquisitions are significantly below that of same-age peers, and if the child needs special education and related services, the school district may determine that the child is a student with a disability as a result of a non-categorical delay. This option may be used in situations where the determination of a disability is not clear but delays are well documented.

What is special education?

Special education is defined as specially designed instruction, at no cost to you, to meet your child's unique needs. Special education can include classroom instruction, home instruction, instruction in hospitals and institutions or other settings. Special education services may be supplemented by related services.

What are related services?

Related services are defined as transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education. Related services include:

- speech-language pathology and audiology services;
- interpreting services;
- psychological services;
- physical and occupational therapy;
- recreation, including therapeutic recreation;
- early identification and assessment of disabilities in children;
- counseling services, including rehabilitation counseling;
- orientation and mobility services; and
- medical services for diagnostic or evaluation purposes.

The term also includes school health services and school nurse services, social work services in schools, and parent counseling and training.

Related services do not include a medical device that is surgically implanted, including cochlear implants, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. External components of a surgically-implanted device should be routinely checked by the school to ensure proper functioning.

Referral

Who can make a referral?

The parent of a child or the school district may initiate the initial evaluation procedures. Persons such as employees of the school district or other public agencies may identify children who might need to be referred for an evaluation. However, it is the parent of a child and the public agency that have the responsibility to initiate the evaluation procedures. District policy and procedures must identify the individual(s) who will serve as the school district representative to initiate the evaluation procedures.

After a referral is made and before the evaluation process begins:

- you must be given prior written notice regarding the proposed evaluation; and
- the school district must have your consent in writing before it can evaluate your child.
- If you refuse to give your consent to evaluate, the school district may request mediation and/or a due process hearing.

Prior Written Notice to Parents

The district must inform you in writing of important decisions regarding your child's special education, and you must be notified before those decisions are put into place. As an active participant in the decision-making process, you have the right to prior written notice from the school district whenever:

- the school proposes to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to your child; or
- the school refuses to initiate or change the identification, evaluation, or educational placement of your child or the provision of free appropriate public education to your child.

Prior notice must also be provided to a student and the parents at the time the student reaches age of majority. This written notice must be provided at the time the student reaches the age of majority, age 18, which may or may not be at the time of the annual review.

Prior written notice must include:

- a description of the action proposed or refused by the school district;
- an explanation of why the action is proposed or refused;
- a description of any other options considered and the reasons why those options were rejected;
- a description of each assessment procedure, test, record or report used as a basis for the action proposed or refused;
- a description of any other factors relevant to the action proposed or refused;
- a notice that you can invite individuals with knowledge or special expertise about your child to an IEP meeting;
- a statement that parents of a child with a disability are protected by the procedural safeguards described in *Parental Rights for Public School Students Receiving Special Education Services* (June 2007). See Appendix G in this guide for a copy of this document.

Prior written notice must also include resources you can contact for help in understanding these procedural safeguards, and a description of how you can file a complaint. Prior written notice must be provided in your native language unless doing so is clearly not feasible.

An example of a Prior Written Notice can be found in **Appendix B** of this guide. You may also receive a prior written notice by email upon your request.

Consent

What does consent mean?

Consent means that:

- you have been given all the necessary information to make an informed decision about the proposed activity. This information must be given in your native language or other mode of communication, for example, sign language;
- you understand and agree in writing to the proposed activity; and
- you understand that consent is voluntary and may be revoked at any time.

When must the school district obtain my consent?

Your school district must have your informed written consent before:

- evaluating your child for the first time;
- reevaluating your child if more information is needed;
- providing any initial special education and related services for the first time;
- excusing a required IEP team member from attending an IEP meeting; or
- inviting a representative of any participating agency that is likely to be responsible for providing or paying for secondary transition services.

The school does not need to obtain your consent before reviewing existing data as part of an evaluation or reevaluation.

What if I refuse to give my consent for an evaluation or for initial special education services for my child?

If you do not give your consent for evaluation, or if you withdraw your consent for evaluation, the school district may request a due process hearing to obtain permission to evaluate. However, the school district may not initiate a due process hearing to obtain your consent if you refuse special education services for your child.

Evaluation

When does my child need an evaluation?

If the follow-up services and interventions tried by the parent and school or agency personnel do not assist the student in addressing the difficulty experienced, the process of collecting additional information should be initiated, in a timely manner, through a referral for a comprehensive evaluation. The evaluation process is used to determine whether your child has a disability and the educational needs of the child. This process is individualized for each student and uses a multidisciplinary team with you as one of its important members.

The evaluation process for your child must:

- be completed within 60 calendar days from the time your consent to evaluate is received;
- include information about your child's academic, developmental and functional performance;
- be performed by a multidisciplinary team, which includes you;
- be administered in your child's native language or other mode of communication; and
- be unbiased, or given in such a way so as not to discriminate against your child, regardless of his/her cultural background, race or disability.

If your child is already receiving special education services, a reevaluation must be conducted at least every three years to ensure that your child is still eligible to receive special education services and to determine if the services are appropriate.

You still have the right to request an evaluation to determine whether your child continues to be eligible. An evaluation is also required before your child is dismissed from special education services.

When my child graduates with a diploma or exceeds the age of eligibility, will he/she be given an evaluation?

An evaluation is not required before your child graduates with a diploma or before the termination of his/her eligibility for special education services. However, before your child's eligibility terminates, the school must provide a summary of your child's academic achievement and functional performance, which must include recommendations on how to assist your child in meeting his or her postsecondary goals. This is referred to as your child's Summary of Performance (SOP).

Independent Educational Evaluation

What if I disagree with the school district's evaluation?

You may obtain an independent educational evaluation if you disagree with the school district's evaluation results.

What is an independent educational evaluation?

An independent educational evaluation is conducted by a qualified examiner who is not an employee of the school district responsible for educating your child.

Under what circumstances can an independent educational evaluation be obtained?

If you disagree with your school district's evaluation, you have the right to request an independent educational evaluation at public expense. Public expense means that the school district either pays for the full cost of the educational evaluation, or ensures that the evaluation is provided at no cost to you. You are entitled to only one independent educational evaluation at public expense each time the school conducts an evaluation with which you disagree. Whenever an independent educational evaluation is at public expense, the standards under which the evaluation is obtained must meet the same standards used by the school district. This means the qualifications of the examiner and the location of the evaluation must meet the standards of the school. The results of independent educational evaluations must be considered by the school district before taking any action regarding your child.

In addition, an independent educational evaluation may be presented by any party as evidence in a due process hearing complaint. A hearing officer may also request an independent educational evaluation. In this case, the independent educational evaluation must be at public expense. A hearing officer is an impartial person who has been trained to resolve special education conflicts. In our state, hearing officers are employed by the North Dakota Office of Administrative Hearings.

What if the school district believes its evaluation is valid?

It is the school district's responsibility to request a due process hearing to show that its evaluation is valid. However, if the final decision is that the district's assessment is appropriate, you still have the right to an independent educational evaluation at your expense.

Where can I get an independent educational evaluation?

You may request a list of qualified examiners from your school district. Each school district is required to maintain a list of public and private agencies qualified to conduct independent educational evaluations. However, the location of the evaluation and the qualifications of the examiner must meet the criteria of the school. If you have an independent educational evaluation completed at your expense, the IEP team must consider the outside evaluation, but is not required to give deference to it.

Will my child participate with other children in the state or district-wide assessments?

The IDEA requires that all students participate in state and district-wide assessments. This includes students with disabilities. These assessments measure academic achievement of all students and are one way that schools can verify how well and how much students are learning.

The North Dakota State Assessment (NDSA) includes four options for participation in the state-wide assessment for students with disabilities. These options include: The NDSA as it is administered to students in North Dakota; the NDSA with accommodations (which are both determined by the IEP Team and documented in your student's IEP anually); the ND Alternate Assessment (NDAA); or a combination of the three previous options. For example, it is possible for a student to take the NDAA for reading and the NDSA with accommodation in math and science. Your child's IEP must include documentation of all accommodations that your child needs to participate in state or district-wide assessments; which assessment option your child will participate in, and reasons why another option was not considered appropriate.

Individualized Education Program (IEP)

What is an individualized education program?

An individualized education program (IEP) is a written plan for a child with a disability that is developed according to federal and state regulations. This document includes:

- a description of your child's strengths and academic, developmental and functional needs (present levels of academic achievement and functional performance);
- annual goals and, when appropriate, short-term objectives;
- criteria and evaluation procedures to determine if goals are effective or successful;
- characteristics of services that will be provided;
- statements of specific special education and related services that will be provided, and to what extent your child will participate in general education classes;
- when these services will start, how long the services will last, and the amount of services; and
- transition planning for your child after graduation from high school beginning no later than the first IEP to be in effect when your child turns 16 year of age.

Transition planning will include the consideration of post secondary goals and the transition services needed to assist your child in achieving those goals.

Examples of the state recommended IEP forms can be found in this guide's Appendices. For ages 6-15, see **Appendix C**. For ages 3-5, the Early Childhood Transition IEP, see **Appendix D**. For ages 16-18, the Secondary Transition IEP, see **Appendix E**. These might be helpful for you to review before your child's IEP meeting. The IEP meeting should be held at a mutually agreed upon time and place. School districts must invite you to attend this meeting, and must document all attempts to contact you. If you choose not to attend, an IEP meeting may be held without you.

Who should attend an IEP meeting?

The following individuals are required members of the team who attend the IEP meeting as equal, valued members of the decision-making process:

- parents;
- not less than one of your child's regular education teachers;
- not less than one special education teacher, or where appropriate, not less than one special education provider of the child;
- a representative of the school district who is able to provide or supervise the provision of special education services; and
- an individual who can interpret your child's evaluation results.

Other participants may include:

- your child, when appropriate, but always at age 16 and older;
- additional individuals at the invitation of you or the school district; and
- transition services personnel, including any representative from agencies who are likely to be responsible for providing or paying for transition services (with your consent or your child's consent if your child has reached age 18)

For a child transitioning from Part C (IFSP) to Part B (IEP), an invitation to the IEP meeting must, at your request, be sent to the Part C representative. Part C representation will assist in a smooth transition of services.

Can an IEP team member be excused from attending my child's IEP meeting?

The IDEA 2004 states that the attendance of specific IEP team members is required unless parents and the local education agency (LEA) agree or consent in writing to the occasional absence of a team member. The required members of the IEP team that would necessitate excusal if they were unable to attend are:

- General Education Teacher;
- Special Education Teacher;
- LEA Representative; and
- Individual who can interpret the instructional implications of evaluation results.

The IDEA 2004 defines the two situations regarding excusal as the following:

1. The parent and school district may agree in writing to excuse an IEP team member whose area of curriculum or related service *is not* being modified or discussed at the meeting**.**
2. The parent and the school district may consent in writing to excuse an IEP team member whose area of curriculum or related service *is* being modified or discussed at the meeting, if the member submits input in writing to the IEP team before the meeting.

What is the responsibility of the IEP team?

During an IEP meeting, team members typically follow this sequence:

- introduce members;
- review the results of the evaluation, or the current IEP if the meeting is an annual review;
- determine your child's areas of strengths and academic, developmental and functional needs;
- write annual goals and, when appropriate, short-term instructional objectives in the areas of need
- determine how progress will be measured and reported, including when and by whom;
- determine the special education and related services needed to implement each goal and objective; and
- determine where special education services will be provided (least restrictive environment).

Areas that should be discussed during the IEP meeting include, but are not limited to:

- participation in state and district-wide assessments;
- consideration of extended school year services;
- post secondary goals and transition services, beginning no later than age 16, or earlier if appropriate;
- a positive behavior support plan if your child's behavior significantly interferes with his or her opportunity to learn;
- physical education programs that address your child's individual needs;
- language needs if your child has limited English proficiency;
- language and communication needs if your child is deaf or hard of hearing;
- assistive technology devices and services if needed by your child; and
- the need for Braille instruction if your child has a visual impairment.

How can I prepare for my child's IEP meeting?

You are a vital member of your child's IEP team and your input is important to the successful development of your child's education program. Steps you can take prior to, during and after an IEP meeting that can significantly improve the outcome of the IEP meeting include the following:

- Collect all educational, medical and other relevant information about your child;
- Review the results of your child's evaluation and/ or speak with individuals who evaluated or have previously worked with your child regarding your child's performance or progress;
- Make a list of goals you have for your child;
- Write down any information about your child that you would like to share with the IEP team. Also, make note of any questions or concerns you may have about your child's education.
- During the meeting, share your thoughts and ideas;
- Ask questions for clarification;
- Stay focused on the needs of your child;
- After the meeting, discuss the IEP with your child and prepare your child for any responsibilities he or she will have.

(Refer to Appendix F for the *IEP Meeting Checklist*.)

How often is my child's IEP reviewed?

Your child's IEP must be reviewed at least annually. However, it may be reviewed at any time during the school year at your request, or at the school district's request.

Must the IEP team meet every time there are changes to my child's IEP?

When changes to your child's IEP are needed after the annual IEP team meeting for the school year has been held, you and the school may agree to forego a meeting to develop a written document to amend or modify your child's current IEP. Previously, the IEP team was required to reconvene in order to make amendments to the IEP. The IDEA 2004 states that changes to your child's IEP may be made by either: the entire IEP team (which includes you) at an IEP team meeting; or, by amending it without an IEP team meeting when you and the school agree. This allows you and the school to agree not to convene an IEP team meeting to make changes to the child's IEP and to develop a written document to amend or modify your child's current IEP instead. The IDEA 2004 does not place any restrictions on the types of changes that may be made so long as the parent and the public agency agree. The agreement between the public agency and the parent does not need to be in writing.

What are extended school year services?

Extended school year services are special education and related services that are provided beyond the normal school year. Three principles apply to extended school year services:

- all children who are eligible for special education and related services must be considered for extended year services;
- all relevant information relating to the individual needs of the child must be considered in determining whether an extended school year should be part of the child's program; and
- you are entitled to full participation in this decision as part of the development of your child's IEP.

The intent of extended school year (ESY) is to prevent regression of previously learned skills that cannot be recouped in a reasonable length of time. An extended school year provides services for your child to maintain his/her IEP goals. It is not intended to introduce new skills; it means specialized instruction that assists in preventing serious regression of previously learned skills.

Can the length of my child's school day be adjusted?

The IEP team may dictate a school day that is shortened or lengthened depending on your child's needs. For example, a normal school day could be shortened if a student was experiencing fatigue because of his or her disability. A school day could also be lengthened to provide support services beyond the regular school day.

Records

Can I see my child's education records?

Your school district must permit you to inspect and review any education records relating to your child. This includes records regarding identification, evaluation, and educational placement of your child as well as the provision of free appropriate public education. You have the right to see all records that are collected, maintained, or used by the school. The school district must comply with your request without unnecessary delay. If you request your child's records, they must be provided before any IEP meeting or hearing related to your child's identification, evaluation, or educational placement.

Who can see my child's education records?

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

The following people have access to your child's records:

- you, the parents;
- authorized employees of the school district who have a legitimate interest; and
- representatives of any participating agency providing the school program.

The school must keep a record of any other people obtaining access to educational records. This record must include the name of the person, the access date, and the purpose for which the person is authorized to use the records.

How do I get my child's records changed?

If you believe that any information in your child's record is inaccurate, misleading, or violates the privacy or other rights of your child, you may ask the school district to change the information. The school district must make a decision regarding your request within a reasonable amount of time.

If the school district refuses to change the information as you requested, you must be informed of the refusal, and of your right to a hearing, conducted by the school district. The hearing gives you an opportunity to challenge the information in the educational record to ensure that it is not inaccurate, misleading, or in violation of the privacy or other rights of your child.

After the hearing, if the school district agrees with you, it must change the information and let you know in writing. If the school district disagrees with you, you will be able to write a statement about your concerns. This statement will be placed in your child's records, and must be kept by the school district as long as the records are kept. Your statement must be included any time your child's records are shared.

How long will my child's educational records be kept?

Each school district determines its own policy regarding how long educational records must be kept before they are destroyed. For more information about how long records are kept in your school, contact your local administrator.

Are there any costs to review my child's record?

You may be charged a fee for copies of records as long as the fee does not prevent you from inspecting your child's records. The school district may not charge a fee to search for or retrieve information.

What if I have concerns?

Sometimes you might disagree with the special education testing, services or placement for your child. When a problem first arises, act immediately so steps can be taken as soon as possible to support the working relationship among the staff, your child and you. You should first inform those individuals at the local level who are directly involved with your child. If needed, you may discuss your concerns with your building principal, district superintendent or special education director. You may also try to resolve your disagreements by requesting IEP facilitation or mediation, which are free services conducted by a trained, impartial professional not employed by the school district.

There are several dispute resolution options available to you under the Individuals with Disabilities Education Improvement Act of 2004: mediation, complaint investigation and due process hearing and resolution meeting. The NDDPI also offers early conflict resolution options such as IEP facilitation. For additional information about these dispute resolution options, please refer to **Appendix G** for the document, *Parental Rights for Students Receiving Special Education Services: Notice of Procedural Safeguards* (June 2007). This document contains information concerning your educational rights under the IDEA 2004.

The IDEA dispute resolution options can be viewed on a chart in **Appendix H** titled *IDEA Dispute Resolution Processes Comparison Chart*. Additionally, sample forms have been included in this guide for requesting mediation (**Appendix J**) and IEP facilitation (**Appendix I**).

You may also obtain these and other dispute resolution forms, as well as assistance in accessing any of the dispute resolution options, by contacting the NDDPI Office of Special Education at (701) 328-2277.

Glossary and Additional Resources

Glossary of Terms Special Education Terms/Legal Terms

Adaptive Physical Education--Involves modifications and/or accommodations to the regular physical education class. Supplemental instruction may take place in a separate class based on individual needs of the student. The goal is to allow students with special needs to remain in the regular physical education class.

Annual Goals--These describe the educational performance to be achieved by a student within one year.

Annual Review--The law requires that students with disabilities have an educational program to be reviewed each year. A review involves an updating of the student's progress and planning his/her educational program.

Assistive Technology--Services and equipment that enhance the ability of students to be more efficient and successful through improved access to the general education curriculum. This term does not include a medical device that is surgically implanted or the replacement of that device.

Audiologist--A person with an advanced degree who specializes in the evaluation, identification and habilitation or rehabilitation of hearing loss. An audiologist may also fit and provide information about hearing aids and assistive listening devices.

Autism--A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. A child who manifests the characteristics of autism after age three could be identified as having autism if the child meets the above criteria. The term does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance. (IDEA 34 C.F.R §300.8)

Behavior Modification--A technique of changing human behavior, based on a system of positive and negative reinforcement. Emphasis is on observable behaviors and what events precede and follow them.

Benchmark--Means a major milestone that will enable parents, students, and educators to monitor progress during the year.

Building Level Support Teams (BLST)-- The BLST process is a general education activity that is used to provide support to the classroom teacher. A structured problem-solving process is used by educators and parents to develop interventions for a student who is experiencing difficulty in classroom achievement or behavior.

Cerebral Palsy--A group of conditions caused by brain damage usually occurring before or during birth or during the developmental years. Marked especially by defective muscle control, language, speech, psychological, or learning problems. There are many types of cerebral palsy and it expresses itself differently in each person.

Confidentiality--Refers to precautions an individual other than the student's parent must take in not revealing information, without consent, about a specific student, to someone who is not directly involved with that student.

Consent--(1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication, (2) the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom, and (3) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

Day--(1) ***Business Day*** means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day). (2) ***School Day*** means any day, including a partial day, that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including children with and without disabilities.

Deaf--A hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

Deaf-Blind— Concomitant hearing and visual impairment, the combination of which causes such severe communication and other developmental and educational problems that students cannot be accommodated in special education programs solely for students with deafness or students with blindness.

Down Syndrome--A condition caused by chromosomal abnormality with a number of physical characteristics and varying degrees of intellectual disability.

Due Process Hearing--Formal procedure for reviewing disagreements so as to insure that an individual is given an opportunity to present his/her side of an issue to an independent due process hearing officer.

Emotional Disturbance--A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects educational performance: (1) an inability to learn that cannot be explained by intellectual, sensory, or other health factor; (2) an inability to learn to build or maintain satisfactory interpersonal relationships with peers and teachers; (3) inappropriate types of behavior or feelings under normal circumstances; (4) a general pervasive mood of unhappiness or depression; or (5) a tendency to develop symptoms or fears associated with personal or school problems. Does not include students who are socially maladjusted, unless it is determined that they have an emotional disturbance.

Extended School Year --The purpose of extended school year service is not to learn or to enhance new skills, but to prevent serious regression of previously learned skills on the IEP. Extended school year services are not intended to replace or be synonymous with those services typically referred to as summer school. The IEP is the guiding document for extended school year/day services.

Free Appropriate Public Education (FAPE)--Special education and related services are provided at public expense, under public supervision and direction, without charge. The free appropriate public education meets the standards of the state educational agency including preschool, elementary, or secondary school education and is provided in conformity with an individualized education program requirement of IDEA.

Guardian--A person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

Highly Qualified Teacher (HQT)–A teacher who has obtained full state certification as a special education teacher and holds a license to teach in the state.

Homeless – IDEA follows the meaning given in the McKinney-Vento Act:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
2. Children and youths 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
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children who qualify as homeless because the children are living in circumstances described in clauses 1 through 3.

Hard of Hearing--A hearing impairment, whether permanent or fluctuating, that adversely affects a student's educational performance but which is not included under the definition of deaf.

Individualized Education Program (IEP)--A written document for a student with disabilities (ages 3-21) that is developed and implemented to meet unique educational needs.

Individualized Family Services Plan (IFSP)—A written plan developed for a child with disabilities being served in an infant-toddler program (Part C) for ages birth-3.

Least Restrictive Environment (LRE)--A term used to describe procedures to insure that, to the maximum extent appropriate, students with disabilities are educated with students who are not disabled.

Length of School Day—The IEP team may dictate a school day that deviates from the normal school day, depending on a student's needs.

Intellectual Disability--Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Occupational Therapy--The use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, poverty and cultural differences, or the aging process in order to maximize independence, prevent disability, and maintain health. The therapy encompasses evaluation, treatment, and consultation.

Orientation and Mobility (O & M) Services--Means services provided to students who are blind or visually impaired to enable them to attain systematic orientation to and safe movement within their environments.

Orthopedically Impaired--A severe orthopedic impairment that adversely affects a student's educational performance. Includes impairments caused by a congenital anomaly, 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 Impaired (OHI)--Includes limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness 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, sickle cell anemia, and Tourette syndrome that adversely affect a student's educational performance.

Parent--Means a biological or adoptive parent; a foster parent, unless state law prohibits a foster parent from acting as a parent; a guardian, generally authorized to act as a child's parent, or authorized to make educational decisions for a child (but not the State if the child is a ward of the State); a person acting in the place of a parent (e.g., a grandparent, stepparent, or other relative with whom the child lives, or a person legally responsible for the child's welfare); or, an educational surrogate parent.

Physical Therapy--The art and science of a health specialty concerned with the prevention of disability and the physical rehabilitation for congenital or acquired disabilities resulting from, or secondary to, injury or disease. The practice of physical therapy means the practice of the health specialty, and encompasses physical therapy evaluation, treatment planning, instruction, and consultative services.

Prior Written Notice--Written notice that must be provided to parents, in their native language, before the school's proposal or refusal to initiate or change the student's identification, evaluation, or educational placement.

Procedural Safeguards--Precautions taken to insure that an individual's rights are not denied without due process of law.

Psychologist--A person with an advanced degree who specializes in administering and evaluating psychological tests including intelligence, aptitude, and interest tests. A psychologist could also provide counseling and apply principles of human behavior.

Reevaluations--Reevaluation required at least every three years for each special education student unless the parent and the school agree otherwise.

Referral--Initial step in the special education process; referrals for evaluation can be made by anyone associated with the student.

Related Services--Transportation and such developmental, corrective, and other supportive services as are required to assist a student with disabilities to benefit from education, and includes speech-language pathology and audiology, interpreting services, psychological services, physical and occupational therapies, recreation, early identification and assessment for diagnostic or evaluation purposes. Also includes school health services and school nurse services, social work services in schools and parent counseling and training.

Resource Room—An area within a school where individual students may spend part of the day for supplemental help with academics.

Response to Intervention (RTI)—The practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals, and applying student response data to important educational decisions.

Short Term Objective (STO)—STOs are required for students who are participating in the alternate assessment aligned with alternate achievement standards. Short term objectives are measurable, intermediate steps between the student's present levels of educational performance and the student's goals.

Special Education--Means specially designed instruction, at no cost to the parent, to meet the unique needs of a student with disabilities.

Specific Learning Disability--A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. Includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Does not include children who have learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Speech or Language Impairment—A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Speech-Language Therapy--The process for remediation of speech and language disorders, such as stuttering, impaired articulation, a language impairment, or a voice impairment, conducted by a qualified speech-language pathologist.

Summary of Performance—A document that an IEP team develops before a student exits special education services due to graduation with a regular diploma or due to exceeding the age of eligibility. The document is a summary of the student's academic achievement and functional performance which includes recommendations on how to assist the student in meeting his/her post-secondary goals.

Supplementary Aids and Services--Means aids, services, and other supports that are provided in regular education classes or other educational settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Surrogate Parent--Person assigned to act in place of parents or guardians when: a student's parents or guardians are not known or are unavailable; a student is a ward of the state; or, a child is considered an unaccompanied homeless youth. This person functions in the same way a parent or guardian would for purposes of making educational decisions in the special education process.

Traumatic Brain Injury--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 function; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

Visual Impairment Including Blindness--An impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Ward of the State--A "ward" is the person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority.

SPECIAL EDUCATION ABBREVIATIONS

ADA – Americans with Disabilities Act

ADD/ADHD--Attention Deficit Disorder, Attention Deficit Hyperactivity Disorder

APE – Adaptive Physical Education

BLST – Building Level Support Team

CEC – Council for Exceptional Children

CP--Cerebral Palsy

ED—Emotional Disturbance

ELL – English Language Learners

ESY--Extended School Year

FAPE--Free Appropriate Public Education

FIEP – Facilitated IEP

HQT—Highly Qualified Teacher

ID – Intellectual Disability

IDEA--Individuals with Disabilities Education Act

IEP--Individualized Education Program

IFSP—Individualized Family Services Plan

IQ--Intelligence Quotient

IHO - Impartial Hearing Officer

LEA – Local Education Agency

LRE--Least Restrictive Environment

OCR--Office of Civil Rights

OHI--Other Health Impaired

OI--Orthopedically Impaired

OM – Orientation and Mobility

OT--Occupational Therapy or Occupational Therapist

P&A – Protection and Advocacy Project

PE--Physical Education

PL--Public Law

PT - Physical Therapist or Physical Therapy

RS - Resolution Session

RTI—Response to Intervention

SEA – State Education Agency

SLD--Specific Learning Disability

SOP - Summary of Performance

STO--Short Term Objective

TBI--Traumatic Brain Injury

TDD--Telephone Device for the Deaf

VI-- Visually Impaired

VR – Vocational Rehabilitation

RESOURCES

Office of Special Education
Director of Special Education
Department of Public Instruction
600 East Blvd. Ave., Dept. 201
Bismarck, ND 58505-0440
(701) 328-2277

STATE RESOURCES

PROGRAMS FOR CHILDREN WITH DISABILITIES: AGES 3 THROUGH 5

Section 619 Coordinator
Office of Special Education, Dept. of Public Instruction
600 East Blvd. Ave., Dept. 201
Bismarck, ND 58505-0440
(701) 328-2277

PROGRAMS FOR INFANTS AND TODDLERS WITH DISABILITIES: AGES BIRTH THROUGH 2

IDEA Part C Coordinator
Developmental Disabilities Division
Dept. of Human Services
1237 West Divide Avenue
Bismarck, ND 58501
(701) 328-8930

Vocational Rehabilitation
1237 West Divide Avenue, 1B
Bismarck, ND 58501
(701) 328-8950

ND Department of Career and Technical Education
600 East Blvd. Ave., 15th Floor, Dept. 270
Bismarck, ND 58505-0610
(701) 328-3180

Division of Mental Health
Dept. of Human Services
1237 West Divide Avenue, 1C
Bismarck, ND 58501
(701) 328-8940

Developmental Disabilities Division
1237 West Divide Avenue, 1A
Bismarck, ND 58501
(701) 328-8930

ND Developmental Disabilities Council
Department of Human Services
1237 West Divide Avenue, 1B
Bismarck, ND 58501
(701) 328-8953

Protection & Advocacy Project
400 East Broadway, Suite 409
Bismarck, ND 58501
(701) 328-2950; (800) 472-2670 (In ND)

Client Assistance Program
Office of Vocational Rehabilitation
600 South 2nd St., Suite 3
Bismarck, ND 58504
(701) 328-8947

Children's Special Health Services
Department of Human Services
600 East Blvd. Ave., 2nd Floor
Bismarck, ND 58505-0269
(701) 328-2436; (800) 755-2714 (In ND)

DISABILITY AGENCIES

ND Head Injury Association of North Dakota
Open Door Center
209 2nd Street SE
Valley City, ND 58072
Phone: (701) 845-1124
Fax: (701)-845-1175

ND Family to Family Network
Center for Rural Health
University of North Dakota
School of Medicine & Health Sciences Room 4909
501 North Columbia Road Stop 9037
Grand Forks, ND 58202-9037
(701) 777-2359 1-888-434-7436

North Dakota Partnerships Project
PO Box 1674
Bismarck, ND 58502-1674
(701) 223-5707 (701) 223-5932 (FAX)

North Dakota Federation of Families for Children's Mental Health
905 East Interstate Avenue
Bismarck, ND 58501
(701) 258-1921 (701) 255-2907 (FAX)

Pathfinder Parent Center (STATEWIDE SERVICES ON PARENT TRAINING & INFORMATION)
Renaissance Center # 7
3rd Street Suite 101
Minot, ND 58701
(701) 837-7500
(800) 245-5840 (In ND)
http://pathfinder-nd.org

The Arc of ND
2500 DeMers Avenue
PO Box 12420
Grand Forks, ND 58208-2420
(701) 772-6191 (877) 250-2022 (toll free)

OTHER ORGANIZATIONS

Easter Seal Society of ND
PO Box 1206
Mandan, ND 58554
(701) 663-6828

Additional Resources

The publicly funded organizations listed here may be able to assist you in understanding the procedural safeguards and other provisions of the IDEA.

Pathfinder Parent Center

Minot:	(701) 837-7500
Toll Free:	1-800-245-5840
Website:	http://pathfinder-nd.org
FAX:	1-701-837-7548

National Dissemination Center for Children and Youth with Disabilities (NICHCY)

Toll Free:	1-800-695-0285
Website:	http://www.nichcy.org/

North Dakota Protection & Advocacy (P & A) Project

Bismarck:	(701) 328-2950
Toll Free:	1-800-472-2670

North Dakota Department of Public Instruction - Office of Special Education

Bismarck:	(701) 328-2277
Toll Free:	1-866-741-3519 (including TDD)
TDD:	(701) 328-4920
Website:	https://www.nd.gov/dpi/Educators/SpecialEducation/

Appendices

APPENDIX A - NCLB and IDEA: What Parents of Students with Disabilities Need to Know and Do

APPENDIX B - Prior Written Notice

APPENDIX C - IEP Form: Ages 6-15

APPENDIX D - IEP Form: Ages 3-5

APPENDIX E - Secondary Transition IEP Form: Ages 16-21

APPENDIX F - IEP Meeting Checklist

APPENDIX G - Parental Rights for Public School Students Receiving Special Education Services: Notice of Procedural Safeguards (June 2007)

APPENDIX H - IDEA Dispute Resolution Processes Comparison Chart

APPENDIX I - Request for a Facilitated IEP

APPENDIX J - Request for Mediation

APPENDIX K - Revocation of Consent for Special Education and Related Services

Appendix A

NCLB and IDEA:
What Parents of Students with Disabilities Need to Know and Do

NCLB and IDEA:

What Parents of Students with Disabilities Need to Know & Do

NATIONAL CENTER ON EDUCATIONAL OUTCOMES

In collaboration with:
Council of Chief State School Officers (CCSSO)
National Association of State Directors of Special Education (NASDSE)

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NCLB and IDEA: What Parents of Students with Disabilities Need to Know and Do

Candace Cortiella
The Advocacy Institute

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NATIONAL CENTER ON EDUCATIONAL OUTCOMES

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This document is available in alternative formats upon request.

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Overview

The No Child Left Behind Act (NCLB) and the Individuals with Disabilities Education Act (IDEA) are two of the nation's most important federal laws relating to the education of children. While NCLB seeks to improve the education of all children—with an emphasis on children from low-income families—IDEA focuses on the individual child and seeks to ensure specialized services for children with disabilities so that they may benefit from education.

Lately, these two laws have taken on new importance to parents of students with disabilities. NCLB provisions apply to all students, including those whose disabilities require special education. So it's important that parents understand the requirements of NCLB. IDEA, in its latest update by Congress, has been more closely aligned with NCLB, making it equally important that parents become familiar with the ways the two laws have been positioned to work together to improve academic achievement of students with disabilities.

What is the No Child Left Behind Act (NCLB)?

The No Child Left Behind Act (NCLB) is the latest version of the Elementary and Secondary Education Act (ESEA), the nation's major federal law related to education in grades pre-kindergarten through high school. Congress first passed the ESEA in 1965 as part of the nation's war on poverty. The centerpiece of the ESEA, Title I, was designed to improve achievement among the nation's poor and disadvantaged students.

When NCLB was signed into law in 2002, it ushered in some of the most sweeping changes the American educational system has seen in decades. New requirements introduced in NCLB were intended to increase the quality and effectiveness not only of the Title I program, but of the entire elementary and secondary education system—raising the achievement of all students, particularly those with the lowest achievement levels.

NCLB is built on four basic principles:

- Accountability for results
- An emphasis on doing what works based on scientific research
- Expanded parental involvement and options
- Expanded local control and flexibility

Building on the standards-based reform efforts put into place under the previous version of ESEA, NCLB seeks to:

- Raise the academic achievement of all students
- Close the achievement gap between groups of students that historically perform poorly and their higher performing peers

The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments.

No Child Left Behind Act of 2001

What All States Must Do

NCLB requires all states that accept Title I funds to bring all students to a proficient level in reading and math by 2014. To achieve that goal, every state is required to:

- Develop challenging academic standards that are the same for every student
- Develop annual academic assessments for all students
- Ensure that there is a highly qualified teacher in every classroom
- Define the amount of academic progress that school districts and schools must achieve each year in order to reach the proficiency goal by 2014
- Ensure that schools and school districts test at least 95 percent of all students
- Determine a minimum size for required subgroups of students to be included in yearly progress calculations, based on technical considerations

Title I programs serve 16.5 million school children. Currently all states accept Title I funds. Almost all school districts and 55 percent of all public schools accept funds through a Title I grant. Federal funding for Title I programs was almost $13 billion in 2006.

- Ensure the availability of reasonable adaptations and accommodations for students with disabilities
- Produce an annual statewide Report Card of performance and make the report available to the public

Annual statewide assessments (or tests) of student progress are the centerpiece of the accountability principle of NCLB. Data from these assessments, combined with other important indicators, are used to determine if schools and school districts achieve adequate yearly progress (AYP).

NCLB: The bottom line

All provisions contained in NCLB are designed to hold schools, school districts, and states accountable for student achievement. By requiring that all students in the required grades participate in assessments of reading/language arts and math, schools are graded on how well students are learning the knowledge and skills defined by the content standards. By requiring that the performance of certain groups of students (subgroups) is reported, schools' grades are based on how well these particular groups of students are learning—not just the total school population. This approach holds schools accountable for the learning of all students.

Nothing in NCLB requires or even encourages states to attach "high-stakes" consequences to student achievement on large-scale assessments. Policies to make "high-stakes" decisions based on a student's performance on a state or district-wide assessment (such as receiving a standard diploma or being promoted to the next grade) are made at the state or local level, generally by state legislatures, state boards of education, or local school boards.

Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

No Child Left Behind Act of 2001

What is the Individuals with Disabilities Education Act (IDEA)?

The Individuals with Disabilities Education Act (IDEA) is the federal law dealing with the education of children with disabilities. Congress first passed IDEA in 1975, recognizing the need to provide a federal law to help ensure that local schools would serve the educational needs of students with disabilities. The law originally passed was titled the Education for All Handicapped Children Act. That first special education law has undergone several updates over the past 30 years. In 1990 the law got a new name—the Individuals with Disabilities Education Act, or IDEA. The most recent version of IDEA was passed by Congress in 2004. It can be referred to as either IDEA 2004 or IDEA.

In updating IDEA in 2004, Congress found that the education of students with disabilities has been impeded by "low expectations and an insufficient focus on applying replicable research on proven methods of teaching and learning…." Significant changes to IDEA as well as a close alignment to NCLB are designed to provide students with disabilities access to high expectations and to the general education curriculum in the regular classroom, to the maximum extent possible, in order to "meet developmental goals and, to the extent possible, the challenging expectations that have been established for all children…."

IDEA serves 6.1 million school age children and almost 1 million children ages birth to 5. Federal funding for IDEA was $10.6 billion in 2006. These funds are distributed to all states to assist with the cost of providing special education services.

The purposes of this title are to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living….

Individuals with Disabilities Education Improvement Act of 2004

What All States Must Do

IDEA requires all states that accept IDEA funds to provide a free appropriate public education to all children with disabilities in the state. To achieve that goal, every state is required to:

- Establish a goal of providing full educational opportunity to all children with disabilities and a timetable for accomplishing that goal
- Identify, locate, and evaluate all children with disabilities residing in the state who are in need of special education and related services
- Ensure that all special education teachers are highly qualified
- Evaluate every child suspected of having a disability in accordance with the requirements of IDEA
- Annually develop an individualized education program (IEP) for each child with a disability
- Provide education services in the least restrictive environment—removing children from the regular education environment only when the nature or severity of their disability makes it necessary to do so

- Provide all procedural safeguards required by IDEA to children with disabilities and their parents
- Establish goals for the performance of children with disabilities that are the same as the state's definition of adequate yearly progress (AYP) and are consistent with any other goals and standards for children established by the state
- Include all children with disabilities in all general state and districtwide assessment programs, including those assessments required by NCLB—students must be given appropriate accommodations and alternate assessments as indicated in their IEPs

The special education provided to children with disabilities must be specially designed instruction to meet the unique needs resulting from the child's disability and must enable the child to be involved and make progress in the general education curriculum.

IDEA: The bottom line

Requirements of IDEA are designed to ensure that all schools, school districts, and states provide a free appropriate public education to children with disabilities. IDEA focuses on the individual child—requiring the development of an individualized education program (IEP) outlining the specially designed instruction necessary to allow the child to participate and progress in the same curriculum as all children.

However, nothing in IDEA holds schools accountable for the progress and performance of children with disabilities. While IDEA allows parents to challenge the adequacy of special education services, the law does not contain any measures of total school performance for IDEA-eligible students, as is required by NCLB.

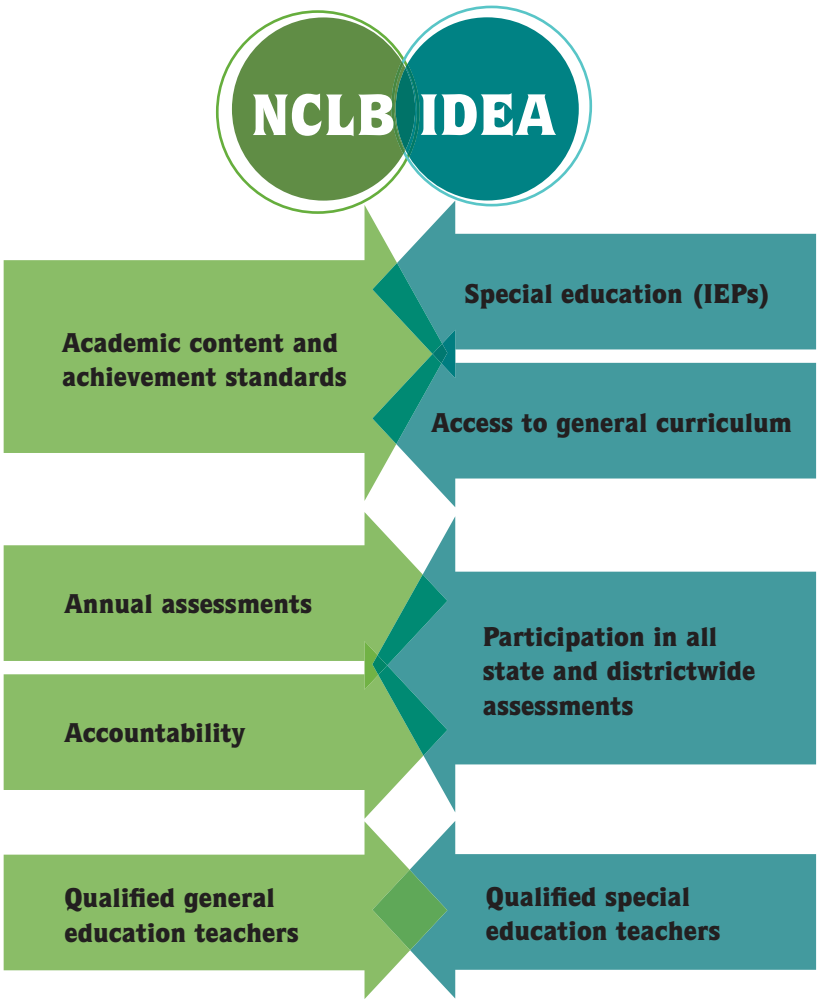
State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

Individuals with Disabilities Education Improvement Act of 2004

NCLB and IDEA: Better Together

Together, NCLB and IDEA provisions and requirements combine to provide both individualized instruction and school accountability for students with disabilities. The progress and performance of students with disabilities is now a shared responsibility of general and special education teachers. Enhanced accountability for students with disabilities has elevated them in the consciousness of school, school district, and state level administrators. Never before have the nation's federal education laws been aligned to provide such powerful opportunities for children with disabilities.

To understand this powerful connection, let's look more closely at four key ways that NCLB and IDEA work together to improve the academic performance of students with disabilities.

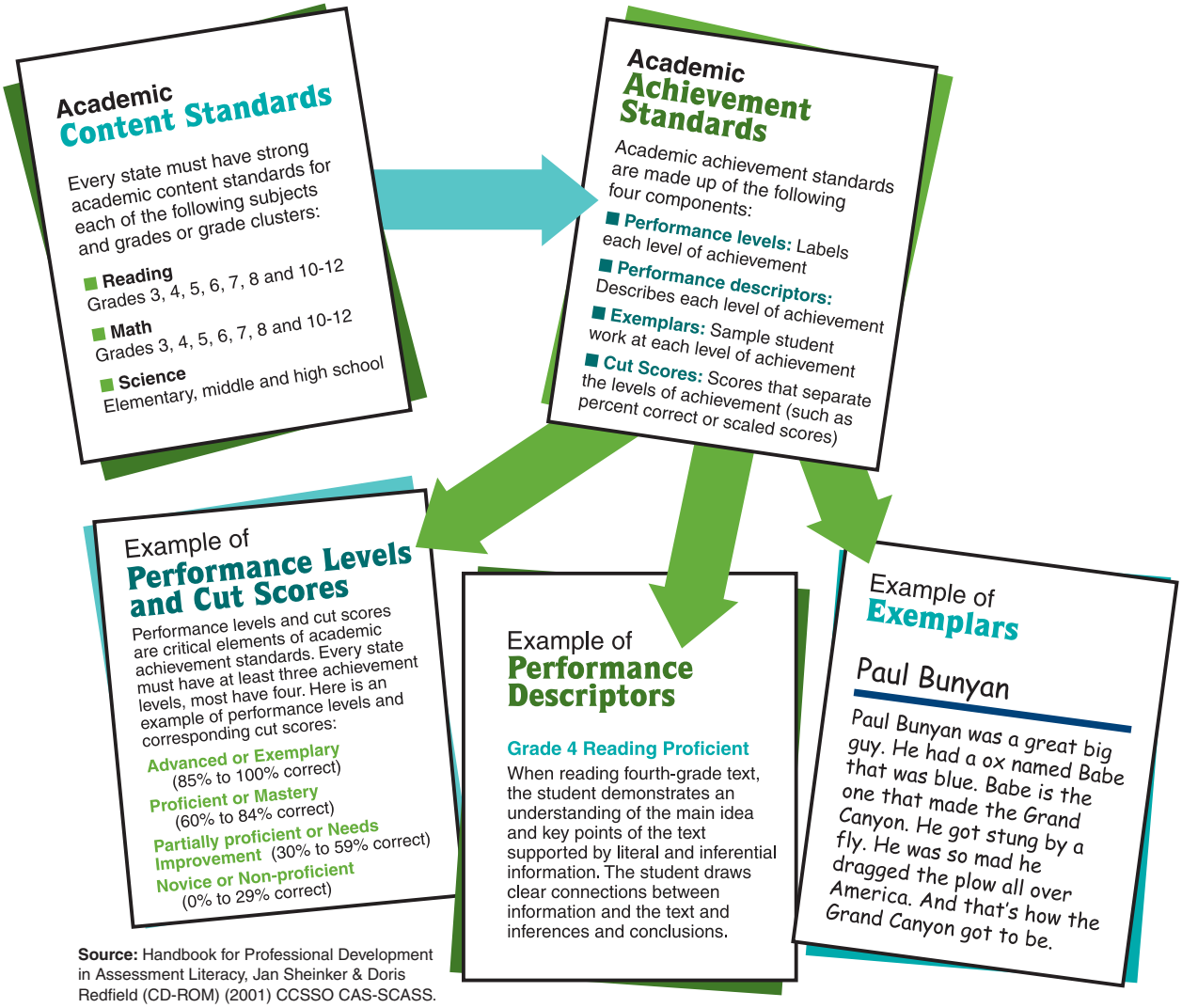


Academic Content and Achievement Standards

To Know

NCLB requires all states to have challenging academic content standards—what students need to know—and academic achievement standards—how well students need to know the content standards (see below for details). More importantly, NCLB requires that these content and achievement standards are the same for all students, including students with disabilities. It is this requirement that establishes high expectations for all students regardless of the history of their performance.

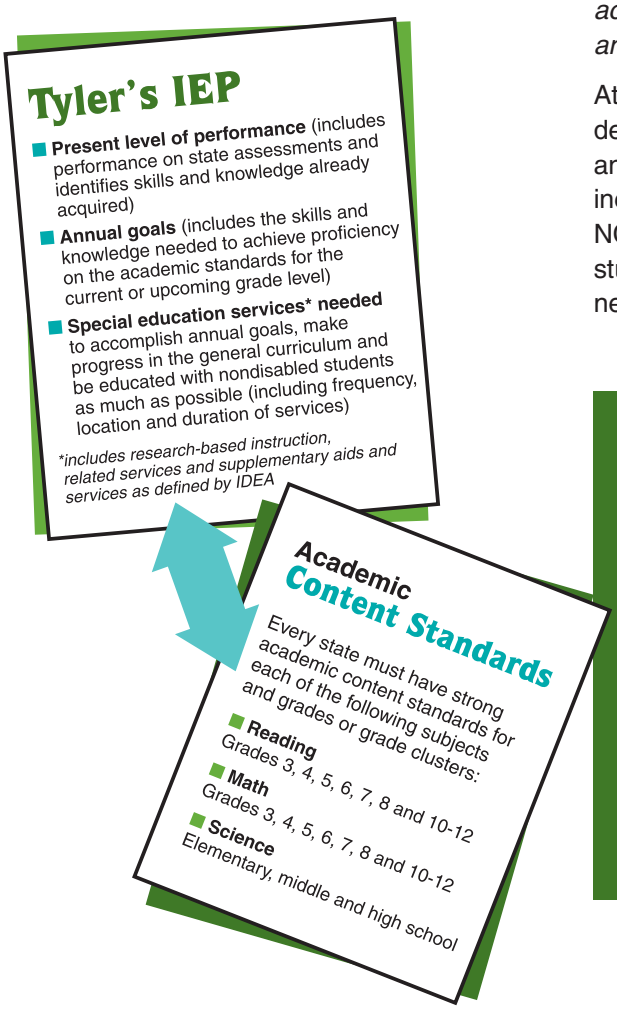
IDEA requires all states to establish performance goals and indicators to promote the progress of students with disabilities. Every student must have an individualized education program (IEP) that outlines the special education services – specially designed instruction – and related services that will be needed for the student to access and progress in the



Source: Handbook for Professional Development in Assessment Literacy, Jan Sheinker & Doris Redfield (CD-ROM) (2001) CCSSO CAS-SCASS.

general education curriculum. In the case of reading/language arts and math, the general education curriculum is based on the challenging academic content standards each state has established as required by NCLB. While the IEP is a statement of what the student needs, it is not a performance document and doesn't guarantee educational progress.

NCLB's requirement for challenging academic content standards and achievement standards for all students must be aligned with IDEA's requirement to carefully plan the specially designed instruction each student with a disability needs to participate in the general curriculum and make progress toward proficiency. This alignment ensures that students with disabilities have the extra support they need to achieve the same high standards as other students.



To Do

The individualized education programs (IEPs) of students with disabilities should be connected to the state's academic content standards. This IEP linkage—sometimes called "standards-based IEPs"—ensures that students with disabilities are working toward the same state grade-level content and skills as their grade-level peers.

The location where students with disabilities receive their specially designed instruction should ensure access to the general curriculum. Access to the general education curriculum means that students with disabilities are actively engaged in learning the content and skills that define the general education curriculum. It isn't enough to simply be *placed* in the general education classroom—students must be *actively engaged in learning the content and skills that define the curriculum.*

At the same time, each student's IEP must define how the student will participate in any state and districtwide assessments, including the state assessments required by NCLB (see box). The options for assessing students with disabilities are discussed next.

NCLB Testing Requirements

All students in grades 3 through 8 must be tested in both reading/language arts and math. In addition, high school students must be tested sometime during grades 10-12 in both reading/language arts and math.

Note: Beginning in 2008, all students must also be assessed in science once during grades 3-5, once during grades 6-9, and once during grades 10-12. However, schools are not held accountable for student performance on science assessments.

Annual Assessments

To Know

NCLB requires every state to implement annual assessments in reading/language arts and math in grades 3 through 8 and at least once in grades 10-12. Science assessments are also required beginning in 2008. (See box on page 12.) The assessments must be aligned with the challenging state academic content standards and based on academic achievement standards that have been set by the state.

Results of this testing must be reported for the overall school and must also be disaggregated, or broken out, by specific groups of students that historically underachieve. These groups are known as "subgroups." A student's performance data are included in every applicable subgroup.

The performance of subgroups is only reported if the number of students in the subgroup meets or exceeds the minimum set by the state. The minimum size of each subgroup varies greatly among states.

IDEA requires students with disabilities to participate in all state assessments. If a state has a more comprehensive assessment program than required by NCLB, IDEA requires that students with disabilities participate in those assessments as well.

The required subgroups that must be reported are:

- Students from major racial/ethnic groups
- Economically disadvantaged students
- Students with limited English proficiency
- Students with disabilities (eligible for services under IDEA)—such students must have an IEP in place annually

The results of the testing, along with other indicators such as attendance and graduation rates, are used to determine if schools are providing substantial and continuous improvement in the academic achievement of its students and to determine if schools are making AYP.

NCLB expects that the vast majority of students with disabilities will participate in the same assessment as all other students. Some may need accommodations such as extra breaks, reading the math test, or a braille edition (see page 14). However, the academic content being tested and the achievement standard that is expected does not differ from that of all other students.

There are several options available to students with disabilities to participate in the regular assessments—the same assessments that all students take.

Regular Grade-level Assessment

Most likely, many students with disabilities will participate in either:

- **Regular grade-level state assessment**

or

- **Regular grade-level state assessment with accommodations**

Accommodations for Students with Disabilities

States must provide appropriate accommodations that are needed by students with disabilities to fully participate in state and districtwide assessments. Accommodations level the playing field so that the test measures what a student knows and can do and not the effect of the child's disability.

IDEA requires every state to establish guidelines for accommodations to make sure that students use only accommodations that produce a score that is valid for school accountability purposes. For example, if the reading assessment is supposed to measure how well a student can decode text, then reading the test aloud to the student as an accommodation would result in an invalid score on the test because the accommodation would interfere with the skill being measured. If, however, the skill is comprehension of text, reading the test aloud might be a permissible accommodation.

Accommodations used in state and districtwide assessments should mirror those used in day-to-day classroom instruction and classroom tests, to the extent possible. An accommodation should never be introduced for the first time in a state assessment. The student's IEP team must make decisions about the accommodations needed on state assessments. These accommodations must be clearly listed in the student's IEP.

Accommodations are generally grouped into the following categories:

- **Presentation** (e.g., repeat directions, read aloud, use of larger bubbles on answer sheets)
- **Response** (e.g., mark answers in book, use reference aids, point, use of computer)
- **Timing/Scheduling** (e.g., extended time, frequent breaks)
- **Setting** (e.g., study carrel, special lighting, separate room)

Alternate Assessment on Grade-level Achievement Standards

An alternate assessment based on grade-level achievement standards (with or without accommodations) assesses the same content as a regular grade-level assessment and holds the student to the same expectations based on the ***same*** definition of proficiency. However, unlike the regular assessment, this option provides different ways for students to show what they know. Results from such an assessment are treated in the same manner as results from regular assessments. There is no limit to the numbers of students who can be assessed in this manner. This option, however, is not available in all states.

Some students with disabilities have never been taught academic skills and concepts, for example, reading, mathematics, science, and social studies, even at very basic levels. Yet all students are capable of learning at a level that engages and challenges them. Teachers who have incorporated grade level content standards into their instruction cite unanticipated gains in students' performance and understanding. Furthermore, some individualized social, communication, motor, and self-help skills can be practiced during activities based on the content standards.

Office of Special Education Programs, U.S. Department of Education

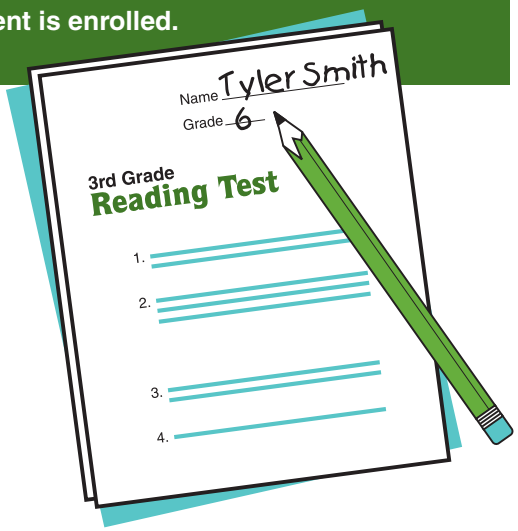
Alternate Assessment on Alternate Achievement Standards

NCLB recognizes that some students may have significant cognitive disabilities that prevent them from attaining grade-level achievement standards, even with the very best instruction. For such students, NCLB allows an **alternate assessment based on alternate achievement standards**—in other words, an assessment that measures student progress on state grade-level content standards but at reduced breadth, depth, or complexity, and judged against a ***different*** definition of proficiency from the regular assessment. Instruction for these students should be linked to the same challenging academic content standards that apply to their same age peers. This linkage ensures that students with the most significant cognitive disabilities are given access to academic skills and concepts—something that has been missing from much of their instructional program until now.

An alternate assessment based on alternate achievement standards measures student progress on state grade-level content standards at a reduced breadth, depth, and complexity, and is judged against a *different* definition of proficiency. A student's participation will likely be supported by assistive technologies, prompting, or scaffolding.

Out-of-Level Testing

Out-of-level testing generally refers to the practice of giving a student a test intended for students at a lower grade level. Out-of-level testing is often associated with lower expectations for students with disabilities, tracking such students into lower-level curricula with limited opportunities. It may also limit student opportunities for advancing to the next grade or graduating with a regular high school diploma. According to the National Center on Educational Outcomes, research does not support the use of out-of-level test scores from state assessments when measuring student proficiency on standards for the grade level in which a student is enrolled.



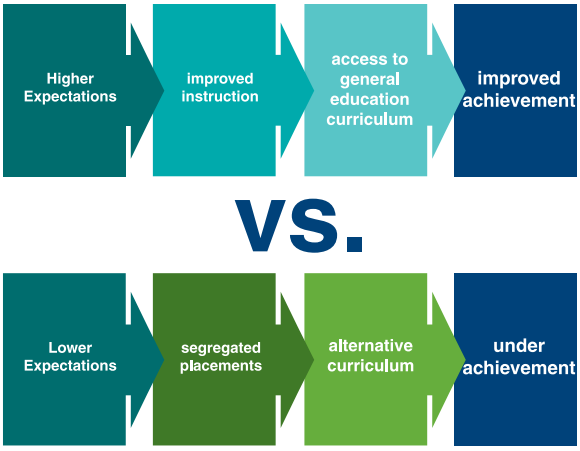
As with all other assessment options, the decision that a student will participate in an alternate assessment based on alternate achievement standards is made by the IEP team—including the parents. NCLB places a limitation on the scores of students assessed using this option that can be used in a school district's AYP calculation. This limitation is based on research about students with significant cognitive disabilities—including the numbers of such students within the general population—and is designed to ensure that only those students who truly need this type of assessment are assigned to participate in this manner. Out-of-level testing (see box) is considered an alternate assessment based on alternate achievement standards, and the scores of students assessed in this manner are subject to the same limitation. Rigorous standard-setting criteria and other considerations must be met before out-of-level testing can be used as an alternate assessment based on alternate achievement standards.

Additional assessment options are under consideration at this time.

To Do

IEP teams must make careful decisions about how a student will participate in state and districtwide assessments. A student's participation at the most challenging level will ensure that every student is being provided with full access to the general curriculum, appropriate accommodations, and high expectations.

IEP teams must also make careful decisions about the accommodations a student needs in order to participate in regular assessments. State guidelines on accommodations should be reviewed and selected accommodations should result in a valid score on the test. Accommodation decisions should not be made based on a student's disability or placement or on the school's ability to administer the accommodation.



Each state is required to establish clear guidelines for IEP teams to use when deciding if a student should be assessed using an alternate assessment based on alternate achievement standards. These guidelines should provide parameters and direction to ensure that students are not assessed based on their placement, their disability category, or their racial or economic background.

An assessment should not be selected because the student has not been exposed to the material on the test, because the student's placement has restricted access to the general curriculum, or the student's teacher isn't qualified to teach the academic content being tested. A decision should not be made based on whether the assessment option will help a school's AYP calculations.

Understanding the implications of each assessment option is a critical component of making a wise decision. Some assessment options may eventually mean that the student will not be able to earn a regular diploma because of a state's requirements for awarding diplomas. While NCLB doesn't require or even encourage that the results of assessments required by NCLB should be used to make decisions regarding a student's promotion or graduation, many states have policies in effect that link a student's performance on state assessments with grade promotion or graduation with a standard diploma. Also, in many states, the same high school assessment is used to make graduation decisions and to satisfy the NCLB requirement for an assessment in reading/language arts and math once between grades 10 and 12.

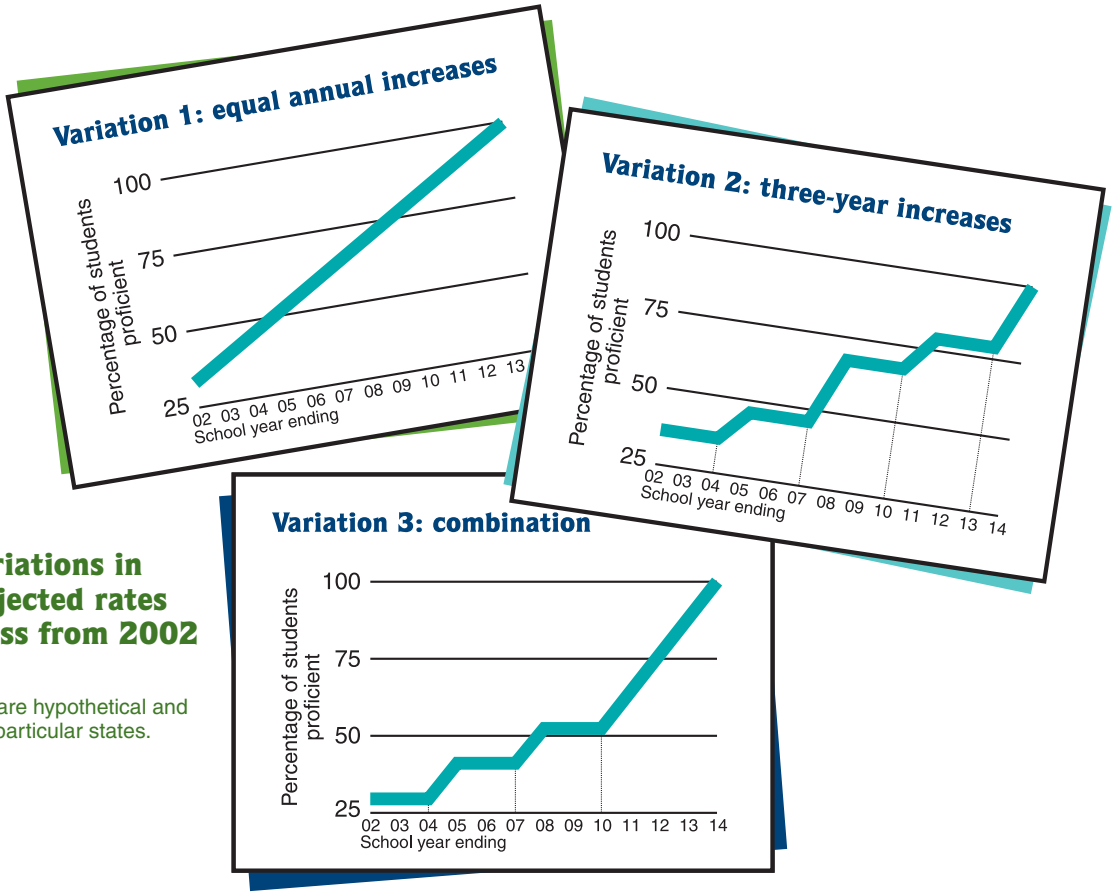
School Accountability

To Know

NCLB's school accountability system is based on three components—Annual Measurable Objectives, Adequate Yearly Progress, and Report Cards. Much of what makes up AMO and AYP is set by individual states—just as the specifics of the academic content standards and academic achievement standards.

Annual Measurable Objectives. In order to reach NCLB's goal of all students achieving at the level of proficiency or better by the year 2013-2014, each state must set annual targets that ultimately lead to the 100% goal. These targets—called Annual Measurable Objectives or AMOs—represent the percentage of students who must perform at the proficient level each year. As the charts below indicate, some states have AMOs that increase every year, some have AMOs that increase every three years, and some have AMOs that expect slow growth in the early years then very quick growth in the years approaching 2014.

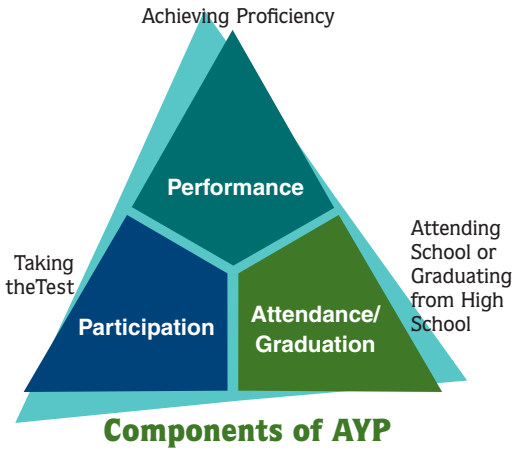
Adequate Yearly Progress. Adequate Yearly Progress (AYP) is the term used to describe the achievement of the AMO. The results of student assessments, both



Three variations in state projected rates of progress from 2002 to 2014

Note: Graphs are hypothetical and do not reflect particular states.

overall and by subgroups, plus two other components, contribute to AYP—student participation and one other measure, generally attendance rates in elementary schools and graduation rates in high schools.

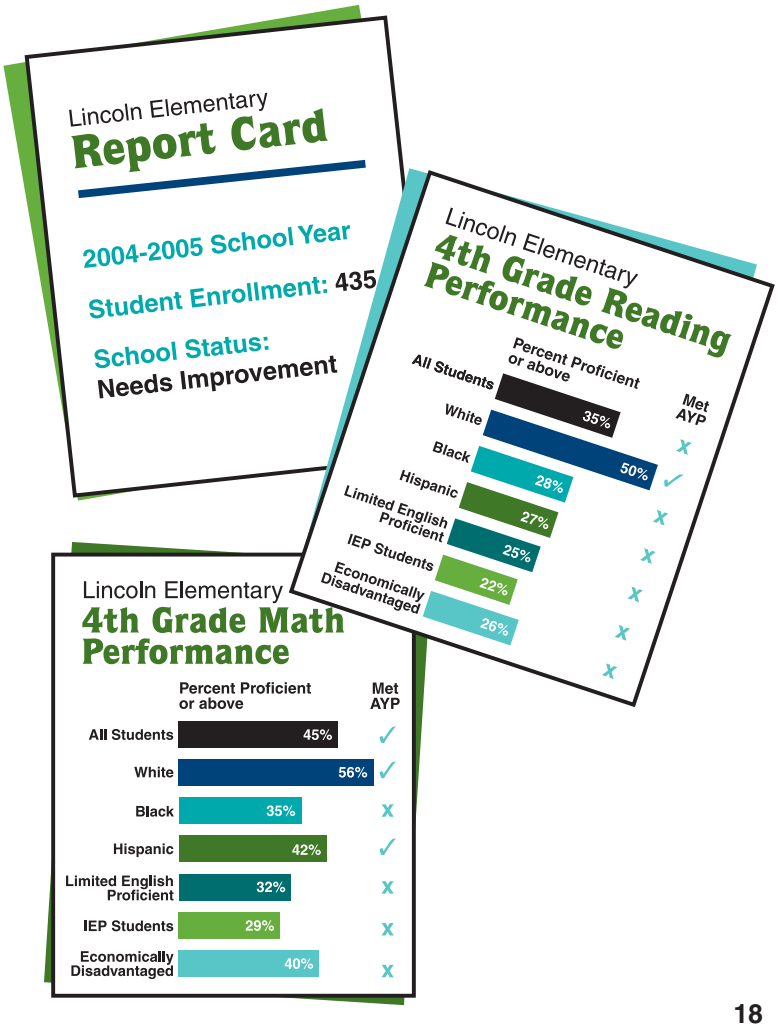


Report Cards. Every year, every school must issue a report card to the public that details the school's performance in each AYP element for the total school and for each subgroup of students. For schools that directly receive Title I funding, the AYP performance is also used to make determinations about offering learning alternatives to students—such as opportunities to change schools or receive supplemental instruction such as after school tutoring.

In addition to the school report cards issued to the public, parents receive a report about the individual performance of their child on the state assessments required by NCLB. These individual reports should be used by schools and teachers to plan instructional changes that will improve the student's performance. Data from the statewide assessments should be supplemented with classroom data to ensure you have a full picture of how your child is doing.

To Do

School report cards should be used to learn how the school is performing—both in terms of overall student achievement and the achievement of students with disabilities. The NCLB requirement that schools separate out the performance of several important subgroups of students—including students with disabilities—is essential to learning what lies beneath the total school performance. Too often the total school performance indicates adequate, even outstanding, performance while certain groups of students within the school population are in fact doing very poorly. NCLB's requirement to report the performance of students with disabilities is critical to improving achievement for these students.



Highly Qualified Teachers

To Know

NCLB recognizes that student performance is directly linked to effective teaching. In order to improve teacher quality, NCLB introduced requirements for every teacher of core academic subjects. These requirements are intended to elevate the quality of the nation's teaching force and that quality is expected to have a positive impact on the achievement of all students.

Following this same principle, IDEA also now sets qualification requirements for all special education teachers. Additionally, for the first time, special education teachers who teach core academic subjects to students with disabilities – without the support or collaboration of a general education teacher – must be highly qualified in both the academic subject(s) and special education. This requirement is intended to provide students with disabilities who receive instruction outside of the general education classroom the same access to teachers who are qualified in academic content as all other students. While most students with disabilities spend much of their instructional time in general education classrooms (see box), those who receive instruction in academic subjects from special education teachers deserve the same opportunity to receive that instruction from teachers who are qualified.

Core Academic Subjects

- English
- Reading or language arts
- Mathematics
- Science
- Foreign languages
- Civics/Government
- Economics
- Arts
- History
- Geography

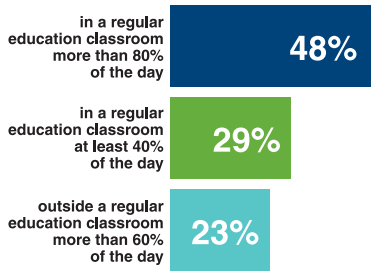
Special education is not a core academic subject.

To Do

The new requirements for teacher qualifications are central to improving students' performance. While special education teachers possess a unique set of skills, such as understanding of curriculum accommodations and adaptations as well as knowledge about disabilities themselves, teaching core academic skills such as reading and math require additional training. Now, NCLB and IDEA teacher quality requirements combine to ensure that students with disabilities get quality instruction.

Parents should inquire about the qualifications of their student's teachers —both general education and special education teachers. If a student is receiving instruction in academics such as reading and math from a special education teacher, inquire about the teacher's qualifications to teach the academic content.

Where Students with Disabilities Spend Their School Day



Source: 26th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act 2004

Frequently Asked Questions

Q. Why shouldn't IEP teams be able to exempt a student from taking the assessments required by NCLB?

A. The full participation requirement of NCLB is a key part of the school accountability system. Only by requiring that schools include all students—including those with disabilities—in the assessments will the performance and progress of all students be of equal importance to schools. As U.S. Department of Education Secretary Spellings has said, "What gets measured gets done." Too often in the past, students with disabilities were excluded from assessments and accountability systems, and the consequence was that they did not receive the academic attention and resources they deserved.

Q. My child's school told me that my child will not receive a standard diploma unless he can pass the test required by NCLB.

A. NCLB is strictly about school accountability. Furthermore, the federal government does not set requirements for grade promotion or graduation. Such requirements and policies are set at the state level. While some states may use the same tests to satisfy NCLB's testing requirements and make decisions about students as required by state or local policies, parents should not confuse the requirements of NCLB with those of their individual state or local school district.

Q. Why can't adequate yearly progress for students with disabilities be determined by the attainment of their IEP goals?

A. There are several reasons why IEP goals are not appropriate for school accountability purposes. In general, IEP goals are individualized for each student and may cover a range of needs beyond reading/language arts and mathematics, such as behavior and social skills. They are not necessarily aligned with state standards, and they are not designed to ensure consistent judgments about schools—a fundamental requirement for AYP determinations. The IEP is used to provide parents with information about their child's progress and for making individualized decisions about the special education and related services a student needs to succeed. Assessments used for school accountability purposes must be aligned to state content and achievement standards.

Frequently Asked Questions

Q. Why are some accommodations not allowed on state assessments? Shouldn't my child be given any accommodation that will help him?

A. Some accommodations invalidate the test by compromising the skill that is being tested. Only by truly measuring the skill can the results of the test be meaningful and valid. These scores can then be used to make school AYP determinations and improvements to the instruction of individual students. Students with invalid scores must be counted as "non-participants" in AYP determinations.

Q. I hear that many schools fail to make AYP only because of students with disabilities. Isn't it unfair to expect students in special education to achieve the same level of proficiency as other students?

A. There is no clear evidence that schools are failing to make AYP only because of the performance of students with disabilities. The picture of AYP attainment is very cloudy in many states, due to complex state accountability formulas. Most students in special education can and should be expected to reach the same level of proficiency in reading and math as all other students—especially when provided with the appropriate level of specialized, individualized instruction, related services and accommodations. This additional support—provided to them because of their disability—is what allows them to achieve the same as other students. For the small number of special education students who may not be able to participate in the general assessments required by NCLB there are options that states have available to them. These alternates provide ample flexibility for schools and school districts. Given this flexibility, it is critical that the performance of special education students be a component of AYP achievement. Without such accountability for this and other subgroups of students, schools may not provide the necessary level of attention to the instruction of these students.

Q. Will the requirement to include the assessment results of students with disabilities lead to schools attempting to exclude these students?

A. The assessment options allowed by NCLB provide adequate alternate assessments for students with disabilities who need an alternate achievement standard to demonstrate their grade-level content knowledge and skills in reading/language arts and math. In addition, the limitations placed on the alternate assessment option do not apply at the school level, only at the district and state level. So individual schools should not have any incentives to exclude students with disabilities.

Glossary

Accommodations
Tools and procedures that provide equal access to instruction and assessment for students with disabilities. Designed to "level the playing field" for students with disabilities, accommodations are generally grouped into the following categories:

- Presentation (e.g., repeat directions, read aloud, use of larger bubbles on answer sheets, etc.)
- Response (e.g., mark answers in book, use reference aids, point, use of computer, etc.)
- Timing/Scheduling (e.g., extended time, frequent breaks, etc.)
- Setting (e.g., study carrel, special lighting, separate room, etc.)

Adequate Yearly Progress (AYP)
Annual improvement that states, school districts, and schools must make each year in order to reach the NCLB goal of having every student proficient by the year 2014. The AYP requirement holds schools accountable for continuous progress in student achievement.

Annual Statewide Academic Assessment
Another word for student "testing," annual statewide academic assessments are used to measure student performance and progress. Annual assessments must be aligned with your state's challenging academic content standards and based on challenging academic achievement standards.

Achievement Data by Subgroup
Student performance data sorted into student subgroups. The NCLB requirement for this disaggregated data is designed to help school districts and schools close the achievement gap between subgroups of children who historically underachieve and their better performing peers. In order to make AYP, schools must test at least 95 percent of their students in each of the subgroups.

Disability Categories
IDEA disability categories include autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment (e.g., asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia), specific learning disability, (e.g., perceptual disabilities, brain Injury, minimal brain dysfunction, dyslexia, developmental aphasia), speech or language impairment, traumatic brain injury, visual impairment (including blindness), and developmental delay.

Free Appropriate Public Education (FAPE)
Special education and related services that are provided at public expense, under public supervision and direction, and without charge to the parent, and that meet the standards of the state education department. Special education and related services must be provided in conformity with an Individualized Education Program (IEP) as required by IDEA.

General Education Curriculum
The body of knowledge and range of skills that all students in the state are expected to master.

Individualized Education Program (IEP)
A written statement for each child with a disability that is developed, reviewed, and revised according to the requirements of IDEA.

Out-of-Level Testing (OOLT)
Out-of-level testing typically means that a student who is in one grade is assessed using a level of a test developed for students in another grade. Below-grade-level testing is almost universally what is meant when the term "out-of-level testing" is used.

Special Education
Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

Specially Designed Instruction
Ways that special education professionals adapt the content, methodology (approaches to teaching certain grade level content), or the delivery of instruction to address the unique needs that result from the child's disability. Specially designed instruction should also ensure that the eligible child has access to the general curriculum so that he or she can meet the educational standards of the school district that apply to all children.

State, District, and School Report Cards
Annual reports that include specific information about the academic achievement of students —both overall and by subgroup—as well as information about teacher qualifications and other indicators of academic quality.

Resources

Making the 'No Child Left Behind Act' Work for Children Who Struggle to Learn: A Parent's Guide, National Center for Learning Disabilities. Available at www.LD.org/NCLB

Determining Appropriate Assessment Accommodations for Students with Disabilities, National Center for Learning Disabilities. Available at www.LD.org/NCLB

No Child Left Behind: Understanding Assessment Options for IDEA-eligible Students, National Center for Learning Disabilities. Available at www.LD.org/NCLB

Working Together For Students With Disabilities: Individuals With Disabilities Education Act (IDEA) And No Child Left Behind Act (NCLB) Frequently Asked Questions, U.S. Department of Education (December 2005). Available at www.ED.gov

Alternate Achievement Standards For Students With The Most Significant Cognitive Disabilities Non-Regulatory Guidance, U.S. Department of Education (August 2005). Available at www.ED.gov

Appendix B

Prior Written Notice

Prior Written Notice

Date_____
(*Month, Day, Year)*

To_____

From_____
(*Name, Title, Location, School)*

Re_____
(*Student)*

The following action(s) as checked below, are being considered.

☐ 1. Initial evaluation
☐ 2. Three year reevaluation of your child's continued need for special education services
☐ 3. Additional evaluation to determine student needs/programming
☐ 4. Discussion of evaluation results, development of the Integrated Written Assessment Report, and determination whether your child has a disability under IDEA
☐ 5. Development of an initial Individualized Education Program (IEP) for your child. You may invite individuals with knowledge or special expertise about your child. This will include a transition plan if your child will turn 16 years of age within the coming year or if your child is 16 or older.
☐ 6. Review or revision of your child's Individualized Education Program (IEP). This will include a transition plan in the year your child turns 16 and thereafter.
☐ 7. Graduation or dismissal/exit from special education services.
☐ 8. Transfer of educational rights to student at age of majority.
☐ 9. Other considerations_____

THE ACTION WILL TAKE EFFECT _____/_____/_____

The following actions apply to this notice and a description is given below:

1. This action is being proposed/rejected because_____
_____

2. Prior to this proposal the following actions were considered_____
_____
_____

3. The options stated in item 2 were rejected because_____
_____
_____

4. The action stated in item 1 is based on the following evaluation procedures, tests, records or reports___
_____
_____

5. Other factors relevant to the action proposed above are_____
_____

Please note the following checked items:

☐ 1. Sign and return the CONSENT FOR EVALUATION form. (Tests to be used are noted on the attached form.)

☐ 2. Complete the enclosed _____ and return it to us.

☐ 3. Arrange to meet with the team as described below, to discuss the proposed actions.

☐ 4. A copy of the *"Parental Rights for Public School Receiving Special Education Services – Notice of Procedural Safeguards"* is enclosed.

A copy of this booklet must be given to you at least one time per year. You may also obtain a copy of this booklet at any time from your local special education office.

If you have questions about the information provided, or want help in understanding these procedural safeguards, please contact me.

Please call_____at_____

Between the hours of _____and_____

Proposed Meeting Arrangements

Date_____ Time_____ Location_____

At the present time we anticipate the following required IEP Team Members will be meeting with us. These members of the IEP Team require agreement or consent in writing to be excused from the IEP meeting:

- Regular educator (Not less than one)_____
- Special Educator _____
- Individual to interpret Instructional implications of Evaluation results _____
- Authorized Representative of the LEA _____

At the present time we anticipate the following IEP Team Members will be meeting with us. The following members of the IEP Team do **NOT** require agreement or consent in writing to be excused from the IEP meeting:

_____ _____

_____ _____

If the development of an IEP will include transition planning your child will be invited to attend. Please encourage this participation.

Please let me know if this is a convenient time for you so we can finalize plans for the meeting. If you wish

Appendix C

IEP Form: Ages 6-15

Any ND Public School
Special Education Department
100 North Education St.
Anywhere, ND 58502

Individualized Education Program

Age 6-15

IEP Meeting Date:
/ /

A. Student-Last Name	First Name	MI	Birthdate (M/D/YYYY) / /	Gender ☐ M ☐ F

Grade	Race	Student's Primary Language or Communication Mode

Current Address	City	State ND	Zip	Phone Number
Serving School	City	State	Zip	School Phone Number

District of Residence (If different from serving district)	Check items that apply ☐ Open enrolled in same district ☐ Open enrolled in another district ☐ Agency Placed ☐ Home Education

B. Name of Parent(s)	Home Phone Number - -	Other Phone Number - -
Guardian/Foster Parent	Primary Lang. Spoken at home	Parent's Email address

C. IEP Case Manager	Case Manager email address	Phone Number - -

IEP TYPE ☐ Initial ☐ Annual review/revision

Primary Disability
Secondary Disability

Date of Last Comprehensive Individual Assessment Report

☐ A copy of the "*Parental Rights for Public School Students receiving Special Education Services – Notice of Procedural Safeguards*" was provided.

	Names of All Team Members	Indicate Attendance
Parent *		☐ Yes ☐ No
Parent		☐ Yes ☐ No
Student		☐ Yes ☐ No
Administrator/Designee/District Representative (Required)		☐ Yes ☐ No
Special Education Teacher or Special Education Provider (Required)		☐ Yes ☐ No
General Education Teacher (Required)		☐ Yes ☐ No
Individual to Interpret Instructional Implications of Evaluation Results (Required)		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

*** If meeting occurred more than one year since previous IEP meeting, explain:**

D. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked *yes* must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
   - ☐ Yes. The IEP team must consider the language needs of the child as those needs relate to the child's IEP.
   - ☐ No. The team has considered the child is not a child with limited English Proficiency.

2. Is the child blind or visually impaired?
   - ☐ No. The team has considered and the child is not a child with blindness or a vision impairment.
   - ☐ Yes. The IEP team must provide instruction in Braille and the use of the 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.

3. Is the student deaf or hard of hearing?
   - ☐ No. The team has considered and the child is not a child with deafness or hard of hearing.
   - ☐ Yes. The IEP team must 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.

4. Does the student have communication needs?
   - ☐ No. The team has considered and the child is not a child with communication needs.
   - ☐ Yes. The IEP team must consider the communication needs of the child and address those needs in the IEP (i.e. present level, adaptations of educational services, annual goals, etc.).

5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
   - ☐ No
   - ☐ Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
   - ☐ Yes

6. Does the child's behavior impede the child's learning or the learning of others?
   - ☐ No
   - ☐ Yes. The IEP team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior.

E. Present Levels of Academic Achievement and Functional Performance

The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources including parents. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum. Performance areas to be considered are:

Cognitive Functioning
Academic Performance
Communicative Status
Physical Characteristics
Emotional/Social Development
Adaptive Characteristics
Ecological Factors (functional and community participation)
Other

F. Annual Goals, Short-term objectives, and Periodic review of services

Annual Goal # of goals

Intent/purpose	
Behavior	
Ending Level	
Characteristics of services	

Will a graph be used to report progress toward the annual goal and associated objectives? ☐ Yes ☐ No

Baseline Data Point: **Start Date of Monitoring:**

Target for Success: **End Date of Monitoring:**

Short-Term Objectives and Characteristics of Services:
Objectives are required for those students who participate in the ND Alternate Assessment.

Conditions under which the behavior is performed
Specific behavior

Measurable criteria

Evaluation procedures

Schedules for determining if objectives are being achieved

Characteristics of services

How and when periodic progress reports will be provided:

G. Adaptation of Educational Services

Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g. grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must be given to the special factors indicated in section D of the IEP.

Describe the student's participation in district and North Dakota State Assessment.

☐ Student will participate without accommodations.
☐ Student will participate with approved accommodations specified in Adaptation of Education Services area.
☐ Student will participate in an alternate assessment.
☐ Student will participate without accommodations in the content area(s) of:

and in alternate assessment in the content area(s) of:

Justification for not participating in district or North Dakota State Assessment and why the particular alternate assessment selected is appropriate. Objectives must be provided for those students participating in alternate assessment.

H. Description of Activities with Students Who Are Not Disabled

Physical Education. Indicate type of physical education program that the student receives:
☐ regular P.E. ☐ adaptive/specially designed P.E.

Participation in Academic and Nonacademic Activities:
Check any program options in the boxes below in which the student will be participating with students who do not have disabilities.

Program Options		**Comments:**
☐ Art.	☐ Trade and Industrial Education	
☐ Music	☐ Vocational Education	
☐ Family/Consumer Science	☐ Other _____	

Nonacademic and Extracurricular Services and Activities		**Comments:**
☐ Counseling	☐ Recreation	
☐ Employment Referrals	☐ Special Interest Groups	
☐ Athletics	☐ Other _____	
☐ School Sponsored Clubs		
☐ Transportation		

Appendix D

IEP Form: Ages 3-5

Any ND Public School
Special Education Department
100 North Education St.
Anywhere, ND 58502

Individualized Education Program

Age 3-5

IEP Meeting Date: / /

A. Student-Last Name	First Name	MI	Birthdate (M/D/YYYY)	Gender ☐ M ☐ F

Grade	Race	Student's Primary Language or Communication Mode

Current Address	City	State ND	Zip	Phone Number
Serving School	City	State	Zip	School Phone Number

District of Residence (If different from serving district)	Resident School Building (Plant)	Check items that apply ☐ Transferred within district ☐ Open enrolled from another district ☐ Agency Placed ☐ Home Education

B. Name of Biological/Adoptive Parent		Home Phone Number	Other Phone Number
Current Address	City	State	Zip
☐ Surrogate ☐ Guardian ☐ Foster Parent ☐ Individual Acting in Place of Parent		Primary Lang. Spoken at home	Parent's Email address

C. IEP Case Manager	Case Manager email address	Phone Number

IEP TYPE ☐ Initial ☐ Annual review/revision	Primary Disability Secondary Disability
If initial IEP, is this child transitioning from Part C services? ☐ Yes ☐ No	Date of Last Comprehensive Individual Assessment Report

☐ A copy of the "*Parental Rights for Public School Students receiving Special Education Services – Notice of Procedural Safeguards*" was provided.

	Names of All Team Members	Indicate Attendance
Parent *		☐ Yes ☐ No
Parent		☐ Yes ☐ No
Student		☐ Yes ☐ No
Administrator/Designee/District Representative (Required)		☐ Yes ☐ No
Special Education Teacher or Special Education Provider (Required)		☐ Yes ☐ No
General Education Teacher (Required)		☐ Yes ☐ No
Individual to Interpret Instructional Implications of Evaluation Results (Required)		☐ Yes ☐ No

* If the parent did not attend the IEP meeting or the IEP was held late, describe efforts to arrange a mutually agreed upon time and place.

D. Present Levels of Academic Achievement and Functional Performance for Students Ages 6-21
The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources including parents. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum. Performance areas to be considered are:
Cognitive Functioning
Academic Performance
Communicative Status
Motor Ability
Sensory Status
Health/Physical Status
Emotional and Social Development
Behavior Skills (including Adaptive Behavior if applicable)
Ecological Factors (functional and community participation)

E. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked *yes* must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
   - ☐ Yes. The IEP team must consider the language needs of the child as those needs relate to the child's IEP.
   - ☐ No. The team has considered the child is not a child with limited English Proficiency.

2. Is the child blind or visually impaired?
   - ☐ No. The team has considered and the child is not a child with blindness or a vision impairment.
   - ☐ Yes. The IEP team must provide instruction in Braille and the use of the 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.

3. Is the student deaf or hard of hearing?
   - ☐ No. The team has considered and the child is not a child with deafness or hard of hearing.
   - ☐ Yes. The IEP team must 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.

4. Does the student have communication needs?
   - ☐ No. The team has considered and the child is not a child with communication needs.
   - ☐ Yes. The IEP team must consider the communication needs of the child and address those needs in the IEP (i.e. present level, adaptations of educational services, annual goals, etc.).

5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
   - ☐ No
   - ☐ Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
   - ☐ Yes

6. Does the child's behavior impede the child's learning or the learning of others?
   - ☐ No
   - ☐ Yes. The IEP team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior.

F. Annual Goals, Short-term objectives, and Periodic review of services

Annual Goal # of goals

Intent/purpose	
Behavior	
Ending Level	
Characteristics of services	

Will a graph be used to report progress toward the annual goal and associated objectives? ☐ Yes ☐ No

Baseline Data Point: **Start Date of Monitoring:**

Target for Success: **End Date of Monitoring:**

Short-Term Objectives and Characteristics of Services:

Objectives are required for those students who participate in the ND Alternate Assessment.

Conditions under which the behavior is performed

Specific behavior

Measurable criteria

Evaluation procedures

Schedules for determining if objectives are being achieved

Characteristics of services

How and when periodic progress reports will be provided:

G. Adaptation of Educational Services

Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g. grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must be given to the special factors indicated in section E of the IEP.

Describe the student's participation in district and North Dakota State Assessment.

☐ Grade not tested
☐ Student will participate in North Dakota State Assessment without accommodations.
In the following subject areas:
☐ Student will participate in North Dakota State Assessment with approved accommodations specified in Adaptation of Education Services area.
In the following subject areas:
☐ Student will participate in the North Dakota Alternate Assessment I.
In the following subject areas:
☐ Student will participate in the North Dakota Alternate Assessment II.
In the following subject areas:

Justification for not participating in district or North Dakota State Assessment and why the particular alternate assessment selected is appropriate. Objectives are required for those students who participate in the ND Alternate Assessment I and highly recommended for ND Alternate Assessment II.

H. Description of Activities with Students Who Are Not Disabled

Physical Education. Indicate type of physical education program that the student receives:
☐ regular P.E. ☐ adaptive/specially designed P.E.

Participation in Academic and Nonacademic Activities:
Check any program options in the boxes below in which the student will be participating with students who do not have disabilities.

Program Options	**Comments:**
☐ Art.	
☐ Music	
☐ Library/Story Time	
☐ Other	

Nonacademic and Extracurricular Services and Activities	**Comments:**
☐ Special Events	
☐ Meals/Snack Time	
☐ Motor Activities	
☐ Play Groups	
☐ Social/Family Celebrations	
☐ Other	

I. Educational Environment

Note: Use this setting information to check the federal child count code. By selecting one of the eight categories, the IEP team affirms that they have considered the continuum of services and the selected setting is believed to be the most appropriate environment for the student.

SETTING:

(A) Children attending a regular early childhood program

- ☐ A1. In the regular early childhood program at least 80% of time
- ☐ A2. In the regular early childhood program 40% to 79% of time.
- ☐ A3. In the regular early childhood program less than 40% of time

(B) Children not attending a regular early childhood program or kindergarten

Attending a special education program

- ☐ B1. Separate class.
- ☐ B2. Separate school
- ☐ B3. Residential facility

Not attending a special education program

- ☐ B4. Home
- ☐ B5. Service Provider Location

Justification for the team's decision. The IEP team must document why the options selected in determining the environmental setting are the most appropriate and least restrictive:

☐ Yes ☐ No Is there a potential harmful effect to the student with this placement?

J. Special Education and Related Services

Service	Min/ Week	Starting Date	Duration	Service Provider (Job Title)	Location of Services
		/ /			
		/ /			
		/ /			

Length of school day:

☐ The student will attend for the full school day.

☐ The student will attend for a shorter or longer school day than peers. (Explain why this is necessary.)

Extended School Year (ESY)

Extended school year must be considered for each student with a disability. Justification for the decision made MUST BE STATED BELOW.

☐ The review of each goal indicates that an extended school year is needed for the following goals and objectives:

☐ The review of each goal indicates that services will be in effect for the normal school year.

☐ The team needs to collect further data before making a determination and will meet again by:

Justification for the teams decision:

Appendix E

Secondary Transition IEP Form: Ages 16-21

Any ND Public School
Special Education Department
100 North Education St.
Anywhere, ND 58502

Individualized Education Program

Transition (16-21)

IEP Meeting Date:
/ /

A. Student-Last Name	First Name	MI	Birthdate (M/D/YYYY)	Gender ☐ M ☐ F
Grade	Race	Student's Primary Language or Communication Mode		
Current Address	City	State	Zip	Phone Number
Serving School	City	State	Zip	School Phone Number
District of Residence (If different from serving district)	Resident School Building (Plant)	Check items that apply ☐ Transferred within district ☐ Open enrolled from another district ☐ Agency Placed ☐ Home Education		

B. Name of Biological/Adoptive Parent		Home Phone Number	Other Phone Number
Current Address	City	State	Zip
☐ Surrogate ☐ Guardian ☐ Foster Parent ☐ Individual Acting in Place of Parent		Primary Lang. Spoken at home	Parent's Email address

C. IEP Case Manager	Case Manager email address	Phone Number

IEP TYPE ☐ Initial ☐ Annual review/revision Primary Disability
Secondary Disability

Date of Last Comprehensive Individual Assessment Report

☐ A copy of the "*Parental Rights for Public School Students receiving Special Education Services – Notice of Procedural Safeguards*" was provided.

	Names of All Team Members	Indicate Attendance
Parent *		☐ Yes ☐ No
Parent		☐ Yes ☐ No
Student		☐ Yes ☐ No
Administrator/Designee/District Representative (Required)		☐ Yes ☐ No
Special Education Teacher or Special Education Provider (Required)		☐ Yes ☐ No
General Education Teacher (Required)		☐ Yes ☐ No
Individual to Interpret Instructional Implications of Evaluation Results (Required)		☐ Yes ☐ No
Adult Services Agency Representative (if applicable)		☐ Yes ☐ No

* If the parent did not attend the IEP meeting or the IEP was held late, describe efforts to arrange a mutually agreed upon time and place.

* If student did not attend meeting/documentation indicating student was invited.

Transition Services (ages 16-21) or younger if appropriate)
T-1. Measurable Post Secondary Goals 614(d)(1)(A)(VIII) 300.320(b)(1)

Education/Training
Employment
Independent Living Skills

D. Present Levels of Academic Achievement and Functional Performance for Students Ages 6-21
The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources including parents. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum. Performance areas to be considered are:
Cognitive Functioning (listening skills, listening comprehension, ability compared to same age peers)
Academic Performance (reading, math, learning styles, etc.)
Communicative Status (receptive and expressive language)
Physical characteristics (medical, vision, hearing, motor)
Emotional/Social Development (social skills, leisure)
Behavior Skills (adaptive behavior, self care, independent living, self direction, health and safety, work)
Ecological Factors (functional and community participation, home/family, neighborhood)

Address the present level of performance in each of the following domains with documentation of student needs, preferences and interests and identify by what method this information was obtained.
Jobs and Job Training By what method was this obtained:
Recreation and Leisure By what method was this obtained:
Home/Independent Living By what method was this obtained:
Community Participation By what method was this obtained:
Post-Secondary Training and Learning Opportunities By what method was this obtained:
Related Services By what method was this obtained:

E. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked *yes* must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
   - ☐ Yes. The IEP team must consider the language needs of the child as those needs relate to the child's IEP.
   - ☐ No. The team has considered the child is not a child with limited English Proficiency.

2. Is the child blind or visually impaired?
   - ☐ No. The team has considered and the child is not a child with blindness or a vision impairment.
   - ☐ Yes. The IEP team must provide instruction in Braille and the use of the 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.

3. Is the student deaf or hard of hearing?
   - ☐ No. The team has considered and the child is not a child with deafness or hard of hearing.
   - ☐ Yes. The IEP team must 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.

4. Does the student have communication needs?
   - ☐ No. The team has considered and the child is not a child with communication needs.
   - ☐ Yes. The IEP team must consider the communication needs of the child and address those needs in the IEP (i.e. present level, adaptations of educational services, annual goals, etc.).

5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
   - ☐ No
   - ☐ Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
   - ☐ Yes

6. Does the child's behavior impede the child's learning or the learning of others?
   - ☐ No
   - ☐ Yes. The IEP team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior.

T-2. COURSE OF STUDY **614(d)(1)(A)(VIII) 300.320(b)(1)**

School Year	Grade Level	List Courses and Educational Experiences to be taken each year	Credits Earned
	Grade 9		
	Grade 10		
	Grade 11		
	Grade 12		
Ages 18-21			

Total number of credits required by this district for graduation
Anticipated month and year of graduation

Will this student exit secondary school with fewer credits than required of all students by the district?
☐ Yes ☐ No

If yes, identify the alternate document approved by the district that the student will receive.

Transfer of Rights: 300.320 (c)
No later than one year before the age of majority (18) the student and family must be informed of the educational transfer of rights.
Date of IEP meeting when transfer of rights was discussed ___/___/_____

Procedural Safeguards: 300.520 (a1-3)
Upon turning 18, the student and parent must receive written notification that the educational rights of the student have transferred.

T-3.Transition Services

Strategies and Activities Needed to Assist the Student in Reaching Post-Secondary Goals 614(d)(1)(VIII) 300.320(b)(2)

Transition Services	Needs & Activities	Agency(ies) & Responsibilities	Timelines for Delivery of Services
Instruction: Services not needed because –			
Community Experiences: Services not needed because –			
Employment: Services not needed because-			
Related Services: Services not needed because –			
Adult Living & Post School: Services not needed because –			
Daily Living: (if appropriate)			
Functional Vocational Assessment: (if appropriate)			

* If a participating agency other than the public agency fails to provide the transition services described in the IEP, the public agency must reconvene the IEP team as soon as possible to identify alternate strategies and amend the IEP as necessary. Document date of reconvened IEP meeting and results.

F. Annual Goals, Short-term objectives, and Periodic review of services

Annual Goal # of goals

Intent/purpose	
Behavior	
Ending Level	
Characteristics of services	

Will a graph be used to report progress toward the annual goal and associated objectives? ☐ Yes ☐ No

Baseline Data Point: **Start Date of Monitoring:**

Target for Success: **End Date of Monitoring:**

Short-Term Objectives and Characteristics of Services:
Objectives are required for those students who participate in the ND Alternate Assessment.

Conditions under which the behavior is performed
Specific behavior

Measurable criteria

Evaluation procedures

Schedules for determining if objectives are being achieved

Characteristics of services

How and when periodic progress reports will be provided:

G. Adaptation of Educational Services

Consideration must be given to the student's physical communication, cognitive, social, academic, and vocational needs. Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g., grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must also be given to the special factors indicated in Section D. of the IEP.

☐ Student's current grade does not participate.
☐ Student will participate in North Dakota State Assessment without accommodations.
In the following subject areas:
☐ Student will participate in North Dakota State Assessment with approved accommodations specified in Adaptation of Education Services area.
In the following subject areas:
☐ Student will participate in the North Dakota Alternate Assessment I.
In the following subject areas:
☐ Student will participate in the North Dakota Alternate Assessment II.
In the following subject areas:

Justification for not participating in district or North Dakota State Assessment and why the particular alternate assessment selected is appropriate. Objectives are required for those students who participate in the ND Alternate Assessment I and highly recommended for ND Alternate Assessment II.

H. Description of Activities with Students Who Are Not Disabled

Physical Education. Indicate type of physical education program that the student receives:
☐ regular P.E. ☐ adaptive/specially designed P.E.

Participation in Academic and Nonacademic Activities:
Check any program options in the boxes below in which the student will be participating with students who do not have disabilities.

Program Options		**Comments:**
☐ Art.	☐ Trade and Industrial Education	
☐ Music	☐ Vocational Education	
☐ Family/Consumer Science	☐ Other	

Nonacademic and Extracurricular Services and Activities (300.306).		**Comments:**
☐ Counseling		
☐ Employment Referrals		
☐ Athletics	☐ Recreation	
☐ School Sponsored Clubs	☐ Special Interest Groups	
☐ Transportation	☐ Other	

I. Educational Environment

Note: Use this setting information to circle the federal child count code. By selecting one of the eight categories, the IEP team affirms that they have considered the continuum of services and the selected setting is believed to be the most appropriate environment for the student.

SETTING:

A. ☐ Inside regular class 80% or more of Day
B. ☐ Inside the regular class no more than 79% of day but no less than 40% of day
C. ☐ Inside regular class for less than 40% of day
D. ☐ Separate school
E. ☐ Residential facility
F. ☐ Homebound/hospital
G. ☐ Correctional facility
H. ☐ Parentally placed in private schools

Justification for the team's decision, the IEP team must document why the options selected in determining the environmental setting are the most appropriate and least restrictive:

☐ Yes ☐ No Is there a potential harmful effect to the student with this placement?

J. Special Education and Related Services

*Services	Min./ Week	Starting Date (month/day/year)	Duration	Service Provider (Job Title)	Location of Services

Length of school day:

☐ The student will attend for the full school day.
☐ The student will attend for a shorter or longer school day than peers. (Explain why this is necessary).

ESY: Extended school year MUST be considered for each student.

☐ The team has determined that ESY is necessary for the following goals and objectives (if necessary):

☐ The team has determined that ESY is not necessary.

☐ The team needs to collect further data before making a determination and will meet again by:

Justification for the team's decision:

Appendix F

IEP Meeting Checklist

Individualized Education Program (IEP) Meeting Checklist

WHAT IS AN INDIVIDUALIZED EDUCATION PROGRAM (IEP)?

Children with disabilities, including learning disabilities, attention deficit hyperactivity disorder (ADHD), mental disorders, mental retardation, and pervasive developmental disorders, may be eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA). An Individualized Education Program (IEP) is required by IDEA for each eligible child. The IEP specifies the services needed to fulfill the child's right to a Free and Appropriate Public Education (FAPE). An eligible child who has a disability and needs special education is entitled to the services set forth in the IEP.

The IEP is a written plan describing the special education and related services designed to meet the unique educational needs of a student with a disability. It contains goals and objectives based on the student's present levels of educational performance, specifies the educational placement and setting, and describes the related services and supports necessary for the student to benefit from the special education program. A team composed of professionals, the child's parents, and the child (where appropriate) meet to develop the IEP. The IEP team must discuss the following specific information about the child, including the child's strengths, the parents' ideas for enhancing the child's education, the results of recent evaluations or reevaluations, and how the child has done on state and districtwide tests.

BEFORE THE IEP MEETING

1. Obtain and study all school records including private assessments, medical records, and so forth. Obtain copies of the following:
   - ☐ Prior IEPs (if any)
   - ☐ Progress notes, report cards, teachers' notes, work samples, and so forth
   - ☐ A draft copy of the new IEP if it has been developed
2. Talk with people who have worked with or evaluated your child to see how they think your child is progressing.
3. Inform your child's health professionals that you are preparing for an IEP meeting. Talk to them about issues they feel should be discussed, the services they feel your child needs, and goals that are appropriate for your child. Ask them to submit written statements. You might also ask if they can attend the meeting or contact the school by phone.
4. Familiarize yourself with IDEA and the rules and regulations regarding the IEP process. See the U.S. Department of Education's Office of Special Education Programs (http://www.ed.gov/offices/OSERS/OSEP) and the IDEA '97 (http://www.ed.gov/offices/OSERS/IDEA) Web sites for more information.
5. Review the present IEP (if there is one) to see if you think the goals have been met. If this is a first IEP, obtain a copy of a sample IEP form.
6. Make a list of your child's present level of functioning based on your observations. Include an assessment of your child's skills in the following areas:
   - ☐ Academic (specify if skills vary by subject)
   - ☐ Developmental (if pre-academic)
   - ☐ Motor
   - ☐ Speech/language
   - ☐ Social
   - ☐ Self-help
   - ☐ Prevocational and vocational
   - ☐ Other
7. Consider making an appointment with your child's teacher to observe your child in the classroom.
8. Make a list of goals for your child, and consider how these goals can best be met.
9. List services your child may need, including:
   - ☐ Special education services and related services (e.g., transportation, occupational therapy, speech-language pathology services, parent counseling and training, psychological services)
   - ☐ Transition services
   - ☐ Special considerations needed in the regular classroom and for homework
10. If you have questions to be resolved or issues of concern for one or two members of the IEP team or individu-

(continued on next page)

als who will have input into the IEP, try to work them out before the IEP meeting. You should maintain an ongoing dialogue with your child's teacher and open communication all year long so issues can be resolved as they arise.

11. Arrange for someone to attend the meeting with you, if you like.

12. You are allowed to tape the meeting. Many parents find this helpful for future reference. If you plan to tape the meeting, it can be helpful to politely notify the school in advance that you are going to do so.

DURING THE IEP MEETING

1. Remember that you are an equal member of the IEP team.

2. Ask to review the current IEP (if there is one). Talk about which teaching methods and materials worked and which did not. Discuss what approaches you feel will assist your child in learning.

3. Be sure you understand the words used in the IEP and in the meeting, all the test results, and any new goals that are suggested. Compare the school's goals with your goals. Ask for clarification if you need to, and ask about the implications of what is said in the meeting. Take notes, and read back your notes to other members of the IEP team on any critical issues to ensure mutual understanding.

4. Be prepared to listen to others' points of view, and be sure your views are heard. Be assertive, but stay calm.

5. Remember that services are based on individual need, not availability. If needed services are not available, be sure that this is stated on the IEP form, as well as when the services will be made available. Services and assistive technology must be provided even if not currently available in your child's school. Remember that services must be provided in the least restrictive setting appropriate for your child.

6. Discuss the amount of special education and regular education your child requires.

7. Write the IEP with goals that you understand and that a teacher and other staff can use to measure progress. How progress will be measured should be clearly stated in the IEP.

8. The IEP should include any accommodations and changes to your child's regular education classes that may be needed, including both physical and academic accommodations (e.g., assistive technology, homework and testing accommodations).

AT THE END OF THE IEP MEETING

1. Make sure that all blanks and spaces in the IEP form are filled in.

2. Make sure that all the related services and the duration and amount that your child needs of each are listed.

3. Make sure the amount of time your child will spend in regular education is listed.

4. The law ensures a process for resolving differences. If you cannot come to an agreement, you may request another meeting. Do not feel pressured to make a decision immediately. You may write on the IEP form that you do not agree, or identify the portions with which you do not agree. You might wish to initial those areas with which you agree and request a 30-day interim IEP. If you feel it is necessary, you can also ask for mediation, request due process, or file a written complaint with the state education agency.

AFTER THE IEP MEETING

1. Ask for a copy of the IEP meeting minutes, and send back a copy of any corrections.

2. Obtain a copy of the IEP for your records.

3. Share a copy of the IEP with your child's health professionals.

4. Observe your child's program to ensure that your child receives the services contained in the IEP and that the school is working actively toward achieving the IEP goals. The school is required to report on your child's progress as often as nondisabled children receive progress reports.

5. Remember that you can ask for a review of your child's IEP at any time during the school year.

WHAT IS MY CHILD'S ROLE IN THE IEP PROCESS?

Your child should be involved in developing the IEP as appropriate. Involving the student can help increase his skills in self-advocacy, such as learning to discuss his strengths and weaknesses and any strategies and supports that may be needed. This will lead to increased independence and self-esteem. However, if the process is contentious, it may be best for your child not to be present.

Sources: Fairfax County Public Schools. 1998. *Questions and Answers for Parents Prior to an IEP Meeting*. Fairfax, VA: Fairfax County Public Schools.

IEP Meeting Checklist for Parents. Source unknown.

Learning Disabilities Association. 1997. *How to Participate Effectively in the IEP Process*. Pittsburgh, PA: Learning Disabilities Association.

Appendix G

Parental Rights for Public School Students Receiving Special Education Services: Notice of Procedural Safeguards

SPECIAL EDUCATION IN NORTH DAKOTA
North Dakota Department of Public Instruction
Kirsten Baesler, State Superintendent
Office of Special Education
600 E. Boulevard Ave., Dept. 201
Bismarck ND 58505-0440

701-328-2277 (voice)
701-328-4920 (TDD)
701-328-4149 (Fax)

Parental Rights for Public School Students Receiving Special Education Services

Notice of Procedural Safeguards

Dan Pangbourne/Getty Images

Building the Legacy: IDEA 2004

United States Department of Education, Office of Special Education Programs (OSEP)

NOTICE OF NON-DISCRIMINATION
NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

The Department of Public Instruction does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. For inquires regarding nondiscrimination policies, please contact: Robert Marthaller, Director of School District Support Services, Department of Public Instruction, 600 E Boulevard Avenue, Dept 201, Bismarck, ND 58505-0440, 701-328-2267.

"Unless otherwise specified, citations to "section" or "sec." are citations to federal regulations implementing IDEA found in the Code of Federal Regulations at 34 CFR Part 300, which consists of 34 CFR secs. 300.1 through 300.818 and appendices A through E."

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Equal education opportunity is a priority of the ND Department of Public Instruction.

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Acronyms:

NDDPI	=	North Dakota Department of Public Instruction
FAPE	=	Free Appropriate Public Education
FERPA	=	Family Educational Rights and Privacy Act
IDEA	=	Individuals with Disabilities Education Act
IEP	=	Individualized Education Program
PART B	=	Section of the Individuals with Disabilities Education Act

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Introduction

Children with disabilities and their parents are guaranteed certain educational rights, known as procedural safeguards, from ages 3 through 21. This document helps parents or guardians of these children make appropriate educational decisions on their behalf.

The Individuals with Disabilities Education Improvement Act (IDEA 2004) is the federal special education law that requires school districts to provide a free appropriate public education (FAPE) to eligible children with disabilities. This free appropriate public education refers to special education and related services, described in an Individualized Education Program (IEP) and provided to the child in the least restrictive environment.

For More Information

Whenever you need assistance, your first step is to contact your local school district. Talk to your child's classroom or special education teacher, the school principal, or the special education director for your school district. Other resources for concerns you may have are also listed at the end of this document.

Notice of Procedural Safeguards

This document is your notice of procedural safeguards and must be given to you once a year and also:

- the first time your child is referred for a special education evaluation;
- the first time a complaint is filed or a due process hearing is requested;
- if the school notifies you that a disciplinary action has or will be taken that would constitute a change in placement;
- whenever you request a copy.

You may also access a current copy of the procedural safeguards on your school district's website, if such a site exists, or from the NDDPI website at: https://www.nd.gov/dpi/students-parents/SpecialEducation/SpecialEducationStateGuidelines/

In Other Words…you have certain procedural rights that must be given to you at least once a year and in other specific circumstances within the special education process.

Parent Participation

Your participation is essential. You will be given opportunities to become actively involved in meetings about identification, evaluation, and the educational placement of your child, as well as other matters related to your child's free and appropriate public education (FAPE). This includes the right to participate in meetings to develop your child's IEP.

In Other Words…To ensure that your child receives a free appropriate public education, you have the right to be fully involved in decisions regarding your child.

Prior Written Notice

As an active participant in the decision-making process, you have the right to prior written notice from the school district whenever:

- the school proposes to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to your child; or
- the school refuses to initiate or change the identification, evaluation, or educational placement of your child or the provision of free appropriate public education to your child.

The district must inform you in writing of important decisions regarding your child's special education, and you must be notified before those decisions are put into place.

Prior written notice must include:

- a description of the action proposed or refused by the school district;
- an explanation of why the action is proposed or refused;
- a description of any other options considered and the reasons why those options were rejected;
- a description of each assessment procedure, test, record or report used as a basis for the action proposed or refused;
- a description of any other factors relevant to the action proposed or refused;
- a notice that you can invite individuals with knowledge or special expertise about your child to an IEP meeting; and
- a statement that parents of a child with a disability are protected by the procedural safeguards described in this document and how you can get a copy.

Prior written notice must also include resources you can contact for help in understanding these procedural safeguards and a description of how you can file a complaint.

Prior written notice must be provided in your native language unless doing so is clearly not feasible.

If you revoke consent for special education services, the school must discontinue the provision of special education and related services and send you a prior written notice.

You may also receive a prior written notice by email upon your request.

In Other Words…The school will notify you by letter, or email if requested, if it proposes or refuses to initiate or change your child's services. The notice must be simple and easy to understand, and information about upcoming meetings must be sent to you sufficiently in advance to allow you to attend.

Parental Consent

Consent means that you have been fully informed, in your native language, of all information relevant to the activity for which your written permission is sought. Consent is voluntary and may be revoked at any time. The school district must obtain your consent:

- before conducting an initial evaluation of your child and the initial provision of special education or related services to your child;
- before conducting a reevaluation of your child, unless the district has taken reasonable steps to get your consent and you have failed to respond. In that case, the reevaluation may occur without your consent;

- before disclosing personally identifiable information about you or sharing data with anyone other than officials of participating agencies collecting or using the information under the IDEA;

- before accessing your private insurance to pay for services to ensure FAPE;
- before a required IEP team member may be excused from an IEP team meeting;
- before inviting a representative of any participating agency that is likely to be responsible for providing or paying for secondary transition services.

EXCEPTIONS:
Your consent is not required before your school district may:

1. Review existing data as part of your child's evaluation or a reevaluation; or
2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

Consent need not be obtained to reevaluate a child with a disability if the school can demonstrate that it made reasonable efforts to obtain parental consent and the parent failed to respond.

Consent Refusal
You may refuse consent for an evaluation, a reevaluation, or the initial placement of your child in special education. If the school district believes it is necessary to evaluate your child, it may pursue dispute resolution options, including a due process hearing. The school may not pursue a due process hearing to place your child in special education services if you have refused a special education placement. You and the school district may agree to try mediation to resolve your disagreements. For more information on mediation, see page 10.

If you fail to respond to a request for, or refuse to consent to, the initial provision of special education and related services, the school district may not use dispute resolution procedures (including mediation) in order to obtain agreement or a ruling that the services may be provided to the your child. Should you fail to respond or refuse your consent for the initial provision of services, the school will not be required to provide FAPE and is not obligated to convene an IEP meeting or develop an IEP for your student.

Revocation of Consent
If, at any time after the initial provision of special education and related services, you decide to revoke consent for special education and related services, you must do so in writing. Once you revoke consent, the school district may not continue to provide special education and related services to your child and it may not use dispute resolution procedures (including mediation) in order to obtain agreement or a ruling that the services may be provided to your child. In this case, the school will not be required to provide FAPE and is not obligated to convene an IEP meeting or develop an IEP for your student. The school is not required to amend your student's education records to remove any references to your child's receipt of special education and related services because of the revocation of consent. (See Appendix for the Revocation of Consent form).

In Other Words… Your written consent is required in specific instances that occur within the special education process. You may revoke your consent for services at any time.

Confidentiality of Information

Definitions

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of ‘‘education records’’ in the regulations implementing the Family Educational Rights and Privacy Act of 1974.

Participating agency means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

Personally identifiable means information that has your child's name, your name as the parent, or the name of another family member; your child's address; a personal identifier, such as your child’s social security number or student number; or a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

Access Rights

The Family Educational Rights and Privacy Act (FERPA) and the IDEA 2004 ensure that you have access to your child’s educational records. You have the right to inspect and review all of your child’s education records:

- before any meeting about your child's IEP;
- before any due process hearing related to your child; and
- within five business days of your request.

If any record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

At your request, each participating agency must provide you with a list of the types and locations of educational records collected, maintained, or used by the school.

The school (or other participating agency) may charge you a fee for copies of records that are made for you if the fee does not effectively prevent you from exercising your right to inspect and review those records. The school (or other participating agency) may not charge a fee to search for or to retrieve education records.

Record of Access

The school (or other participating agency) must keep a record of anyone obtaining access to education records collected, maintained, or used (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Amendment of Records at Parent Request

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA 2004 is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the school (or other participating agency) that maintains the information to change the information.

The school (or other participating agency) must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the school (or other participating agency) refuses to change the information in accordance with your request, the school must inform you of the refusal and advise you of the right to a hearing for this purpose.

Hearing Procedures

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).

If, as a result of the hearing, the school (or other participating agency) decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing.
If, as a result of the hearing, the school (or other participating agency) decides that the information is *not* inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records a statement regarding the reasons you disagree with the decision of the participating agency.
This explanation is placed in the records of your child and must:

1. Be maintained by the school (or other participating agency) as part of the records of your child as long as the record or contested portion is maintained; and
2. If the school (or other participating agency) discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

Consent for Disclosure of Personally Identifiable Information

Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of the IDEA 2004.

- Your consent, or consent of your child if he or she has reached the age of majority (age 18), must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.
- If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

Safeguards

Your child's school (or other participating agency) must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

You must be informed when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child. The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and the year completed may be maintained without time limitation.

In Other Words…You have the right to see or request copies of your child's school records. Your school district has a more detailed written policy about school records, and any parent can request to see this policy. If you disagree with items in your child's records, you can ask that they be changed or removed. If the school decides to refuse to amend the information, the school must inform you of this refusal and advise you of your right to a hearing. There are certain instances when your consent will be required to release personally identifiable information and you must be informed when this information is no longer needed to provide educational services to your child.

Evaluation Procedures

A full, individual, appropriate evaluation of your child must be completed before any special education services begin or before your child is dismissed from services, with the exception of graduation with a regular diploma or your child exceeds the age of eligibility. You must be included in the team that conducts the evaluation.

Initial evaluation must occur within 60 calendar days from the time the school receives your consent, unless your child transfers to a new school district or you fail to bring your child to the evaluation.

Your child must be reevaluated at least once every three years unless you and the school agree that a reevaluation is unnecessary. A reevaluation may not occur more than once per year, unless you and the school agree otherwise. The team may decide no additional data are needed to determine whether your child continues to be eligible for special education. If so, the school district must notify you of that decision and the corresponding reasons. You still have the right to request an evaluation to determine whether your child continues to be eligible.

Your child does not need to be reevaluated if eligibility is being ended due to graduation with a regular diploma or your child exceeds the age of eligibility. If services are ended for one of these reasons, the school must provide your child with a summary of achievement and functional performance along with recommendations of how to assist your child in meeting his or her goals after high school.

An independent educational evaluation is an evaluation by a qualified examiner who is not an employee of the school district responsible for educating your child. You may ask for an independent educational evaluation at school district expense if you disagree with an evaluation completed by the school district. You are entitled to only one independent educational evaluation at public expense each time you disagree with a specific evaluation or reevaluation that is conducted or obtained by the school district.

If the school district does not agree with you that an independent evaluation is necessary, it may either initiate a due process hearing to show that its evaluation was sufficient or pay for the independent

evaluation. The school district will not have to pay for an independent evaluation if the hearing is concluded in the district's favor. You may still get an independent educational evaluation at your own expense.

School districts must maintain a list of public and private agencies that meet the district's criteria to conduct independent educational evaluations. The district's criteria will indicate acceptable qualifications of an examiner and location. This list is available to you and you can request it from your school district's special education director.

The results of independent educational evaluations must be considered by the school district before taking further action regarding your child. These evaluations may be considered evidence in a due process hearing. A hearing officer may also require an independent educational evaluation of your child at school district expense during due process hearing procedures.

In Other Words…You are a part of the team that evaluates your child. At least every three years, this team must consider whether any additional evaluation is needed. If you disagree with the school's evaluation of your child, you may request one independent evaluation at the school district's expense.

Least Restrictive Environment

Every effort must be made to provide the necessary supports that will allow your child to be educated in your neighborhood school. Access to the general education curriculum must be given to your child. As much as possible, your child must be educated with children who do not have disabilities.

In Other Words…The least restrictive environment is the setting where your child can receive an appropriate education as close as possible to your home and with children who do not have disabilities.

Surrogate Parents

When a parent or guardian of a child is unknown or unavailable, or if the child is a ward of the state, the school district must assign an individual to act as this child's surrogate parent. For a child who is a ward of the state, the school or a judge may appoint a surrogate parent to oversee the child's case. The surrogate has all the procedural rights of a parent and is responsible for representing the child's interests in all matters related to the provision of free appropriate public education.

In the case of an unaccompanied homeless youth, the school will appoint a surrogate.

Each school must make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after the school determines the child needs a surrogate.

In Other Words…Sometimes a parent or guardian of a child is unknown or unavailable. When that happens, in order to represent the child at school meetings, a surrogate parent is appointed by the school. In the case of a child who is a ward of the state, a surrogate parent is appointed by the school or a judge.

Transfer of parental rights at age 18 (age of majority)

Prior to your child's 18th birthday, the school must notify you and your child in writing that all rights accorded to parents under the IDEA 2004 will transfer to your child, unless your child is determined not to be competent under state law.

If You Have Concerns

The IDEA 2004 recognizes that parents and schools occasionally disagree and provides several options to help solve these disagreements. If you have concerns about your child's special education services, first talk to your child's general or special education teacher, the building principal, superintendent, or the district's special education director.

When a problem first arises, act immediately so steps can be taken as soon as possible to support the working relationship among the staff, your child and you.

If your concerns are not resolved, you may want to consider IEP facilitation, mediation, or a written complaint by contacting the North Dakota Department of Public Instruction (NDDPI) Office of Special Education and/or request a due process hearing.

Facilitated Individualized Education Program

If you have concerns and they are directly related to decisions made relative to your child's IEP, you may request the assistance of an external neutral facilitator. The primary purpose of the facilitator is to assist the team in the development of an appropriate IEP and to maintain the focus of the meeting on the specific needs of your child. The facilitated IEP is offered at no cost to you or the school district. You may obtain a *Request for a Facilitated IEP* form by calling (701) 328-2277, or from the NDDPI website at https://www.nd.gov/dpi/uploads/documents/284/sfn58305.pdf

Mediation

You may ask the school district to participate in mediation at any time. Mediation is voluntary and confidential, and both parents and school staff must agree to proceed before a mediator is appointed. Mediators, who are not employees of the school district, are trained in strategies to help people reach agreement over difficult issues. If agreement is reached, the parties sign a legally-binding written agreement. The NDDPI pays for costs related to special education mediation. You may obtain a Request for Mediation form by calling (701) 328-2277 or from the NDDPI website at https://www.nd.gov/dpi/uploads/documents/1529/SFN58601.pdf

Formal Complaint Investigation

Under the IDEA 2004, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, the state education agency, or any other public agency. If you believe a school district has violated any part under the IDEA 2004, you may file a written complaint with the NDDPI. You may submit your concerns in a letter or complete the *Request for a Complaint Investigation* form, which you may obtain through the Special Education Office by calling (701) 328-2277. The incident related to the complaint must have occurred within one year from the date that the complaint is filed. A complaint must include: a statement that the school has violated Part B of the IDEA; the facts on which the statement is based; your signature and contact information; the name and address of your child; the name of the school your child is attending; or, in the case of a homeless child, available contact information for the child and the name of the school the child is

attending; a description of the nature of the problem of your child, including facts relating to the problem; and a proposed resolution of the problem. Your complaint should be sent to:

Director of Special Education
ND Department of Public Instruction
600 East Boulevard Avenue, Dept 201
Bismarck ND 58505-0440

A copy of your complaint must be forwarded to the school involved in your complaint *at the same time your complaint is submitted to the NDDPI*. The school is given the opportunity to draft a formal response to the allegations and propose a resolution to the issues. Your complaint will be investigated and a decision given to you within 60 days from the date your complaint is received by both the school and the NDDPI. This timeline may be extended under certain circumstances.

In Other Words…Sometimes you might disagree with the special education testing, services or placement for your child. Try to resolve your disagreements by requesting IEP facilitation or mediation, which are free services conducted by a trained, impartial professional not employed by the school district. However, at any time you may file a written formal complaint and/or request a due process hearing. To receive information regarding any dispute resolution option available to you, call the NDDPI at (701) 328-2277 or from the NDDPI website at: https://www.nd.gov/dpi/students-parents/SpecialEducation/SpecialEducationDisputeResolution/

Due Process Hearing

A due process hearing is a formal legal proceeding that can be requested by parents or by the school district. The request must be made within two years from the date the alleged action occurred. Exceptions to this timeline are if the school misled or withheld information from the parent.

The school district may request a hearing:

- if you refuse consent for an initial evaluation;
- if the school believes that maintaining the current placement is substantially likely to result in injury to your child or to other children; or
- to demonstrate that the district has conducted an appropriate evaluation and/or offered a free appropriate public education (FAPE).

If you disagree with the identification, evaluation, educational placement or other aspects relating to your child's FAPE, you can request a due process hearing by contacting the Director of Special Education at the NDDPI. You may file a complaint through a letter or you may request that the NDDPI send you the Due Process Complaint Notice (DPCN) form.

Your hearing request must include:

- your child's name and address and the name of the school that your child is attending; or, in the case of a homeless child, available contact information for the child and the name of the school the child is attending; and
- a description of the problem, including specific facts about the problem; and any suggestions you have for resolving the problem.

If the school has not already sent you a prior written notice regarding the subject matter contained in your complaint, the school must, within 10 days, send you a response that includes:

- an explanation of why the school proposed or refused to take action on the issues raised in your due process hearing request;
- a description of other options the IEP team considered and the reasons why those options were rejected;
- a description of each evaluation procedure, assessment, record, or report the school used as the basis for their decision; and
- a description of other factors relevant to the school's proposed or refused action.

If the school requests a due process hearing from the NDDPI and you receive a copy of the due process complaint notice, you (or your legal counsel) would also be required to send the school a response that addresses the issues raised in the due process complaint within 10 days of receiving the complaint notice.

You and the school have certain rights under due process hearings, including:

- the right to bring an attorney who can give you advice, except that ND state law does not authorize non-attorneys to represent parties at a due process hearing;
- the right to bring one or more individuals who have knowledge or training about children with disabilities;
- the right to present evidence and confront, cross-examine, and require relevant witnesses to be present;
- the right to a written, or, at your option, an electronic verbatim record of the hearing; and,
- the right to written, or, at your option, electronic findings of fact and decisions.

An impartial hearing officer will issue a decision not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings or, not later than 45 calendar days after the expiration of an adjusted time period as determined by the hearing officer.

Resolution Session

The school district will convene a meeting with the parents and relevant members of the IEP team within 15 days of when the school district receives the parent's due process complaint to discuss the facts on which your complaint is based. "Relevant members" of the IEP team means those individuals who have specific knowledge of the issues contained in your complaint. The purpose of this meeting is to allow you the opportunity to discuss with the school the issues outlined in your complaint and to provide the school an opportunity to resolve those issues. The school district has 30 days from the time the complaint is filed to resolve the complaint to the satisfaction of the parents, after which a due process hearing can occur.

The NDDPI will provide you and the school a neutral facilitator who will facilitate the resolution meeting to assist you and the school in reaching an agreement. If an agreement is reached, you and the school will sign a legally-binding agreement and the due process hearing will not be initiated. If you and the school do not reach an agreement, the due process hearing and associated timelines will be initiated. The written agreement is enforceable in court.

The due process hearing may occur if the school has not resolved the issues within 30 days from the date your due process complaint was received, except where the parties have jointly agreed to waive the resolution process or to use mediation.

The school must document reasonable efforts to meet with you in a resolution meeting. If you do not participate in the resolution meeting, the school may request that the hearing officer dismiss your due process complaint request at the conclusion of the 30-day period. If the school fails to hold the resolution meeting within 15 days of receiving your due process complaint or fails to participate in the resolution meeting, you may seek the intervention of the hearing officer to begin the due process hearing timeline.

Disclosure of Evidence Before Hearing

At least five business days before a hearing, school districts and parents must disclose to each other all evaluations of the student completed by that date as well as recommendations based on those evaluations that they intend to use at the hearing.

A hearing officer may bar any party that fails to comply with this rule from introducing the undisclosed evaluations or recommendations at the hearing without the consent of the other party.

Civil Action

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the finding and decision by bringing a civil action. If you disagree with the decision, you may bring a civil action within 90 days from the date of the hearing officer's decision.

Attorneys' Fees

Reasonable attorneys' fees may be awarded to:

- a parent of a child with a disability;
- the school district against the attorney of a parent who:
    - files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation; or
    - who continues to litigate after the litigation clearly became frivolous, unreasonable or without foundation; or
- the school district against the attorney of a parent or against a parent if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose such as to harass, to cause unnecessary delay or to needlessly increase the cost of litigation.

Attorneys' fees may not be awarded for resolution meetings. Attorneys' fees may not be awarded relating to any meeting of the IEP team, unless the meeting is convened as a result of an administrative proceeding or judicial action.

Child's Placement During Proceedings

During the process of hearing, your child will remain in the current educational placement. The "stay put" rule applies unless:

- you and the school district agree to another placement;
- your complaint involves an application for initial admission to public school, then your child, with your consent, must be placed in the public school until the completion of all proceedings;
- your complaint involves a request for initial services under the IDEA Part B, whereby your child is transitioning from the IDEA Part C (for children Birth-3) to Part B (children ages 3-21) and is no longer eligible for Part C services. The school is then not required to provide the Part C services that your child had been receiving. However, if your child is found eligible for special education

and related services under Part B, then the school must provide those services that are not in the dispute; or,

- the hearing officer determines that a change of placement is appropriate, then that change must be treated as an agreement between the state and the parents regarding your child's placement during proceedings.

A Due Process Hearing Request form is available from the NDDPI Office of Special Education by calling (701) 328-2277.

In Other Words…If you cannot resolve a conflict with your school district, you have the right to a due process hearing conducted by an impartial person. You will be informed of specific timelines and requirements that are associated with a due process hearing.

Discipline

There may be instances when your child's behavior requires the school to use special methods of discipline. Depending on the nature of the behavior, you have the right to be a part of team decisions about disciplinary action.

Short Term Removals

For the purposes of removal of your child from your child's current educational placement, a change of placement occurs if:

1. The removal is for more than 10 consecutive school days; or
2. Your child has been subjected to a series of removal that constitute a pattern:
    a. because the series of removals total more than 10 school days in a school year;
    b. because your child's behavior is substantially similar to behavior in previous incidents that resulted in the series of removals; and
    c. because of additional factors such as the length of each removal, the total amount of time your child has been removed and the proximity of the removals to one another.

The school determines on a case-by-case basis whether a pattern of removals constitutes a change of placement and this determination is subject to review through due process and judicial proceedings. Additional removals for separate incidents of misconduct are permitted as long as those removals do not constitute a change of placement.

Longer Removals

Longer removals include expulsion and suspensions that would constitute a change in placement. If a longer removal is being considered, the district must have a meeting, with you and other qualified personnel included in that meeting, to make a manifestation determination. This meeting must be held within 10 school days of any decision to change the placement of a child.

For disciplinary changes in placement: if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

The school district must provide services that enable your child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in your child's IEP.

Protections for Children Not Yet Eligible for Special Education and Related Services

If your child has not been determined to be eligible for special education and related services but has engaged in behavior that violated a code of student conduct, your child is entitled to the procedural safeguards afforded under the IDEA 2004 if *the school had knowledge that your child was a child with a disability before the behavior that precipitated the disciplinary action occurred*. A school is considered to have knowledge that a child is a child with a disability if:

- You expressed concern in writing to supervisory or administrative personnel of the school, or a teacher of your child, that your child is in need of special education and related services;
- You requested an evaluation of your child; or
- The teacher of your child or other school personnel expressed specific concerns directly to the director of special education of the agency or to other supervisory personnel of the school about a pattern of behavior demonstrated by your child.

Manifestation Determination

You will be invited to participate as a member of the team, which will determine whether the misconduct has a direct and substantial relationship to your child's disability. The team reviews all relevant information including:

- test results and any independent educational evaluations;
- information provided by the parents;
- observations of the child; and
- the child's IEP and placement.

After the review of information, the team then determines if:

- the conduct in question was caused by or had a direct and substantial relationship to your child's disability; or
- the conduct in question was the direct result of the school's failure to implement the IEP.

If the team concludes that the misconduct was neither a manifestation of your child's disability nor a result of the school's failure to implement the IEP:

- the school district may take disciplinary action in the same manner as it would for children without disabilities;
- the school district must continue to provide educational services in another setting, to enable your child to continue to participate in the general education curriculum and progress toward meeting your child's IEP goals; and
- the school district, as appropriate, must conduct a functional behavioral assessment (FBA) and provide behavioral intervention services and modifications that are designed to address the behavior violation so that it does not reoccur.

If the team concludes that the misconduct was a manifestation of your child's disability or a result of the school's failure to implement the IEP, the school must:

- conduct a functional behavioral assessment (FBA), unless the school had already conducted an FBA before the behavior occurred, and implement a behavior intervention plan; *or*
- review the behavior intervention plan, if a behavior intervention plan already has been developed, and modify it as necessary to address the behavior; *and*

- return your child to the placement from which your child was removed unless you and the school agree to a change of placement as part of the modification of the behavior intervention plan, or your child's misbehavior was related to drugs, weapons or serious bodily injury.

Drugs, Weapons, and Serious Bodily Injury

School personnel may remove your child to an interim alternative educational setting for not more than 45 school days if:

- your child carries a weapon to school or to a school function;
- your child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function; or
- your child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

Referral to Law Enforcement /Transmission of Records

A school may report a crime committed by any child with a disability to appropriate authorities. In doing so, the school must ensure that copies of the special education and disciplinary records of your child are transmitted for consideration by appropriate authorities to whom the crime is reported, but must also obtain your consent to send those records, consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA).

Interim Alternative Educational Setting

An interim alternative educational setting is a different setting that must allow your child to continue to receive educational services that will enable your child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in his or her IEP. You must be a part of the IEP team that determines the specific interim alternative educational setting. If you disagree with the interim alternative educational placement of your child, you may request an expedited due process hearing.

Placement by a Hearing Officer

A hearing officer may order a change in placement of your child to an interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or other children.

Extensions of 45 school day removals by a hearing officer may be repeated, if necessary, when returning the child to the current placement would be substantially likely to result in injury to your child or other children.

Appeals

If you disagree with any decision regarding the placement of your child as a result of a disciplinary action, the manifestation determination, or if the school believes that maintaining the current placement of your child is substantially likely to result in injury to your child or others, then you or the school district may appeal the decision by requesting a due process hearing. The hearing officer may:

- return your child to the placement from which your child was removed; or
- order a change in placement of your child to an appropriate interim alternative educational setting for not more than 45 school days, if the hearing officer believes that maintaining the current placement of your child is substantially likely to result in injury to your child or others.

Child's Placement During Appeals

When an appeal has been made by either you or the school, your child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the timeline determined by the district's disciplinary procedures, whichever occurs first, unless you and the district agree otherwise.

Expedited Due Process Hearing

Whenever a due process hearing is requested regarding a dispute over placement, a manifestation determination decision, or because the school believes that maintaining the current placement is substantially likely to result in injury to your child or to others, then you and the school must have the opportunity to an expedited due process hearing.

The expedited due process hearing timelines differ from the standard due process hearing timelines in that:

- the hearing must occur within 20 school days of the date the due process complaint is received and;
- the hearing officer must make a determination (final decision) within 10 school days after the conclusion of the hearing.

Resolution Session and Expedited Due Process Hearings

Unless you and the school agree in writing to waive the resolution meeting or agree to use the mediation process to resolve the issues in dispute:

- the resolution meeting must occur within 7 days of receiving the due process complaint notice; and
- the due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

Civil Action

The decisions on expedited due process hearing are appealable through civil action within 90 days from the date of the decision of the hearing officer.

In Other Words…Discipline is an important factor in the learning process. The IEP team, which includes you, needs to determine appropriate disciplinary procedures for your child. There are certain instances when you or the school may request an expedited due process hearing to resolve a dispute.

Private School Placement

If you enroll your child in a private school your child may receive some publicly funded special education services. If you place your child in a private school without the school's endorsement, you could be awarded reimbursement for private school educational costs *only* if a court or hearing officer determines that the local school was not providing a free appropriate public education. The school is not required to pay for the cost of education, including special education and related services for your child at a private school or facility, if the public school has made a free appropriate public education available to your child and you unilaterally choose to place your child in the private school.

If you believe a free appropriate public education is not available at your public school, you may seek reimbursement for the cost of the enrollment through a due process hearing. If the hearing officer or court finds that the public school did not make a free appropriate public education available to your child in a timely manner prior to your child's enrollment in the private school, the hearing officer or court may order the public school to reimburse you.

The court or hearing officer may reduce or deny reimbursement if:

- you did not make your child available for an evaluation upon notice from the school district before removing your child from public school; or
- you did not inform the school district that you were rejecting the special education placement proposed by the school district, including your intent to enroll your child in a private school at public expense.

Your notice to the school district must be given either:

- at the most recent IEP meeting you attended before removing your child from the public school; or
- in writing to the school district at least 10 business days (including holidays) before removing your child from the public school.

A court or hearing officer may not reduce or deny reimbursement to you if you failed to notify the school district for any of the following reasons:

- illiteracy and inability to write in English;
- giving notice would likely result in physical or serious emotional harm to the child;
- the school prevented you from giving notice; or
- you had not received a copy of *Parental Rights for Public School Students Receiving Special Education Services: Notice of Procedural Safeguards* or otherwise been informed of this notice requirement.

In Other Words…If you place your child in a private school without the school's endorsement, you could be awarded reimbursement for private school educational costs *only* if a court or hearing officer determines that the local school was not providing a free appropriate public education.

A Final Note

The Individuals with Disabilities Education Improvement Act (IDEA 2004) recognizes that decisions about the education of children who have disabilities are best made by a team of people. It is expected that parents be essential partners on those teams with school personnel. The North Dakota Department of Public Instruction strongly encourages you to work closely with your community school to ensure that a free appropriate public education is provided to your child.

Summary of Procedures Regarding Prior Written Notice, Procedural Safeguards, and Parental Consent

Procedure	Prior Written Notice	Procedural Safeguards	Parent Consent*
Mass screening: procedures used with all enrolled students to identify possible areas of difficulties that could interfere with learning. Examples include screening for vision or hearing, or review of records of all students to identify students at-risk academically.	Not required, but suggested parents be informed	Not required	Not required
Selective screening: procedures used with selected children who are referred due to identified risk factors. It is done to determine the significance of the risk factors to the child's growth and development or academic performance. The result determines whether there is need for referral to BLST or for evaluation.	Required	Not required	Required
BLST: a general education intervention to assist teachers to plan interventions for students who are having difficulty in the general education environment. Classroom components are modified (e.g., mode of presentation, teaching strategies, curriculum, positive behavior interventions, etc.).	Not required	Not required	Not required but involvement urged
Response to Intervention: RTI provides high-quality instruction and interventions matched to the student's need in general education.	Not required	Not required	Not Required
Initial assessment: the first multidisciplinary evaluation of a student who is referred when BLST intervention fails to adequately address the student's difficulties. If a student has received special education services, has been dismissed, and then is referred a second time, the procedures associated with initial assessment must be followed.	Required	Required	Required
Reevaluation: periodic reassessment (conducted every three years as required, or more frequently as requested) of students receiving special education services.	Required	Not required	Required
Initial Individualized Education Program (IEP) development: preparation of an individual education program by a team of participants as required by regulations following an initial assessment.	Required	Required	Not required
Initial placement: the first time a multidisciplinary team uses assessment data, analyzes and plans for a student's unique educational needs, and concludes that specially designed instruction is required to meet those needs. Typically, the placement decision is made as part of the IEP meeting. If a student has received special education services and has been dismissed, the initial placement procedures must be followed if the student is subsequently assessed and determined to be in need of special education services again.	Required	Required	Required
Annual IEP review: review of current IEP and preparation of a new or revised IEP at least every 12 months by a team of participants as required by regulations. Review of placement as well as plans for programming and services are included.	Required	Required	Not required
Dismissal from program: termination of special education services because the student no longer needs them, or the parent or student requests termination of services.	Required	Required	Not required
Registration of a due process complaint: If a parent disagrees with the identification, evaluation, educational placement or other aspects relating to their child's free appropriate public education they may file a written complaint or request a due process hearing.	Required *(see page 12)*	Required	Not required
Filing of a state complaint: If a parent believes that the school has violated a requirement of IDEA 2004 they may file a complaint with the state.	Not required	Required	Not required
Other agency invitation to Secondary Transition Meeting: If another agency is participating in the Secondary Transition Services needed by a student, parent consent must be given to invite them to the meeting.	Not required	Not required	Required

*Parent consent is required when information is collected on an individual child that is not being obtained for all individuals in the same school, grade, or class (Hatch Act, 1974, amended to General Education Provisions Act, 1984, 34 CFR 98).

Revocation of Consent for Special Education & Related Services
34 C.F.R. §§300.9(c)(3) & 300.300(b)(4)

Name of Student:	Date:

This form enables the parent/legal guardian or adult student age 18 or older to revoke consent in writing. If you revoke consent in writing the school district or public agency:

1. Is not required to convene an IEP team meeting or develop an IEP.
2. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide further special education and related services.
3. May not seek to use consent override procedures such as mediation or due process procedures to obtain an agreement or a ruling that services may be provided to the child.
4. May not continue to provide special education and related services to the child, but must provide **Prior Written Notice** before ceasing the provision of special education and related services.
5. Is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

☐ **I REVOKE my consent for my child to continue to receive all special education and related services.**

☐ **I am an adult student age 18 or older and I REVOKE my consent for all special education and related services.**

SIGN AND DATE

Signature: _____ **Date:** _____

☐ Parent ☐ Legal Guardian ☐ Adult Student

Please keep a copy of this form for your records and send the signed original to the school district/public agency.

Special Education and Related Services will be discontinued ONLY after the school district's or public agency's receipt of your signature to revoke consent for all Special Education and Related Services and the provision of Prior Written Notice.

FOR SCHOOL DISTRICT OR PUBLIC AGENCY USE

Date received	Signature of School District or Public Agency Official

Date Prior Written Notice provided:	Date
Date special education and related services terminated:	Date

Other Resources

The publicly funded organizations listed here may be able to assist you in understanding the procedural safeguards and other provisions of the IDEA.

Your local school district_____

Pathfinder Parent Center

Minot:	(701) 837-7500
Toll Free:	1-800-245-5840
Website:	http://www.pathfinder-nd.org
FAX:	1-701-837-7548

North Dakota Protection & Advocacy (P & A) Project

Bismarck:	(701) 328-2950
Toll Free:	1-800-472-2670

North Dakota Department of Public Instruction - Office of Special Education

Bismarck:	(701) 328-2277
Toll Free:	1-866-741-3519 (including TDD)
TDD:	(701) 328-4920
Website:	https://www.nd.gov/dpi/students-parents/SpecialEducation/

National Dissemination Center for Children and Youth with Disabilities (NICHCY)

Toll Free:	1-800-695-0285
Website:	http://www.nichcy.org/

The IDEA Advisory Committee meets several times each school year. This representative group of parents, administrators, university personnel, general and special educators makes recommendations about special education in North Dakota. Information about the advisory committee and its meeting schedule are available from the NDDPI Office of Special Education by calling (701) 328-2277 or at https://www.nd.gov/dpi/Community/IDEAAdvisory/

Appendix H

IDEA Dispute Resolution Processes Comparison Chart

IDEA Dispute Resolution Processes Comparison Chart

	Mediation	Due Process Complaint	Resolution Process	State Complaint
Who can initiate the process?	Parent or LEA/Public Agency, but must be voluntary for both	Parent or LEA/Public Agency	LEA schedules the resolution meeting upon receipt of a due process complaint unless the parties agree to waive or use mediation	Any individual or organization, including those from out of state
What is the time limit for filing?	None specified	2 years of when the party knew or should have known of the problem (or a State law specified timeline) with limited exceptions [1]	Triggered by a parent's due process complaint	1 year from the date of the alleged violation
What issues can be resolved?	Any matter under Part 300, including matters arising prior to the filing of a due process complaint (there are exceptions)[2]	Any matter relating to the identification, evaluation or educational placement or provision of a free appropriate public education (there are exceptions)[2]	Same as the issues raised in the parent's due process complaint	Alleged violations of Part B of IDEA or Part 300

[1] The time limit does not apply to a parent if the parent was prevented from filing a due process complaint due to: (1) specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) the LEA's withholding of information from the parent that was required under Part 300 of IDEA to be provided to the parent. (34 CFR 300.511(f)).

[2] Such exceptions include: the LEA/Public Agency may not file a due process complaint or use mediation to override a parent's refusal to consent to the initial provision of special education services (34 CFR 300.300(b)(3)); the LEA/Public Agency may not file a due process complaint or use mediation to override a parent's refusal to consent to an initial evaluation or reevaluation of a parentally-placed private school student or home schooled student; (34 CFR 300.300(c)(4)(i)); the right of parents of parentally placed private school children to file a due process complaint is limited to the LEA's failure to meet the child find requirements (34 CFR 300.140); the LEA/Public Agency's failure to provide a highly qualified teacher is not an issue subject to due process, but a State complaint could be filed with the SEA (34 CFR 300.156(e)).

	MEDIATION	DUE PROCESS COMPLAINT	RESOLUTION PROCESS	STATE COMPLAINT
What is the timeline for resolving the issues?	None specified	45 days from the end of the resolution period unless specific extensions to the timeline are granted [3, 4]	LEA must convene a resolution meeting within 15 days of receipt of the parent's due process complaint, unless the parties agree in writing to waive the meeting or agree to use mediation Resolution period is 30 days from receipt of the parent's due process complaint unless the parties agree otherwise or the parent or LEA fails to participate in the resolution meeting or the LEA fails to convene the resolution meeting within 15 days of receipt of the parent's due process complaint [3, 5, 6, 7]	60 days from receipt of the complaint unless an extension is permitted [8]

[3] If the due process complaint is filed for an expedited hearing pursuant to IDEA's discipline procedures, the resolution period is 15 calendar days. If the matter has not been resolved to the satisfaction of both parties, the hearing must occur within 20 school days of the date the hearing is requested and a decision must be issued within 10 school days after the hearing. (34 CFR 300.532(c)).

[4] A hearing officer may grant specific extension of time at the request of either party. (34 CFR 300.515(c)).

[5] The regulations allow for adjustments to the 30-day resolution period. The 45-day timeline for the due process hearing starts the day after one of the following events: (1) both parties agree in writing to waive the resolution meeting; (2) after either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; (3) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process. (34 CFR 300.510(c)).

[6] Parent failure to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held. (34 CFR 300.510(b)(3)).

[7] If the LEA fails to hold the resolution meeting within 15 days of receiving the parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. (34 CFR 300.510(b)(5)).

[8] The timeline for resolving the State complaint may be extended if exceptional circumstances exist with respect to a particular complaint, or the parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency agree to extend the time to engage in mediation or to engage in other alternative means of dispute resolution, if available in the State. (34 CFR 300.152(b)(1)).

	MEDIATION	DUE PROCESS COMPLAINT	RESOLUTION PROCESS	STATE COMPLAINT
Who resolves the issues?	Parent and LEA/Public Agency with a mediator The process is voluntary and both parties must agree to any resolution	Hearing Officer	Parent and LEA/Public Agency Both parties must agree to any resolution	SEA[9]

[9] The SEA's complaint procedures must provide the public agency with the opportunity to respond to the complaint, including, at the discretion of the public agency, a proposal to resolve the complaint; and an opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation. (34 CFR 300.152(a)(3)). In some cases, the complainant and public agency may be able to resolve the dispute without the need for the SEA to resolve the matter.

Appendix I

Request for Facilitated IEP

REQUEST FOR A FACILITATED IEP MEETING

DEPARTMENT OF PUBLIC INSTRUCTION
SPECIAL EDUCATION DIVISION
SFN 58305 (03-06)

Student Name

School District Information

School District/Special Education Unit	City	State	Zip+4 (ex. 58504-0440)
Name and Title of Person Completing Form			
Telephone Number			Fax Number

Parent/Guardian Information

Parent/Guardian Name		
Student's Age	Grade	Disability
Work Telephone Number	Home Telephone Number	Cell Phone Number

In our last IEP team meeting, we reached an impasse regarding the following areas:

- ☐ Placement
- ☐ Identification/evaluation
- ☐ Present levels of educational performance
- ☐ Services
- ☐ Transition
- ☐ Goals (objective)
- ☐ Other (specify) _____
- ☐ Adaptations/accommodations
- ☐ Related Services
- ☐ Assistive Technology
- ☐ Progress Reporting
- ☐ Discipline/Behavior
- ☐ Implementation of IEP

IEP Facilitation:

- Is a voluntary process;
- Uses a neutral third party;
- Permits a guided IEP meeting;
- Assists the IEP team members to communicate effectively;
- Supports all team members;
- Provides an opportunity to identify new options to address unresolved concerns.

The IEP Facilitator:

- Is neutral;
- Is knowledgeable and experienced in the IEP process;
- Participates only when invited by both parties, but is not a member of the IEP team;
- Ensures that the meeting is student-focused;
- Does not make decisions and does not tell the IEP team members how to solve issues;
- Does not provide legal advice.

Signature of Parent/Guardian or Adult Student	Date
Signature of District Administrator	Date

For State Office Use Only

NDDPI ☐ **accepts**/ ☐ **does not accept** this application for the following reasons:

Appendix J

Request for Mediation

REQUEST FOR MEDIATION

DEPARTMENT OF PUBLIC INSTRUCTION
OFFICE OF SPECIAL EDUCATION
SFN 58601 (6/07)

I/We request mediation in the in the matter of _____ (child/student's initials) to try to reach an agreement on some or all of the issues regarding educational services for the child/student. I/We have read and understand the written materials describing mediation services and have been fully informed of the following:

- The mediator does not provide the parent(s), the school district, or the child/student with legal representation.
- The mediator does not provide counseling or therapy services.
- The mediator is a neutral third party who will assist the group in developing an agreement that is mutually satisfactory.
- If an agreement is reached, the written and signed agreement may be shared with other individuals working with the child/student.
- The signed written agreement is considered legally-binding under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 04).
- Discussions during the mediation session will be held confidential and can not be used during subsequent proceedings pertaining to the child/student's case.
- The IEP team should reconvene to discuss components of the agreement that should be implemented in the student's IEP.

The following is a summary of the issue(s) that I/We would like to discuss in mediation: (If more space is needed, please include additional pages)**.**

Please identify individuals who will accompany you to the mediation.

Name	Position/Relationship to student

Please identify other individuals that you would like to participate in this mediation.

Name	Position/Relationship to student

School (and District) Name	Address	City	State	Zip + 4 digit code
Name of School Administrator	Telephone	Email		

Parent/Guardian Name	Address	City	State	Zip + 4 digit code
Telephone	Cell phone or Email	Student Name	Student Date of Birth	
Signature of Person(s) Completing This Form			Date	

Mail to:
ND Department of Public Instruction-Office of Special Education
Dispute Resolution Coordinator
600 E Boulevard Ave, Dept 201
Bismarck, ND 58505-0440

Appendix K

Revocation of Consent for
Special Education and Related Services

Revocation of Consent for Special Education & Related Services

34 C.F.R. §§300.9(c)(3) & 300.300(b)(4)

Name of Student	Date

This form enables the parent/legal guardian or adult student age 18 or older to revoke consent in writing. If you revoke consent in writing the school district or public agency:

1. Is not required to convene an IEP team meeting or develop an IEP.
2. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide further special education and related services.
3. May not seek to use consent override procedures such as mediation or due process procedures to obtain an agreement or a ruling that services may be provided to the child.
4. May not continue to provide special education and related services to the child, but must provide **Prior Written Notice** before ceasing the provision of special education and related services.
5. Is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

☐ **I REVOKE my consent for my child to continue to receive all special education and related services.**

☐ **I am an adult student age 18 or older and I REVOKE my consent for all special education and related services.**

SIGN AND DATE

Signature: _____ Date: _____

☐ Parent ☐ Legal Guardian ☐ Adult Student

Please keep a copy of this form for your records and send the signed original to the school district/public agency.

Special Education and Related Services will be discontinued ONLY after the school district's or public agency's receipt of your signature to revoke consent for all Special Education and Related Services and the provision of Prior Written Notice.

FOR SCHOOL DISTRICT OR PUBLIC AGENCY USE

Date received	Signature of School District or Public Agency Official	
		Date
	Date Prior Written Notice provided:	
		Date
	Date special education and related services terminated:	

Appendix L

Written Notification of Parental Rights Regarding
Use of Public Benefits or Insurance

Written Notification Parental Rights Regarding Use of Public Benefits or Insurance

INTRODUCTION

You are receiving this written notification to give you information about your rights and protections under Part B of the Individuals with Disabilities Education Act (IDEA), so that you can make an informed decision about whether you should give your written consent to allow your school district to use your or your child's public benefits or insurance to pay for special education and related services that your school district is required to provide at no cost to you and your child under IDEA. First, we will provide some basic information about IDEA.

Part B of IDEA is the Federal law that provides for assistance to States and school districts in making a free appropriate public education (FAPE), which includes special education and related services, available to children with disabilities in the least restrictive environment. If your child has been evaluated and found eligible for services under IDEA because he or she has a disability and needs special education and related services, your school district must develop an individualized education program (IEP) for your child. Your school district must provide the special education and related services included in your child's IEP at no charge to you or your child.

IDEA funds pay a portion of your child's special education and related services. Funds from a public benefits or insurance program (for example, Medicaid funds) also may be used by your school district to help pay for special education and related services, but only if you choose to provide your consent, as explained below. Also, your school district cannot access your or your child's public benefits or insurance if it would result in a cost to you, such as a decrease in your benefits or an increase in your premiums. These "no cost" provisions are explained below as well.

Before your school district can ask you to provide your consent to access your or your child's public benefits or insurance for the first time, it must provide you with this notification of the rights and protections available to you under IDEA. This notification is intended to help you understand these rights and protections, including the type of consent your school district will ask you to provide. If you choose not to provide your consent, or later decide to withdraw your consent, your school district has a continuing responsibility to ensure that your child is provided all required special education and related services under IDEA at no charge to you or your child.

NOTIFICATION REQUIREMENTS
34 CFR §300.154(d)(2)(v)

You are receiving this notification because IDEA requires that you be informed of your rights and protections when your school district seeks to use your or your child's public benefits or insurance to pay for special education and related services. The following sections explain when you must receive this notification and what information must be included in the notification.

When Notification Must be Provided
You must receive this notification:

- before your school district seeks to use your or your child's public benefits or insurance for the first time and before it obtains your consent to use those benefits or insurance for the first time (the consent requirement is described below); and
- annually thereafter.

Format of Notification
This notification must be:

- written;
- in language understandable to the general public; and
- in your native language or in another mode of communication you use, unless it is clearly not feasible to do so.

CONTENTS OF NOTIFICATION
34 CFR §300.154(d)(2)(v)(A)-(D)

This notification will explain: 1) the consent that your school district must obtain from you before it can use your or your child's public benefits or insurance for the first time; 2) IDEA's "no cost" provisions that apply to your school district if it seeks to use your or your child's public benefits or insurance; 3) your right to withdraw your consent to the disclosure of your child's personally identifiable information to your State's public benefits or insurance program agency at any time; and 4) your school district's continuing responsibility to ensure that your child is provided all required special education and related services at no charge to you or your child, even if you withdraw your consent or refuse to provide consent.

PARENTAL CONSENT
34 CFR §300.154(d)(2)(iv)(A)-(B)

**If your school district has not accessed your public benefits or insurance in the past to pay for services that it was required to provide your child under IDEA at no charge to you or your child, all of the parental consent requirements described below apply.

Before your school district can use your or your child's public benefits or insurance for the first time to pay for special education and related services under IDEA, it must obtain your signed and dated written consent. Generally, your school district will provide you with a consent form for you to sign and date. Not that your school district is only required to obtain your consent one time.

This consent requirement has two parts.

1. Consent for Disclosure of Your Child's Personally Identifiable Information to the State agency responsible for administering your State's Public Benefits or Insurance Program
   Under Federal law – the Family Educational Rights and Privacy Act (FERPA) and the confidentiality of information provisions in IDEA – your school district is required to obtain your written consent before disclosing personally identifiable information (such as your child's name, address, social security number, student number, IEP, or evaluation results) from your child's education records to a party other than your school district,

with some exceptions. In this situation, your school district is required to obtain your consent before disclosing personally identifiable information for billing purposes to the Medical Services Division of the North Dakota Department of Human Services. Your consent must specify the personally identifiable information that your school district may disclose (for example, records or information about the services that may be provided to your child), the purpose of the disclosure (for example, billing for special education and related services), and the agency to which your school district may disclose the information (for example, the Medicaid section of the Medical Services Division of the North Dakota Department of Human Services that administers the public benefits or insurance program.

> If you choose to provide consent and your child's personally identifiable information is disclosed to your State's public benefits or insurance program agency, you may request and receive from your school district a copy of the records your school district disclosed to that agency.

2. Statement to Access Public Benefits or Insurance
   Your consent must include a statement specifying that you understand and agree that your school district may use your or your child's public benefits or insurance to pay for services under 34 CFR part 300, which are special education and related services under IDEA.

   > Your school district will ask you for your consent to bill Medicaid by presenting you with a form requesting your signature.

   Both parts of this consent requirement apply to the school district that is responsible for serving your child under IDEA. If you child moves to a new school within the same school district, you would not be required to provide a new consent because the same school district is still responsible for serving your child under IDEA. But if you enroll your child in a new school district, the new school district that is responsible for serving your child under IDEA must obtain a new consent from you before it can bill your child's public benefits or insurance program for the first time. The consent you would provide to your child's new school district must include both parts of the consent as described above.

   Electronic consent, if applicable (34 CFR §99.30(d))
   As noted above, your consent must be written, signed, and dated. While there generally will be a paper form for you to fill out, you may provide your written consent in an electronic form, if your submission identifies and authenticates you as the individual providing the consent, includes an electronic signature and date, and your submission indicates that you approve the information contained in the consent.

   Previous consent
   If you gave your consent in the past for your school district to access your or your child's public benefits or insurance to pay for special education and related services under IDEA,

your school district is not required to obtain a new consent from you if the following two conditions are present:

1. There is no change in any of the following: the type of services to be provided to your child (for example, physical therapy or speech therapy); the amount of services to be provided to your child (for example, hours per week lasting for the school year); or the cost of the services (that is, the amount charged to the public benefits or insurance program); and

2. Your school district has on file the consent you previously provided. This previous consent must meet the requirements that were in effect under the prior IDEA regulations, and your school district will know what requirements applied under those prior regulations. An example of a previous consent your school district may have on file is a parental consent form you gave directly to another agency, such as the Medical Services Division of the Department of Human Services, North Dakota's Medicaid agency.

Even if your school district is not required to obtain a new consent from you, your school district still must provide you with this notification before it may continue to bill your or your child's public benefits or insurance program to pay for special education and related services under IDEA.

If your school district already has on file your consent to use your or your child's public benefits or insurance to pay for special education and related services under IDEA, your school district must request that you provide a new consent when there is a change in any of the following: the type (for example, physical therapy or speech therapy), amount (for example, hours per week lasting for the school year), or cost of services (that is, the amount charged to the public benefits or insurance program).

An example of a change in the type of services would be that your child would receive speech therapy in addition to physical therapy and therefore, the services billed to your public benefits or insurance program would be different. An example of a change in the amount of services would be if your child was previously receiving 3 hours per week of physical therapy and will now be receiving 2 hours per week. An example of a change in the cost of your child's services would occur if the amount billed to the public benefits or insurance program for a particular service increases or decreases.

If any of these changes occur, your school district must obtain from you a one-time consent, specifying that you understand and agree that your school district may access your or your child's public benefits or insurance to pay for special education and related services under IDEA. Before you provide your school district the new, one-time consent, your school district must provide you with this notification. Once you provide this one-time consent, you will not be required to provide your school district with any additional consent in order for it to access your or your child's public benefits or insurance if your child's services change in the future. However your school district must continue to provide you with this notification annually.

NO COST PROVISIONS
34 CFR §300.154(d)(2)(i)-(iii)

The IDEA "no cost" protections regarding the use of public benefits or insurance are as follows:

1. Your school district may not require you to sign up for, or enroll in, a public benefits or insurance program in order for your child to receive FAPE. This means that your school district may not make your enrollment in a public benefits or insurance program a condition of providing your child the services it is required to provide your child under IDEA at no charge to you or your child.

2. Your school district may not require you to pay an out-of-pocket expense, such as the payment of a deductible or co-pay amount for filing a claim for services that your school district is otherwise required to provide your child without charge. For example, if your child's IEP includes speech therapy and your insurance requires a $25.00 co-pay or deductible payment for a session, you could not be charged the $25.00. Your school district would need to pay the cost of your co-pay or deductible in order to bill your or your child's public benefits or insurance program for the particular service.

3. Your school district may not use your or your child's public benefits or insurance if using those benefits or insurance would:

    a. Decrease your available lifetime coverage or any other insured benefit, such as a decrease in your plan's allowable number of physical therapy sessions available to your child or a decrease in your plan's allowable number of sessions for mental health services;

    b. Cause you to pay for services that would otherwise be covered by your public benefits or insurance program because your child also requires those services outside of the time your child is in school;

    c. Increase your premium or lead to the cancelation of your public benefits or insurance; or

    d. Cause you to risk the loss of your or your child's eligibility for home and community-based waivers that are based on your total health-related expenditures.

WITHDRAWL OF CONSENT
34 CFR §300.154(d)(2)(v)(C)

If you provided your consent for your school district to disclose your child's personally identifiable information to the State agency that is responsible for administering your public benefits or insurance program, the Medical Services Division of the North Dakota Department of Human Services, you have the right under 34 CFR part 99 (FERPA regulations) and 34 CFR part 300 (IDEA regulations) to withdraw that consent at <u>any</u> <u>time</u>.

If you do not want your school district to continue to bill your or your child's public benefits or insurance program for special education and related services under IDEA, you would need to withdraw your consent to your school district's disclosure of your child's personally identifiable information to the agency in your State that is responsible for administering that program. The FERPA and IDEA regulations, however, do not contain procedures for withdrawal of consent to disclosure of your child's personally identifiable information. If you wish to withdraw your consent, you should ask your school district what procedures you would need to follow. For example, your school district may ask you to submit your withdrawal request in writing.

What Your School District Must Do if You Withdraw Your Consent or Refuse to Provide Your Consent
34 CFR §300.154(d)(2)(v)(D)

Finally, without your consent, your school district cannot bill your or your child's public benefits or insurance program to pay for special education and related services that it is required to provide your child under IDEA at no charge to you or your child. If you withdraw your consent or refuse to provide consent under the FERPA and IDEA regulations, your school district may not use your withdrawal of consent or refusal to provide consent to disclose personally identifiable information to a public benefits or insurance program to deny your child the special education and related services he or she is otherwise entitled to receive under IDEA. Therefore, if you refuse to provide consent or withdraw consent, your school district has a continuing responsibility to ensure that your child is provided all required services necessary to receive an appropriate education at no charge to you or your child.

We hope this information is helpful to you in making an informed decision regarding whether to allow your school district to use your or your child's public benefits or insurance to pay for special education and related services under IDEA.

Contact Information: For additional information and guidance on the requirements governing the use of public benefits or insurance to pay for special education and related services see: http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html.

You may also contact your local school district office or the Medical Services Division of the North Dakota Department of Human Services for additional information regarding the use of Medicaid or insurance to pay for special education and related services: http://www.nd.gov/dhs/services/medicalserv/

ND Department of Human Services
600 East Boulevard Ave, Dept 325
Bismarck ND 58505-0250
Phone: (701) 328-2310
Toll Free: (800)-472-2622
ND Relay TTY (800) 366-6888
Fax: (701) 328-2359

Consent to Bill Medicaid

Regarding Student: **DOB:**

Dear Parent/Guardian:

Under federal law, the school district can be reimbursed by Medicaid for therapy services provided to students who receive certain special education related services (e.g., occupational therapy, speech therapy, physical therapy, audiology). Through your child's IEP team planning process, it was determined that at least one of these services is necessary in order to provide your child with a free appropriate public education (FAPE).

The school district is required to obtain your consent before it can bill Medicaid. Your consent is only required this one time. In future years, you will be notified/reminded of this process and your rights as parent/guardian.

Before providing consent, please review the following:

- The school district must provide the services listed in your child's IEP even if you do not consent to this request to bill Medicaid.
- By billing Medicaid, we are disclosing to the Medical Services Division, North Dakota Department of Human Services (DHS) that your child receives special education services (i.e., therapy services).
- As part of the Medicaid billing process, the school district will be required to send the portion of your child's IEP pertaining to therapy services to your child's primary care physician for his/her authorization.
- This access to Medicaid cannot require you to incur an out-of-pocket expense; cannot result in any decrease in available lifetime coverage or any other insured benefit; cannot result in your family paying for services that would otherwise be covered by Medicaid and that are required for your child outside of school; cannot increase premiums or lead to the discontinuation of benefits; and cannot create any risk of loss of your child's eligibility for home and community-based waivers, based on aggregate health-related expenditures.
- This consent form pertains to each/all therapies identified in your child's IEPs from this point on unless or until you revoke your consent. Granting consent is voluntary, and may be revoked at any time. If consent is revoked, the revocation is not retroactive; which means that it does not undo any verification or billing through DHS that has already taken place, but it will stop any future verification or billing. You may revoke your consent at any time by contacting your child's Special Education Case Manager.
- If your child is no longer served by this school district, this consent will not transfer to a new school district. This authorization will begin on the date that you sign and give consent below.

By signing below, I acknowledge that I have reviewed the information above and provide my consent for the school district to bill Medicaid for my child's therapy services.

Parent/Guardian Signature Medicaid Number Date

Your Child's Primary Care Physician Physician's Clinic or Hospital

Case Manager Signature: _____ Date: _____