

## Special Education and Related Services for Eligible Students

The purpose of the District's special education program procedures is to address program areas where State and federal regulations require specific local procedures or permit local ~~discretionary choices.~~~~exercise of discretion.~~

The state regulations governing implementation of special education services pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) are addressed in Chapter 392-172A WAC. These procedures do not address all of the requirements ~~established~~~~contained~~ in the regulations. District personnel who are not familiar with the regulations need to contact *the Special Services Director* if there are questions regarding special education. ~~These procedures describe how the district implements its special education program.~~

### **1. Free Appropriate Public Education (FAPE)**

~~The district will apply annually for Federal Part B and state special education funding to assist in the provision of special education and any necessary related services. This funding is in addition to students' basic education funding and state special education funding.~~

~~The Director of Special Services, in consultation with building staff, will annually determine whether to use Early Intervening Services (EIS) funding for students who have not been identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.~~

~~The district will annually report to the Office of Superintendent of Public Instruction (OSPI) the number of students receiving EIS; and the number of students who received EIS and subsequently received special education and related services under Part B of IDEA during the preceding two-year period.~~

~~Services to eligible special education students, age three to 21, will be provided without charge to the student. This does not include incidental fees that are normally charged to all students. Special education services will include pre-school, elementary and secondary education and are provided in conformance with the student's Individual Education Program (IEP).~~

~~The district provides a continuum of services for students, regardless of the funding source. Where the district is unable to provide all or part of the special education or necessary related services, it will make arrangements through contracts with other public or non-public sources, inter-district agreements or interagency coordination.~~

### **2. Students Covered by Public or Private Insurance**

~~The district may use Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required to provide a FAPE, as permitted by the public insurance program. However, the district will not:~~

- ~~A. Require parents to sign up for or enroll in public benefits or insurance programs in order for their student to receive FAPE under Part B of the IDEA;~~
- ~~B. Require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;~~
- ~~C. Use a parent or student's benefits under a public insurance programs if that use would:~~
  - ~~1. Decrease available lifetime coverage or any other insured benefit;~~
  - ~~2. Result in the family paying for services required after school hours that would otherwise be covered by the public insurance program;~~
  - ~~3. Increase premiums or result in discontinuation of insurance; or~~
  - ~~4. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.~~

~~The district may access a parent's private insurance proceeds to provide FAPE to an eligible student only if the parent provides informed consent to the district. Whenever the district proposes to access the parent's private insurance proceeds, the district will:~~

- ~~1. Obtain parent consent in accordance with Chapter 392-172A WAC each time the district wishes to access benefits for a new procedure; and~~
- ~~2. Inform the parents that their refusal to permit the district to access their insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents.~~

Before first accessing a parent's or students public benefits, for the first time and annually after the first notification, the district will provide written notification using the prior written notice provisions under WAC 392-172A-05010(3) that includes:

1. a statement of the parental consent provisions;
2. a statement of the "no cost" provisions;
3. a statement that the parents may withdraw their consent to disclose personally identifiable information to the agency responsible for administering the state's public benefits or insurance, and
4. a statement that a parent's withdrawal or refusal to consent does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

After providing the required notification, the district will obtain written informed consent from the parent allowing the district to disclose information from the student's educational records to the agency responsible for administering the state's public benefits or insurance programs. The consent will specify:

3. The personally identifiable information that may be disclosed, such as records or information about the services that may be provided to the student;
4. The purpose of the disclosure;
5. The agency to which the disclosure will be made; and
6. That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under the act.

To avoid financial cost to parents who would otherwise consent to use private insurance, or public benefits if the parent would incur a cost such as a deductible or co-pay, the district may use its Part B funds to pay the cost the parents would incur.

The special education staff is responsible for providing the required notices and requests for consent to parents under this section.

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### **8. Parent Participation in Meetings**

The district encourages parental involvement and sharing of information between district and parents to support the provision of appropriate services to its students. As used in these procedures, the term "parent" includes biological and adoptive parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, foster parents, persons appointed as surrogate parents and adult students.

Parents (and as appropriate, students) will be provided the opportunity to participate in any meetings with respect to the identification, evaluation, educational placement and provision of a FAPE.

When a meeting is scheduled parents will be:

- A. Notified of the meeting early enough that they will have an opportunity to attend; and
- B. Notified of the purpose, time, and location of the meeting and who will be in attendance.

When the meeting is to address the IEP or placement,:

1. The parent will be notified that the district or the parent may invite others who have knowledge or special expertise of the student; and
2. The meetings will be scheduled at a mutually agreeable time and place.

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

The staff person responsible for inviting the parents to meetings will keep documentation of the information provided and the methods used to notify the parents of the meeting. The district may proceed with the IEP or placement meeting if the district is not able to convince the parent to attend. In this case, the district will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent and/or other means used to contact the parent.

This documentation will be kept in the student's special education file. The special education staff is responsible for keeping all the documentation. If the parent cannot attend the IEP or placement meeting but wishes to participate, the district will arrange for other means to participate. This can include individual or conference phone calls.

A meeting does not include informal or unscheduled conversations involving district personnel; conversations on issues such as teaching methodology, lesson plans, coordination of service provisions; or preparatory activities that district personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

## **9. Identification and Referral (Child Find)**

### **10. A. Identification**

11. The purpose of child find is to locate, evaluate and identify children with suspected disabilities in need of special education services including those who are not currently receiving special education and related services and who may be eligible for those services. Activities are to reach: Children residing in the school district boundaries including preschool-aged children;

1. Children attending approved, nonprofit private elementary and secondary schools located within the district boundaries;
2. Highly mobile children (such as homeless, foster care and migrant children);
3. Children who have a disability and may need special education services even though they are advancing from grade to grade; and
4. Children at home or home-schooled.

The district will consult with parents and representatives of private school students to ensure its child find activities are comparable in approved, nonprofit private schools located within district boundaries. These consultations will occur annually by phone, in person meetings, e-mail or letter.

The district reaches students who may be eligible for special education services through:

1. Notification to parents district-wide through local papers or other media;
2. Information regarding child find on the district's Web site;
3. Posting notices regarding screening and referral in school buildings and public locations including grocery stores, Laundromats, day cares, community preschool sites and physicians' offices;
4. Notifying and coordinating with the designated Part C lead agencies;
5. Early childhood screenings conducted by the district;
6. Coordination with other public and private agencies and practitioners;
7. Written information provided to district staff on referral procedures;
8. Training teachers and administrators on referral/evaluation/identification procedures; and
9. Review of student behavior, discipline and absentee information and information gathered from district-wide assessment activities.

When district staff has concerns that a student may have a suspected disability which could result in eligibility for special education services, they will the building principal. Action regarding the referral will be forwarded to the special education building team. Referrals are required to be in writing unless the person referring is unable to write. All referrals must be documented.

The district's special education building team conducts early childhood screenings for ages three to five. These occur at any time at the special education department. When parents or others inquire about screenings the information is taken down and then presented to the building school psychologist.

The screening process involves the following:

1. Parents are asked to provide information to assist in assessing their child; and
2. Children are screened to assess cognitive, communication, physical, social-emotional and adaptive development. Parents will be notified at the screening of the results and the parents will also be provided written notice of the results within ten days of the screening. If the screening supports evaluation, obtain written consent for evaluation at the exit interview if possible, or include consent forms with the written notice notifying the parents of the results. If the screening results indicate that the child does not need an evaluation, written notice will be sent to the parents within 10 days of the screening explaining the basis for the district's decision not to evaluate. Evaluation occurs in accordance with evaluation procedures.

## **12. B. Referral**

A student, whether or not enrolled in school, may be referred for a special education evaluation by parents, district staff or other persons knowledgeable about the student. Each building principal will designate a person responsible for ensuring that district staff understands the referral process. Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked to either make the referral in writing or go to the main office of the building for assistance in making the referral.

When a referral is made, the district must act within a 25 school-day timeline to make a decision about whether or not the student will receive an evaluation for eligibility for special education services.

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person will notify the school psychologist. The school psychologist: (a) records the referral; (b) provides written notice of the referral to the parent; and (c) advises the multidisciplinary team to collect and review district data and information provided by the parent to determine whether evaluation is warranted.

During the referral period the multidisciplinary team will collect and review existing information from all sources, including parents. Examples may include:

1. Child's history, including developmental milestones;
2. Report cards and progress reports;
3. Individual teacher's or other provider information regarding the child including observations;
4. Assessment data;
5. Medical information, if provided; and
6. Other information that may be relevant to assist in determining whether the child should be evaluated.

If the review of data occurs at a meeting, the parent will be invited. The school psychologist provides written notice to the parents of the decision regarding evaluation, whether or not the parents attend the meeting.

Recommendations regarding evaluation are forwarded to the special education.

After staff reviews the request for evaluation and supporting data and does not suspect that the child has a disability, the district may deny the request. In this case written notice, including the reason for the denial and the information used as the basis for the denial, must be given to the parent.

If the determination is that the child should be evaluated, the reviewers will include information about the recommended areas of evaluation, including the need for further medical evaluation of the student. This information will assist the district in providing parents prior written notice and will assist the district in selecting appropriate evaluation group members. The school psychologist is responsible for notifying parents of the results using prior written notice. When the determination is that the child will be evaluated, parent consent for evaluation and consent for release of appropriate records will be sent with the notice.

The school psychologist will seek parental consent to conduct the evaluation. The school district is not required to obtain consent from the biological parent if:

1. The student is a ward of the state and does not reside with a parent;
2. The parent cannot be located, or their rights have been terminated; or
3. Consent for an evaluation is given by an individual appointed to represent the student.

When the parent provides consent, the district will select an evaluation group. The evaluation group is to complete the evaluation within 35 school days after the district's receipt of parent consent, unless:

1. The parents and district agree in writing to extending the timeline;
2. The parent fails or refuses to make the student available for the evaluation; or
3. The student enrolls in another school district after the evaluation is begun but before completion and the parent and new district have an agreement for completion of the evaluation.

If a parent does not provide written, informed consent for the evaluation, notify the special services office. District staff will make a determination as to whether it wishes to use mediation to seek agreement to evaluate or file a due process hearing to override the parent's refusal to consent. The district may not override a parent's refusal to consent for an evaluation if the student is homeschooled or is unilaterally placed in a private school. If the parent does not

provide written informed consent and the district does not use mediation or due process, the school psychologist will provide the parent with prior written notice informing the parent that the district cannot proceed with the evaluation to determine eligibility and is not responsible for providing special education and related services without an initial evaluation to determine eligibility.

#### Evaluation of Students moving from Part C to Part B and Participation in Transition Planning Conferences

The district will participate in transition planning conferences, arranged by the local lead agency as designee of the Part C lead agency for each student who may be eligible for preschool services. Transition plans will be designed to promote uninterrupted provision of appropriate services to the child.

1. The school psychologist will serve as the point of contact with the family resource coordinator for timely execution of transition planning conferences that are arranged at least 90 days before the student's third birthday by the designee of the Part C agency;
2. The district will follow the procedures for obtaining consent and conducting an initial evaluation, if it determines that the student will be evaluated to determine eligibility for Part B services;

The district will follow the procedures for timelines and evaluation requirements for students moving from Part C to Part B except:

1. Students turning three, who were previously determined eligible for early intervention services under Part C of IDEA, will be evaluated for initial eligibility for special education services under Part B of IDEA. The evaluation must be completed in enough time to develop an initial IEP by the date of the student's third birthday.

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#### **14. Evaluation Requirements**

The purpose of the evaluation is to collect information about a student's functional, developmental and academic skills and achievements from a variety of sources, to determine whether a student qualifies for special education and related services, and to develop an IEP. This includes information provided by the parent. All information gathered in this process is reviewed by the IEP team or other group of qualified professionals.

The evaluation must be an individual assessment designed to determine:

1. Whether the student is eligible for special education and any necessary related services; and,
2. The nature and extent of special education and related services needed by the student, including information related to enabling the child to be involved in and progress in the general education curriculum.

The districts school psychologist will select the members of the evaluation group. Members selected must be knowledgeable about the student and the areas of suspected disabilities. Qualifications of a group member include having the appropriate professional license or certification and may include outside practitioners when necessary. When assessing for specific learning disabilities, the parent and a group of qualified professionals must be part of the group. If the student requires a medical evaluation in order to determine eligibility, the district will coordinate with the parents to arrange for the evaluation at district expense or through the use of public or private insurance if the parent consents to allow the district to use the insurance.

There are many legal requirements for conducting evaluations. Evaluation procedures or materials must be free of racial, cultural or sexual/gender bias and they must be used for the purpose for which they are valid and reliable. Tests must be appropriate for the student's age and stage of developmental level. Tests should be administered in the native language of the student or conducted in the mode of communication most familiar to the student. If it appears to be clearly not feasible to conduct a procedure or test in the mode of communication most frequently used by the student, the IEP team will contact the special education administrator to develop an individualized strategy for valid evaluation of the student's skills. The inclusion of parents in this collaboration is desirable and strongly encouraged.

Specific areas to be included in the evaluation are determined by the school psychologist and other qualified professionals, as appropriate, as part of a review of existing data concerning the student. The evaluation does not rely on one source or procedure as the sole criterion for determination and should include:

1. Review of existing data, including corresponding response to intervention (RTI) documentation;
2. Relevant functional and developmental information;
3. Information from parents;
4. Information from other providers;
5. Information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;

6. Current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records and observations;
7. Teacher and related service providers' observations; and
8. Testing and other evaluation materials, which may include medical or other evaluations when necessary.

All current evaluation data as well as data previously reviewed by the team must be considered. Professional members of the evaluation team need to be familiar with qualifying disability definitions and criteria in federal and state rules.

This review of existing data may be in the form of a meeting of IEP team members, or may be conducted without a meeting. It includes data provided by parents, data gathered in the general education classroom or from state and district level assessments. The data may provide information about the student's physical condition, social or cultural background and adaptive behavior.

When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The gathering of additional data in combination with existing data must be sufficiently comprehensive to address all areas of the suspected disability and any special education needs, whether linked to the disability category or not. If the IEP Team determines that no additional data are needed, the IEP team will notify the student's parent of that determination and the reasons for it, and inform them of their right to request additional assessments. The district will complete the evaluation using existing data.

Parents and district staff are encouraged to work towards consensus, but the school district has the ultimate responsibility to determine whether the student has a disability or not. The school psychologist will provide the parent with prior written notice of the eligibility decision, as well as a copy of the evaluation report. If the parent disagrees with the eligibility decision they will be informed of their dispute resolution options described in the procedural safeguards.

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### **16. Specific Learning Disability (SLD)**

The District will use the severe discrepancy approach for determining the identification of students with a specific learning disability (SLD).

The District will document the eligibility determination for children suspected of having SLDs, in compliance with WAC 392-172A-03080, which provides:

(1) In addition to the requirements for evaluation reports under WAC 392-172A-03035, for a student suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:

(a) Whether the student has a specific learning disability;

(b) The basis for making the determination, including an assurance that the determination has been made in accordance with WAC 392-172A-03040;

(c) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;

(d) Any educationally relevant medical findings;

(e) Whether:

(i) The student does not achieve adequately for the student's age or meet state grade level standards in one or more of the areas described in WAC 392-172A-03055(1); and

(ii) (A) The student does not make sufficient progress to meet age or state grade level standards when using a process based on the student's response to scientific research-based interventions consistent with WAC 392-172A-03060; or

(B) The student meets eligibility through a severe discrepancy model consistent with WAC 392-172A-03070; and

(C) If used as part of the eligibility determination under (A) or (B) of this subsection, a discussion of the student's pattern of strengths and weaknesses in performance, achievement or both, relative to age, state grade level standards, or intellectual development.

(f) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and

(g) If the student has participated in a process that assesses the student's response to scientific, research-based intervention;

(i) The instructional strategies used and the student-centered data collected in accordance with the District's response to intervention procedures; and

(ii) The documentation that the student's parents were notified about;

(A) State and school district policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(B) Strategies for increasing the student's rate of learning; and

(C) The parents' right to request an evaluation.

(2) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

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## 19. Evaluation of Transfer Students

If a student transfers into the school district while an evaluation process is pending from the other district, the special education team is responsible for determining the status of evaluations conducted to date and making a determination as to whether the evaluation can be completed within the 35 school day timeline from the date the parent provided consent. If the determination is that additional time will be needed, the school psychologist will notify the parent and obtain the parent's agreement to establish a new timeline.

### A. Eligibility

The evaluation group and the parent will determine whether or not the student is a special education student.

1. A student is not eligible if the determinant factor is lack of appropriate instruction in reading or math, based upon the state's grade level expectations or limited English proficiency; and

2. Eligibility may be determined by documented professional judgment when:

a. Properly validated tests are unavailable; or

b. Corroborating evidence indicates that results were influenced due to measuring a disability.

The parent will be provided with a copy of the evaluation report and the documentation of determination of eligibility.

Parents will also be provided with prior written notice of the eligibility decision within ten school days of the decision. The school psychologist is responsible for sending the notice.

Students remain eligible for special education services until one of four events occur:

1. The student is determined through a reevaluation to no longer be eligible for special education;

2. The student has met the district's high school graduation requirements;

3. The student has reached age 21. A special education student whose 21st birthday occurs after August 31, will continue to be eligible for special education and any necessary related services for the remainder of the school year; or

4. The student no longer receives special education services based upon a parent's written revocation of services.

When a special education student is expected to graduate prior to age 21, or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. The district will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services. The district will also provide the parents and student with a summary of academic achievement and functional performance and recommendations to assist the student with postsecondary goals.

## 20. B. Evaluation Report



Each person conducting an assessment of the student will specify the procedures and instruments used and their results and the significance of findings related to the student's instructional program, including a specification of the factors interfering with performance and the special education and related services needed.

The evaluation group will determine who is most appropriate to develop the evaluation report reflecting the evaluation information. This will be completed before the conclusion of the evaluation period and will, at a minimum:

1. Identify the disability which requires special education and related services, if a disability exists;
2. Discuss assessments and review data supporting conclusions regarding eligibility;
3. Include the additional information required for the specific learning disability eligibility category;
4. Describe how the disability or disabilities affect the student's involvement and progress in the general curriculum;
5. Make recommendations to the IEP team with respect to special education and related services needed, materials or equipment, instructional and curricular practices, student management strategies, the need for extended school year services beyond 180 school days and location of services;
6. Include other information, as determined through the evaluation process and parent input;
7. Include the additional information required for the specific learning disability eligibility category;
8. Provide any necessary professional judgments and the facts or reasons in support of the judgments; and
9. Be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions will prepare a statement presenting the conclusion.
10. The school psychologist is responsible for notifying parents of the date, time and location of evaluation meetings by following the procedures in the parent participation section for inviting parents to meetings.

### **21. C. Reevaluations**

A reevaluation of a student receiving special education or related services is conducted if academic achievement and functional performance has improved to warrant a reevaluation, if the IEP team suspects that the student may no longer be a student with a disability or if the child's parent or teacher requests a reevaluation. A reevaluation does not occur more than once per year, unless parent and school agree otherwise. A reevaluation must occur at least once every three years, unless parent and school staff agrees that a reevaluation is unnecessary. An agreement that an evaluation is unnecessary will be confirmed in writing to the parent. The school psychologist will schedule a review of this determination and notify the special education department.

Students who turn six who met the eligibility requirements for the disability category of "Developmentally Delayed" (DD) under the criteria for ages three to six years need not be reevaluated at age six under the criteria for six to nine years until three years after their initial evaluation was completed

Students who were previously eligible under the category "Developmentally Delayed" must be reevaluated before age nine to determine eligibility within another category.

As part of any reevaluation, the IEP team members and other professionals the district determines appropriate will review existing data that includes:

1. Evaluations and information provided by the parents;
2. Current classroom-based assessment, local or state assessments and classroom based observations; and
3. Observations by other teachers and related services providers data.

Based on this review the team will determine whether any additional data is necessary to determine:

1. Whether the student continues to be eligible for special education and any necessary related services;
2. The present levels of performance and educational needs; and
3. Whether any additions or modifications to the student's program are needed. This review can occur with or without a meeting or through individual review. If the IEP team members and any other persons reviewing the data determine that no further testing is necessary, the district will notify the parents of this determination, using written prior notice and will inform parents that they have the right to request assessments if they disagree with the determination that additional testing is not necessary. Parent consent is not required if the reevaluation does not require additional testing:
  - a. If additional testing is needed, the school psychologist will request written parental consent for reevaluation and provide prior written notice identifying the areas of assessment;
  - b. If the parents do not return the signed consent form, the district will send another letter explaining the need for reevaluation and parent consent and will enclose another consent form



and a copy of the prior written notice. In addition, the district will document its reasonable attempts to obtain consent such as telephone calls, emails, personal contact and other efforts to obtain consent;

- c. If the parents do not respond to the request for consent, and the district has documented its reasonable attempts to obtain consent, the district can proceed with the reevaluation; and
- d. If the parents refuse to consent to the reevaluation, the evaluation group will notify the Special Services Director so that the district can determine whether it will seek mediation in order to obtain consent or request a due process hearing to ask an administrative judge to override the parent's refusal to consent.

- After the reevaluation is completed, the school psychologist will both invite parents to the eligibility meeting and will provide prior written notice after the meeting of the results of the reevaluation to parents in their primary language, indicating one or more of the following:

- 1. Whether the student continues to be eligible and in need of special education;
- 2. Present levels of performance and educational needs of the student; and
- 3. Whether any additions or modifications to the special education and related services are needed to enable the student to meet IEP annual goals and to participate, as appropriate, in the general curriculum.

- This notice will occur within ten school days of the eligibility decision. The school psychologist is responsible for sending the notice.

## **22. D. Reevaluation and Graduation**

No reevaluation is required when special education eligibility terminates due to graduation from high school with a regular diploma or due to reaching the end of the school year during which the student turned 21. Instead, the special education teacher will provide prior written notice to the student and the parent one week prior to graduation and the IEP team will provide the student with a summary of academic achievement and functional performance including recommendations on how to assist the student in meeting post-secondary goals. The special education teacher is responsible for assuring that the IEP team completes the summary of academic achievement and functional performance.

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## **26. Independent Educational Evaluations (IEE)**

Parents of students eligible for special education, students referred for special education and determined to not be eligible or students determined not to need an evaluation have a right to obtain an IEE at public expense, each time the district conducts an evaluation of the student.

- When parents request an IEE the district must decide within 15 calendar days whether or not it agrees to provide it. Any parent request for an independent evaluation should be immediately referred to the special education director. The special education director will review the request and determine whether or not the request is warranted. If the district agrees to provide an IEE, arrangements will be made promptly. If the district denies the request to pay for an IEE, it must file for a due process hearing within 15 calendar days of the parent's request. The district may request mediation as an option after filing the due process hearing. If the parents withdraw their request for an IEE the due process hearing can be dismissed.

- When a parent requests an IEE, the district must provide parents a list of district criteria and evaluators. If the school district initiates a hearing and a decision is made that the district's evaluation is appropriate, the parent still has the right to an IEE but not a public expense. A parent is only entitled to one IEE at public expense each time the district conducts an evaluation with which the parent disagrees.

- If the parent obtains an IEE at either public or private expense, any results of the IEE must be considered by the district if providing FAPE. The IEE may also be presented as evidence at a hearing regarding the student.

The following criteria are established for the selection of an individual to conduct an IEE at public expense. These criteria are established in order to identify the knowledge, experience and qualifications of individuals selected to conduct the evaluations. Any individual selected to conduct either a district evaluation or an IEE must be:

1. Licensed, credentialed or otherwise qualified within the state of Washington or state of residence/practice to perform an evaluation in the specific professional discipline for which an independent evaluation is sought;
2. Knowledgeable and experienced in evaluating children with similar disabilities;
3. Geographically located within the state of Washington (districts may wish to specifically expand the criteria to include practitioners in other states/British Columbia); and
4. Available to the district at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington.

Exceptions to the criteria will be granted only when it can be shown that the unique circumstances of the child or the disability:

1. Make it impossible to identify anyone within the state of Washington who holds the appropriate credentials or experience necessary to conduct the evaluation; or
2. Require a specialized evaluator whose fee exceeds the prevailing average by more than 25%; or
3. Include factors which would warrant an exception in order to obtain an appropriate evaluation.

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### **31. Individualized Education Programs (IEP)**

#### **32. A. IEP Development**

The IEP is the written statement reflecting the implementation of instructional programs and other services for special education students based on the evaluation and student needs.

An IEP must be in effect before initiation of special education services. The IEP must be developed within 30 calendar days after the student's initial determination of eligibility for special services. IEPs must be updated annually, or revised more frequently if needed to adjust the program and services.

Parent consent is required before the initial provision of special education services. If a parent refuses to consent to the provision of special education services, the district may not use mediation or due process to override a parent's refusal. When a parent refuses to provide consent the school psychologist will notify the parent that the district does not have a FAPE obligation to the student. The notification will be documented in the student's file.

The district will maintain a copy of the current IEP which is accessible to all staff members responsible for providing education, other services or implementation of the IEP. All staff members will be informed of their responsibilities for its implementation. This includes not only teachers and other service providers, but also bus drivers, playground and lunchroom supervisors, nursing staff and others who may be responsible for the proper implementation. The building principal is responsible for ensuring that staff members are knowledgeable about their responsibilities.

IEPs will be implemented without undue delay following IEP meetings, regardless of the payment source for special education and or related services.

Parents are members of the IEP team and will have the opportunity to fully participate. The district will make sure that the parents understand the proceedings; including arranging for an interpreter for parents who are deaf or whose native language is other than English. The district will also ensure that meeting locations are accessible. The special education department is responsible for coordinating interpreters and making arrangements for the meeting location.

The district will provide parents/guardians with a copy of the district's *Required Notification of Isolation or Restraint of Students with IEPs or Section 504 Plans* policy (Policy 3247) when the student's IEP is created.

The IEP team includes:

1. The parents of the student;
2. Not less than one general education teacher (or preschool teacher) of the student if the student is, or will be, participating in the general education environment;
3. Not less than one special education teacher, or if appropriate, not less than one special education provider of the student;
4. A representative of the district, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of district resources.
5. An individual who can interpret the instructional implications of the evaluation results;
6. Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both the district and the parents, at the discretion of the person making the invitation;
7. The student, when appropriate, or when required;
8. Students must be invited when the purpose of the meeting includes discussion of transition needs or services;
9. If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited, with the parent's consent. If the agency representative cannot attend the meeting, district personnel will keep the representative informed of the meeting and obtain agency information that will assist in the service provision; and
10. Parents will be notified of the participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead educational agency for Part C at the initial IEP meeting for a child previously served under Part C of IDEA.

The parents and district must agree in writing before any of the above team members are excused from all or part of a meeting. If a team member's area of the IEP is being discussed or modified, then the parent and district must consent to their excusal; and that specific team member must provide advance written input for their part of the IEP prior to the meeting. The parent will be notified prior to the meeting if any of the members are being asked to be excused.

Existing team members may fill more than one of these roles if they meet the criteria for the role.

Sometimes parents do not attend IEP meetings. There will also be times the parents do not agree with the IEP as proposed, and despite attempts to reach agreement on IEP content, the team does not reach agreement. If a parent attends the IEP meeting and agreement is not reached on the IEP, the team will determine whether another IEP meeting should be scheduled as soon as mutually possible, or whether there is enough information to complete the IEP. When the decision is made that the IEP will be implemented the district must send prior written notice of the decisions reached to the parent, including the date the IEP will be implemented.

When the parents do not attend the IEP meeting, despite the district's efforts to ensure participation, or if the team does not reach agreement, it is the district's obligation to offer an appropriate educational program:

1. Have IEP members present sign the IEP (or document participation if any member is unwilling to sign);
2. Send a copy to the parent, and provide the parent prior written notice that the district intends to implement the IEP; and
3. Forward the documentation of actual or attempted contacts to the special education department for processing when parents do not attend the meeting.

When making changes to an IEP after the annual IEP meeting for a school year, the parent and the district may agree not to convene an IEP meeting for the purpose of making changes. The parent and the district must complete a written document indicating the changes and inform IEP team members and appropriate individuals of the changes. Special education staff is responsible for IEP amendments. If the parent requests that the district revise the IEP to include the amendments, the special education staff will revise the IEP.

### **33. B. IEP Preparation and Content:**

IEP teams will consider the recommendations in the most recent evaluation to develop the IEP. In developing the IEP, the team should consider:

1. The strengths of the student including the academic, developmental and functional needs of the student and the concerns of the parents for enhancing the education of their child;
2. Whether a behavior plan, including positive supports and possible aversive interventions should be considered;

3. Whether the student with limited English proficiency has language needs;
4. Whether Braille instruction is appropriate for a student who is blind or visually impaired;
5. Whether a student has other language and communication needs; and
6. Whether assistive technology devices or services are needed.

IEP content includes:

1. The student's present levels of academic and functional performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or preschool activities;
2. Measurable academic and functional annual goals for the student (including benchmarks or short term objectives if the student is participating in alternate assessments) that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs;
3. A statement of special education services, any necessary related services, and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the student and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other special education students and non-disabled students and participate in extracurricular and other nonacademic activities;
4. A statement of the extent, if any, that the student will not participate with non-disabled students in a general classroom, extra-curricular and non-academic activities;
5. A statement of any individual appropriate accommodations in the administration of state or district-wide assessments of student achievement that are needed to measure academic achievement and functional performance of the child on state assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why the student cannot participate in the regular assessment(s) and why the particular alternative assessment is appropriate for the child;
6. The date for the beginning of services and the anticipated frequency, location and duration of services and modifications;
7. A statement of how the student's progress towards goals will be measured, how the student's parents will be regularly informed of their child's progress towards the annual goals and whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Measurement of the student's progress will be based on the data collected as designated on the IEP. The individual responsible for implementing the goal is responsible for maintaining the data used to measure progress. Information to the parents can be provided at the same time the district issues progress reports or report cards, or other agreed times as identified in the IEP.
8. The projected beginning date for the special education and related services;
9. With an IEP that is in effect when the child turns 16, or sooner if the IEP team determines it is appropriate, a statement of needed transition services and any interagency responsibilities or needed linkages. The transition component must include appropriate measurable postsecondary goals based on age appropriate transition and assessments related to training, education, employment and independent living skills where appropriate; and the transition services (including courses of study) needed to assist the child in reaching those goals;
10. Aversive interventions, if required. Any use of aversive interventions are only considered after the determination has been made that positive interventions alone are not effective, and there is a need for an aversive intervention plan. The plan will address which staff with required training and certification may use the interventions. Any questions about the need for or use of aversive interventions should be referred to the special education director. When aversive interventions are considered the IEP team will include a certificated employee who understands the appropriate use of interventions and concurs with the need and will include a person who works directly with the student. The district will establish a process for evaluating the effects of the use of aversive interventions, at least every three months when school is in session;
11. The procedures by which parents/guardians will be notified of the use of isolation or restraint or a restraint device on their student (see Procedure 3247).
12. A statement regarding transfer of rights at the age of majority. The special education teacher will provide prior written notice to the student one year prior to student turning 18 years of age; and
13. Extended school year (ESY) services. The consideration for ESY services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. ESY services are not limited by categories of disability, or limited by type amount or duration of the services. If the need for ESY services is not addressed in the IEP and ESY services may be appropriate for the student, the IEP team will meet by May 15 to address the need for ESY. Factors for the team to consider when determining the need for ESY may include, but are not limited to: 1) Evidence of regres-

sion or recoupment time based on documented evidence; or 2) A documented determination based on the professional judgment of the IEP team including consideration of the nature and severity of the student's disability, the rate of progress and emerging skills.

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### **34. Transfer Students**

Students who transfer from one district to another within the state continue to be eligible for special education and any necessary related services. When an eligible student transfers into the district, the building principal (or designate appropriate personnel) will notify the special education department. The special education department and principal in consultation with parents (or designate appropriate personnel) will review the student's IEP to ensure the district provides services comparable to those in the previous IEP until the district adopts the previous IEP or develops, adopts and implements a new IEP.

When a student who was identified as eligible for special education transfers from out of state into the district, the building secretary will notify the special education department as soon as possible. The school psychologist will review the evaluation, eligibility documentation and IEP to determine whether or not the student meets state eligibility criteria. If the student meets the state eligibility criteria, the district will follow the procedures described in the previous paragraph to provide comparable services until the district develops an IEP for the student. If the student needs to be evaluated to determine eligibility in this state, school psychologist will notify the parents, obtain consent and evaluate the student for eligibility within 35 school days of the receipt of the parent's consent. The district, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP, pending the results of the initial evaluation.

The district must take reasonable steps to promptly obtain records, including IEP supporting documents and any other records related to special education or related services from the previous school. The special education administrative secretary is responsible for obtaining records from the previous school.

### **35.**

#### **36. A. Placement**

37. No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes the determination of the special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes. The actual program is considered within the context of least restrictive environment (LRE) and the continuum of placement alternatives (reviewed below). When determining initial eligibility for special education, including determination of the appropriate placement, the parent or adult student must provide written consent for services before the student receives special education services. If the parents do not consent to the provision of special education and related services, the district will not provide special education services to the student. The district will notify the parents that the student is eligible for services and that the district is willing to provide the services when the parent provides written consent. The notification will also inform parents that the district has no FAPE obligation to the student when parents refuse to provide consent.

When program decisions are addressed by the IEP team, proper consideration must be given to the LRE. Within the educational setting, the student should be placed, whenever possible:

1. In the school the disabled student would normally attend; and
2. With non-disabled students in the general educational setting to the maximum extent possible.

Special classes, separate schools or removal of students with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in the general education classroom with use of supplementary aids and services cannot be satisfactorily achieved.

If the IEP team believes that the student will not be successful within the general education classroom, the team will consider:

1. The educational benefits of full-time placement in a regular classroom;
2. The non-academic benefits of such a placement;
3. The effect the student will have on the teacher and other students in the regular classroom; and

#### 4. The costs of placing the student in the regular classroom.

The degree to which the student is to be integrated into the general classroom setting is dependent upon the identified needs of the student. This placement is to occur unless the nature of the needs are so severe that this cannot be satisfactorily achieved, even with supplementary aids and services. If the placement is in another building, the appropriate educational placement will be as close to the student's home as reasonably possible.

Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students. Students will have equal opportunity for participation in nonacademic and extracurricular services and activities that may include counseling services, athletics, transportation, health services, recreational activities, special interest groups, or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available. Limits on nonparticipation or conditions of participation must be designated in the IEP.

The district will also make opportunities available for students eligible for special education to participate with non-disabled students in the district's art, music, mechanics, computer, consumer classes, floral design, metals, and home economics classes.

Within the district, a continuum of alternative placement options exists spanning within a class, resource room, self-contained, home-bound and out-of-district provisions.

These options are intended to address the individual needs of students and they are considered according to the following process:

The placement of each student with a disability will be determined annually, or sooner if appropriate, by the IEP team.

The appropriateness of placement options will be based upon various decisions including:

1. Data-based judgments in IEP development;
2. Judgments (data-based) in determining LRE;
3. The reasonable probability of the placement option(s) assisting the student to attain annual goals and objectives and the quality of services needed; and
4. The consideration of potentially harmful effects upon the student or on the quality of services needed.

Placement options along the continuum must include alternative placement options identified in the definition of special education and make provisions for supplementary services such as resource room or itinerant instruction to be provided in concert with the general education placement.

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### **38. B. Students Unilaterally Enrolled in Private Nonprofit Schools by Parents**

On November 30 of each year the district will conduct an annual count of the number of private elementary and secondary school students eligible for special education who are unilaterally enrolled by their parents in a private school located within district boundaries. The special services director will have timely and meaningful consultation with appropriate representatives of private schools and representatives of parents of private school students and make determinations about who will receive services and what services will be provided. The purpose of the child count is to determine the proportionate amount that the district must spend on providing special education and related services, including transportation, to private elementary or secondary school students in the next fiscal year.

The district is required to spend a proportionate amount of federal special education Part B and Section 619 funds to provide special education and related services to private school students. In order to determine which students will receive services, what services will be provided, how and where the services will be provided, and how services provided will be evaluated, the district will consult with appropriate representatives and parents of private school students. The district will make the final decision with respect to services to be provided to eligible private school students. The special education office will notify each approved nonprofit private school or preschool operating in the district seeking recommendations of persons to serve as representatives of special education private school students in consultations with the district. An initial meeting will be called by the district to establish a work plan and schedule with the private school representatives and representatives of private school parents to discuss how to identify students, the amount of proportionate share, how the proportionate share was calculated, which students will receive services, what services will be provided, how and where services will be provided, and how services will be evaluated.

The special services director is responsible for private school involvement and service plan development. A private school student has no individual entitlement to any service or amount of service (s) he would have received if enrolled

in a public school to receive FAPE. However, for each private school student receiving special education or related services, the district will initiate and conduct meetings to develop, review and revise a services plan describing the special education and related services that the district will provide. The services plan must: (1) meet IEP content requirements as appropriate; and (2) be developed, reviewed, implemented and revised annually consistent with the requirements for IEP review. The district will make every effort to include a representative from the private school at each meeting. If the private school representative is not able to attend, the district will use other methods, including individual or conference telephone calls, to assure the representative's participation.

Private school students may receive a different amount of services than special education students in public schools. However, the services provided to special education private school students will be provided by personnel meeting the same standards as personnel providing the services in the district.

Services to students in private schools including private sectarian schools may be provided on-site. District personnel may be made available to private schools only to the extent necessary to provide the services required, if those services are not normally provided by the private school. Services will not include payment of private school teachers' or other employees' salaries, except for services performed outside regular private school hours and under public supervision and control.

Equipment and/or supplies may be placed on private school premises for the period of time necessary for the services plan program, but the district will retain and exercise title and administrative control of said equipment/supplies. The district will keep records and make an accounting assuring that said equipment/supplies is/are used solely for the services plan program. Said equipment/supplies will be removed if necessary to avoid its/their use for other purposes or if no longer needed for the services plan program. No district funds will be used for repairs, minor remodeling or construction of private school facilities.

The district will provide services to students in private schools in a manner that: (1) maintains physical and administrative separation between the private and public school programs; and (2) does not benefit the private school at public expense.

## **39.**

### **40. Procedural Safeguards**

#### **41. A. Consent**

The district will obtain informed, written parental consent before:

1. Conducting an initial evaluation;
2. Providing initial special education and related services to a student; and
3. Conducting a reevaluation if the reevaluation includes administration of additional assessments.

Parental consent is not required to review existing data as part of an evaluation or reevaluation, or to administer a test or other evaluation that is administered to all students unless consent is required of all students' parents.

Informed consent means that the parent or adult student:

1. Has been fully informed of all information that is relevant to the activity for which the district is asking consent, and that the information is provided in his or her native language or other mode of communication;
2. Understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and
3. Understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

The district may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit or activity of the district.

If the district is unable to obtain a parent's consent, the district may use mediation procedures to obtain a parent's consent or request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. The district may not request a due process hearing to override a parent's refusal to consent to initial special education services. The district may not use mediation or due process procedures to override a parent's refusal to consent to an evaluation or reevaluation if the student is homeschooled or enrolled in a private school.

#### **42. B. Revocation of Consent**



Parents may revoke consent for the continued receipt of special education and related services. If parents revoke consent, the staff member receiving the revocation will forward the revocation to the special services director.

Upon receipt of the parent's written notice of revocation, special education teacher will provide prior written notice for a reasonable time before the district stops providing services. The notice will include information about the effect of revocation and will inform the parent of the date the district will stop providing special education and related services.

Discontinuation of special education and related services in response to the parent's written revocation will not be in violation of FAPE and eliminates the district's requirement to convene an IEP meeting or develop an IEP. However, the district does have a continuing Child Find duty, and staff will follow referral procedures if they believe the student should be referred for special education. In addition, parents may request that the district conduct an initial evaluation for eligibility for special education services after they have revoked consent for continued services.

### **43.**

#### **44. C. Notice of Procedural Safeguards**

In addition to protections provided to parents of eligible students, parents also have procedural safeguard protections when a student's identification, evaluation or placement is at issue. The school district will provide a copy of the procedural safeguards notice to the parents and adult students one time a year and:

1. Upon initial referral or parent request for evaluation;
2. Upon receipt of the parent's first state complaint and first request for due process hearing in a school year;
3. Upon a disciplinary action that will result in a disciplinary change of placement; and
4. Upon request by the parent.

The procedural safeguard notice used by the district includes a full explanation of all the procedural safeguards relating to independent educational evaluation, prior written notice, parental consent, access to educational records, discipline procedures for students who are subject to placement in an interim alternative educational setting, requirements for unilateral placement by parents of children in private schools at public expense, state complaint procedures, mediation, the child's placement during pendency of due process proceedings including requirements for disclosure of evidence, due process hearings, civil actions and attorney's fees. Copies of the district's special education procedural safeguards are available at the special services office, from each of the special services staff, and on the district website. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under this chapter that relate to:

- (a) Independent educational evaluations;
  - (b) Prior written notice;
  - (c) Parental consent;
  - (d) Access to education records;
  - (e) An opportunity to present and resolve complaints through the due process hearing request and state complaint procedures, including:
    - (i) The time period in which to file a state complaint and due process hearing request;
    - (ii) The opportunity for the school district to resolve the due process hearing request; and
    - (iii) The difference between the due process hearing request and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decision timelines, and relevant procedures;
  - (f) The availability of mediation;
  - (g) The student's placement during the pendency of any due process hearing;
  - (h) Procedures for students who are subject to placement in an interim alternative educational setting;
  - (i) Requirements for unilateral placement by parents of students in private schools at public expense;
  - (j) Hearings on due process hearing requests, including requirements for disclosure of evaluation results and recommendations;
  - (k) Civil actions, including the time period in which to file those actions; and
  - (l) Attorneys' fees.
- (4)(a) The procedural safeguards notice must be:
- (i) Written in language understandable to the general public; and
  - (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (b) If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure:
- (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
  - (ii) That the parent understands the content of the notice; and
  - (iii) That there is written evidence that the requirements in (b) of this subsection have been met.

#### **45. D. Prior Written Notice**

Prior written notices are provided to parents when a district makes a decision relating to a student's identification, evaluation, placement or provision of a FAPE. Prior written notices document the decisions made by the IEP teams and evaluation group.

The district will provide prior written notice to the parent evaluation whenever the district proposes or refuses to initiate or change the identification, evaluation, educational placement or provision of a FAPE to the student.

The prior written notice will include:

1. A statement that the parents have procedural safeguard protections and if a copy of the procedural safeguards do not accompany the notice, a statement that describes how a copy of the statement of procedural safeguards may be obtained;
2. A description of the action proposed or refused by the district;
3. An explanation of why the district proposes or refuses to take the action and a description of other options that the district considered and the reasons why the options were rejected;
4. A description of any other factors which are relevant to the district's proposal or refusal;
5. A description of each evaluation procedure, test, record or report the district used as a basis for the proposal or refusal; and
6. A description of any evaluation procedures the district proposes to conduct and sources for parents to contact to obtain assistance in understanding the procedural safeguards provision of this chapter.

Prior written notice and the notice of procedural safeguards must be provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the district will take steps to ensure that the notice is translated orally or by other means to the parent. This may involve:

1. Arranging for an interpreter if English is not the native language of the parent or if the parent has a hearing impairment; or
2. Providing notice orally if the written language is not a native language.

The district will document in writing how this information was *provided and that the parent understands the content of the notice*. Special education staff is responsible for sending prior written notices after evaluation, eligibility, IEP team and placement decisions

#### **46. E. Transfer of Educational Rights to an Adult Student**

When a student eligible for special education reaches the age of 18, all educational rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless the student is determined incapacitated in a guardianship proceeding or the district has appointed an educational representative for the student. When the student turns 18, the district will notify the parent and student that the educational rights have transferred to the student and will send any required notices to both the parent and the adult student. The special education teacher will notify the family of this change.

At an IEP meeting occurring one year before the student turns 18, the district will inform the parents and the student that educational rights will transfer to the student and the district will inform the student about those educational rights. This information will be documented on the IEP.

#### **47. Appointment of an Educational Representative**

A student over the age of eighteen is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be "incapacitated" through a legal guardianship proceeding. If a parent, another interested party, or the district believes that a student over the age of eighteen is unable to provide informed consent or to make educational decisions, and the student does not have a legal guardian, the parent or other interested party may ask the district to appoint an educational representative. This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student, and concluded the student is incapable of providing informed consent. The district will inform the student of the decision and appoint either, the spouse, the student's parents, another adult or a surrogate educational representative to represent the student. The appointment of the educational representative will continue for one year.

The student or other adult may challenge the certification at any time. If a challenge occurs, the district will not rely on the education representative, until the representative is recertified.

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#### **48. Confidentiality and Records Management**

The Special Services Department is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The Special Services Department will maintain, for public inspection, a current list of the names and positions of district employees who have access to personally identifiable information of special education students. The district will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained or used by the district.

The district will provide instruction to employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in WAC 392-172A, state law and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 CFR Part 99).

Upon request, the parent(s) of a special education student or adult student will be afforded an opportunity to inspect, review and challenge all educational records which will include, but not be limited to, the identification, evaluation, delivery of educational services and provision of FAPE to the student. The district will comply with the request promptly and before any meeting regarding an IEP or hearing relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. In any case, the district will respond no more than 45-calendar days after the date the district received the request. If an educational record includes information on more than one student, the parents (and/or adult student) may only inspect and review information relating to their child. School personnel receiving requests for educational records will immediately forward the request to the Special Services Administrative Secretary.

If parents believe that information in an education record is inaccurate or misleading or violates the privacy or rights of the student, they may request that the district amend the information. Policy and Procedure 3231, Student Records, describes the process and timelines for challenges and hearings regarding student records.

The district follows the guidelines for records retention outlined in the Secretary of State's, *General Records Retention Schedule and Records Management Manual*. The district will inform parents or adult students when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student. The information will be destroyed at the request of the parent(s) or adult student, or will be provided to the parent or adult student upon their request. However, a permanent record of the student's name, address and phone number, his or her grades, attendance, record, classes attended, grade level completed and year completed will be maintained without time limitation.

Records management is also governed by Policy and Procedure 4040, Public Access to District Records

#### **49. A. Surrogate Parents**

A surrogate parent is a person appointed by the school district to act on behalf of a student to help ensure the rights of the student to a FAPE when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state and does not have a foster parent.

The Special Services Director is responsible for determining the need for appointment of a surrogate parent.

Natural or adoptive parents, foster parents, persons acting in the place of a parent such as stepparents or relatives and persons with legal custody or guardianship are considered parents. Students who are homeless and not living with a parent may need a surrogate parent.

The following is guidance for the district to follow to assist in determining the status of the parent's rights to make educational decisions:

In cases where the student is in out of home care the district must determine the legal custodial status of the child.

1. Parents who have voluntarily placed their child in state placement still retain legal custody of the child and retain the right to make educational decisions. In this situation the student is not a ward of the state;
2. Parents whose children are placed in group care, pending a determination of "dependency" may still retain rights to make educational decisions unless otherwise ordered by the court;
3. When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency; and

4. Parents whose parental rights are terminated no longer have the right to make educational decisions on behalf their child.

- When a student is placed in foster care the foster parent may act as the parent. When a student is placed in group care, the district will work with the parents, case-worker(s), foster parents and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate.

- When selecting a surrogate parent the district will select a person willing to participate in making decisions regarding the student's educational program, including participation in the identification, evaluation, placement of and provisions of FAPE to the student.

- If a student is referred for special education or a special education student transfers into the district who may require a surrogate parent, the district special education will be notified of the potential need. The Special Education Director will then select a trained individual who can adequately represent the student to ensure that all student rights are observed.

- The person selected as a surrogate:

1. Must have no interest that conflicts with the interests of the student he or she represents;
2. Must have knowledge and skills that assure adequate representation of the student; and
3. May not be an employee of a school district and/or other agency which is involved in the education or care of the student. This includes OSPI, DSHS, district employees and group care providers.

- The district will at a minimum, review with the surrogate parent procedural safeguards, parent involvement in the special education process, parent education publications and special education regulations. The district will also cooperate with other districts, the ESD or OSPI in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

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## **50. B. Mediation**

The purpose of mediation is to offer both the parent and the school district an alternative to a formal due process hearing. Mediation is voluntary and requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing. Mediation is used to resolve disagreements concerning the identification, evaluation and delivery of educational services or provision of a FAPE to a special education student. Mediation may be terminated by either party at any time during the process.

- The primary participants are the parents, school district representatives and mediator. The process is voluntary, confidential and informal. It is a collaborative process, conducted in a non-adversarial manner. Mediation services will be provided by the Office of Superintendent of Public Instruction (OSPI) at no cost to either party.

- The district's special education director is responsible for coordinating requests for mediation. If a parent requests mediation, notify the director and the director will respond to the parent and coordinate with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process are confidential.

- One person designated by the district to attend the mediation must have authority to bind the district in any agreement reached through mediation.

## **51. Due Process Hearing**

Both parents and districts may file due process hearings involving the identification, evaluation, placement or provision of FAPE to a student. IDEA requires that specific information be provided as part of a due process hearing request. The requirements are identified in the notice of procedural safeguards. If parents request information about how to file a due process hearing, the district will provide the parent with a due process hearing request that contains the required information. Due process hearing request forms are available at the Special Services Department and on the OSPI Special Education and Administrative Resources Web site.

- If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to the Special Services Director. If the parent has not filed the request for hearing with OSPI, the district will forward the parent request to OSPI Administrative Resources Section. The district may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The Special Services Director is responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

- When a parent files a due process hearing, the student remains in the placement at the time of the request for hearing unless the parents and district agree to a different placement. See the discipline section below for placements when a disciplinary action is challenged.

- When parents file a request for a due process hearing, the Special Services Director will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent files a due process request with the district and provides a copy of the request to OSPI, or within seven days if the hearing request involves an expedited hearing regarding discipline. The Special Services Director will determine the appropriate district staff that will attend the resolution meeting. The district will ensure that one of the district representatives attending the resolution meeting has authority to bind the district in any resolution agreement. The district will not bring district counsel to a resolution meeting unless the parent is bringing an attorney to the meeting.

- Any resolution agreement reached will be documented in writing and is binding on the parties. The document will inform the parent of their right to void the agreement within three business days of signing the agreement.

## **52. Discipline**

Students eligible for special education may be disciplined consistent with the disciplinary rules that apply to all students. The district will determine on a case by case basis whether discipline that is permitted under WAC 392-400 should occur. However, students eligible for special education must not be improperly excluded from school for disciplinary reasons that are related to their disability or related to the district's failure to implement a student's IEP. The district will take steps to ensure that each employee, contractor and other agents of the district responsible for education or care of a student is knowledgeable of special education disciplinary rules.

### **53. A. Removal Up to Ten Days**

The IEP team may order the removal of a special education student from a current placement. The district need not provide services to a student who is removed from the current placement for ten school days or less in any school year, if services are not provided to a student without disabilities.

### **54. B. Removal for More than Ten Days**

Once a student has been removed from placement for a total of ten school days in the same school year, and if the district determines that the removal is not a change of placement, the district must, during subsequent days of removal, provide appropriate services to the extent necessary to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP, the Special Services Director, in consultation with one or more of the student's teachers, will make the determination of such necessary services.

### **55. C. Change in Placement**

A change of placement occurs when an eligible student is:

1. Removed from his or her current placement for more than ten consecutive school days in a school year; or
2. Subjected to a series of removals in a school year and which constitute a pattern of removal because:
  - 1) the series of removals total more than ten school days in a year; 2) the student behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and 3) because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another.

- Whether a pattern of removal constitutes a change in placement is determined on a case-by-case basis by the building principal and special education director and is subject to review through due process and judicial proceedings. The principal notifies the special education director immediately when a student is going to be removed from his or her current placement.

### **56. D. Manifestation Determination**

Within ten school days after the date on which the district makes a decision to change the student's placement, the district will schedule a manifestation determination meeting to determine the relationship between the student's disability and the behavior subject to the disciplinary action.

The review of the relationship between a student's disability and the behavior subject to the disciplinary action will occur at meeting that includes the parent and relevant members of the IEP team who are selected by the parent and the district. The school psychologist is responsible for contacting the parent in order to determine relevant IEP team members and providing notice of the meeting. The team will review all relevant information in the student's file, including the IEP, teacher observations and information provided by the parent to determine:

1. If the conduct was caused by or had a direct and substantial relationship to the child's disability; or
2. If the conduct in question was the direct result of the district's failure to implement the student's IEP.

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student's disability

The district will take immediate action to remedy the deficiencies, and will:

1. Conduct a functional behavioral assessment (unless already completed) and implement a behavioral intervention plan if one is not already in place; or
2. Review the existing behavioral intervention plan and modify it to address the behavior; and
3. Return the child to the placement from which he or she was removed from unless the parents and the district agree a change is necessary as part of the behavioral intervention plan, or unless the infraction involves drugs, weapons or serious bodily injury.

### **Special Circumstances**

School personnel may order a change in placement to an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 school days, if a special education student:

1. Possesses a "dangerous weapon" or carries such a weapon to school or to a school function;
2. Knowingly possesses or uses "illegal drugs" while at school or a school function;
3. Sells or solicits the sale of a "controlled substance" while at school or a school function; or
4. Inflicts serious bodily injury upon another person while at school or a school function. Serious bodily injury means a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Any interim alternative educational setting in which the student is placed is determined by the student's IEP team and will:

1. Be selected so as to enable the student to participate in the general curriculum, although in another setting and to progress toward meeting the goals set out in the student's IEP; and
2. Include services and modifications designed to address the behavior or to prevent the behavior from recurring.

The district may ask an administrative law judge, or seek injunctive relief through a court having jurisdiction of the parties, to order a change in placement to an appropriate interim alternative educational setting for not more than 45 school days or seek injunctive relief through a court having jurisdiction of the parties when:

1. The district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. If the student's IEP team believes that the student may not be maintained in his or her current placement, the IEP team should work with the district's Special Services Director.

Unless the parent and the district agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the interim alternative educational setting, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45 day period, whichever occurs first.

### **57. Basis of Knowledge**

A student who has not been determined eligible for special education services may assert the protections if the district had knowledge that the student was an eligible for special education before the behavior that precipitated disciplinary action occurred.

The district is deemed to have knowledge if:

1. The parent expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to district supervisory or administrative personnel or a teacher that the student is in need of special education and related services;
2. The parent requested that the student be evaluated for special education services; or
3. The teacher or other school personnel has expressed specific concern about a pattern of behavior demonstrated by the student to the director of the special education department or to other supervisory staff.

If instituting disciplinary action that would exceed ten days and the principal believes that one or more of these events applies to the student, the principal will notify the special education department to determine the appropriate disciplinary procedures.

The district is not deemed to have knowledge if, as a result of receiving the information described above, the district either:

1. Conducted a special education evaluation of the student and determined that the student was not eligible for services; or
2. The parent of the student has not allowed an evaluation of the child or has refused services.

If the district is not deemed to have knowledge that a student is a special education student, the student may be disciplined as a student without disabilities who engages in comparable behaviors. The district will conduct an evaluation, which is requested during the time period such a student is subjected to disciplinary measures, in an expedited manner. Until the evaluation is completed, such a student will remain in the educational placement determined by the district, which can include suspension or expulsion without educational services.

Notwithstanding the foregoing, the district may report a crime committed by a special education student to appropriate authorities. In the event of such a report, the district will ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, to the extent transmission of the records is permitted by the Family Educational Rights and Privacy Act (FERPA).

## **58. Staff Qualifications**

All employees of the district funded in whole or part with state or federal excess special education funds will meet the standards established by the State Board of Education (SBE) and defined in WAC 392-172-A-02090.

All employees will hold such credentials, certificates or permits as are now or hereafter required by the SBE for the particular position of employment and will meet such supplemental standards established by the district.

All special education teachers providing, designing, supervising, evaluating or monitoring the provision of special education will possess "substantial professional training." This will be shown by the issuance of an appropriate special education endorsement on an individual teaching certificate issued by the superintendent of public instruction.

In the event a special education teacher does not have a certificate endorsed in special education, a district may apply for a pre-endorsement waiver through the special education section of the OSPI. To qualify for the special education pre-endorsement waiver, the teacher must meet SBE criteria.

If the district must temporarily assign a classroom teacher without a special education endorsement to a special education position, the district HR Director will document in writing that:

1. The district is unable to recruit a teacher with the proper endorsement who was qualified for the position;
2. The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or
3. The reassignment of another teacher within the district would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

If one or more of these criteria can be documented and the district determines that a teacher has the competencies to be an effective special education teacher and the teacher has completed six-semester hours or nine-quarter hours of course work which are applicable to the special education endorsement, the district can assign the teacher to special education in compliance with the process for making out-of-endorsement assignments and reporting them to the state.

Classified staff will present evidence of skills and knowledge necessary to meet the needs of students with disabilities. The district will provide training to classified staff to meet the state recommended core competencies.



**59. Personnel Development**

In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed: Professional development activities are built in to late start Mondays for all general and special education staff including instructional assistants.

1. Right Response training will be provided annually to all personnel who may be providing aversive interventions under a student's IEP;
2. In-service training schedules will be developed based upon the results of the district assessment and in support of needs identified;
3. Training activities will be conducted for regular general and special education staff, staff of other agencies and organizations and private school staff providing services for special education student; and
4. Training for classified staff in the state recommended core competencies will occur through ESD 112.

**60. Public Participation**

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through the district's special education office and the office of the superintendent. A notice regarding the availability of such documents will be placed on the district's Web site.

As required under WAC 392-172A-06000(1)(b) through (p) and 392-172A-06005, these procedures address the following areas, at the pages indicated below:

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## ~~1.—Free Appropriate Public Education (FAPE)~~

~~Except for incidental fees that are normally charged to all students, services for eligible special education students ages three to 21 will be provided without charge to the students or the parents of the students, pursuant to WAC 392-172A-02000-02045. Special education services will include preschool, elementary, and secondary education and will be provided in conformance with the student's Individual Education Program (IEP).~~

### ~~1.1—Services from Birth to Age Three~~

~~The District participates in the provision of early intervention services to eligible children with a disability, birth to three, consistent with the State lead educational agency's policies and procedures and the regulations implementing Part C of the IDEA 2004.~~

### ~~1.2—Eligibility~~

~~Pursuant to WAC 392-172A-03040(1)(a), upon completion of the administration of assessments and other evaluation measures described below, a group of qualified professionals and the parent of the student determine whether the student is eligible for special education and the educational needs of the student.~~

~~Eligibility will be determined pursuant to WAC 392-172A-03040(2), which provides:~~

~~(a) A student must not be determined to be eligible for special education services if the determinant factor is:~~

~~(i) Lack of appropriate instruction in reading, based upon the state's grade level standards;~~

~~(ii) Lack of appropriate instruction in math; or~~

~~(iii) Limited English proficiency; and~~

~~(b) If the student does not otherwise meet the eligibility criteria including presence of a disability, adverse educational impact and need for specially designed instruction.~~

~~In interpreting evaluation data for the purpose of determining eligibility for special education services, the District must:~~

~~(a) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior; and~~

~~(b) Ensure that information obtained from all of these sources is documented and carefully considered. See WAC 392-172A-03040(3).~~

~~Pursuant to WAC 392-172A-03040(4), if a determination is made that a student is eligible for special education, an IEP must be developed for the student in accordance with WAC 392-172A-03090 through 392-172A-03135.~~

~~The parent will be provided with a copy of the evaluation report (see below) and a notice of the determination of eligibility. The student's special education case manager is responsible for sending the evaluation report and notice.~~

~~Students remain eligible for special education services until one of four events occur:~~

- ~~• The student is determined through a reevaluation to no longer be eligible for special education;~~
- ~~• The student has met the District's high school graduation requirements; or~~
- ~~• The student has reached age 21. A special education student whose 21st birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year.~~

- ~~The parent or adult student submits a written revocation to consent pursuant to WAC 392-172A-03000(2)(c).~~

### **1.3 Graduation**

~~When a special education student is expected to graduate prior to age 21, or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. The District will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services. The District will also provide the parents and student with a summary of academic achievement and functional performance and recommendations to assist the student with postsecondary goals.~~

## **2. Identification, Referral (Child Find), and Evaluation**

### **2.1. Identification**

~~Pursuant to WAC 392-172A-02040, the District will conduct "child find" activities calculated to reach all students with a suspected disability, for the purpose of locating, evaluating and identifying students who are in need of special education and related services, regardless of the severity of their disability. The child find activities shall extend to students residing in the District, whether or not they are enrolled in school.~~

~~The District reaches students who may be eligible for special education services through: a) notification to parents district-wide through the local newspaper b) information regarding child find on the District's Web site; c) posting notices regarding screening and referral in school buildings and public locations including community services center, grocery stores, Laundromats, day cares, community preschool sites, physician offices and school newsletters; d) notifying and coordinating with the designated Part C lead agency; e) early childhood screenings conducted by the District; f) training teachers and administrators on referral/evaluation/identification procedures.~~

#### **2.1.1. Children Enrolled by Their Parents in Private Schools**

~~Pursuant to WAC 392-172A-04005, the District will locate, identify, and evaluate all students who may be eligible for special education who are enrolled by their parents in private, including religious, elementary and secondary schools located in the District, in accordance with general child find procedures and WAC 392-172A-04005(2) through (5).~~

~~The District will consult with parents and representatives of private school students to ensure its child find activities are comparable in private schools located within district boundaries. These consultations will occur annually by phone, in person meetings, e-mail or letter.~~

#### **2.1.2. Infants and Toddlers**

~~The District will conduct child find activities for infants and toddlers, consistent with the child find requirements of the lead agency for Part C of IDEA 2004. The District early childhood special education staff conducts early childhood screenings for ages 3-5 years old. These occur regularly during the school year. When parents or others inquire about screenings the caller will be referred to the Childfind Coordinator.~~

### **2.2. Referral**

~~A student, whether or not enrolled in school, may be referred for a special education evaluation by parents, district staff, or other persons knowledgeable about the student. When District staff have concerns that a student may have a suspected disability which could result in eligibility for special education services, they will notify~~

~~the building principal. Action regarding the referral will be forwarded to the special education building team. Referrals are required to be in writing unless the person referring is unable to write. All referrals must be documented.~~

~~The District's special education building team will process referrals in compliance with WAC 392-172A-03005, which provides:~~

~~(1) A parent of a child, a school district, a public agency, other persons knowledgeable about the child may initiate a request for an initial evaluation to determine if the student is eligible for special education. The request will be in writing, unless the person is unable to write.~~

~~(2) The School District must document the referral and:~~

~~(a) Notify the parent that the student has been referred because of a suspected disability and that the District, with parental input, will determine whether or not to evaluate the student;~~

~~(b) Collect and examine existing school, medical and other records in the possession of the parent and the School District; and~~

~~(c) Within twenty-five school days after receipt of the referral, make a determination whether or not to evaluate the student. The School District will provide prior written notice of the decision that complies with the requirements of WAC 392-172A-05010.~~

~~(3) When the student is to be evaluated to determine eligibility for special education services and the educational needs of the student, the School District shall provide prior written notice to the parent, obtain consent, fully evaluate the student and arrive at a decision regarding eligibility within:~~

~~(a) Thirty-five school days after the date written consent for an evaluation has been provided to the School District by the parent; or~~

~~(b) Thirty-five school days after the date the refusal of the parent is obtained by agreement through mediation, or overridden by due process procedures; or~~

~~(c) Such other time period as may be agreed to by the parent and documented by the School District, including specifying the reasons for extending the timeline.~~

~~(d) Exception. The thirty-five school day time frame for evaluation does not apply if:~~

~~(i) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or~~

~~(ii) A student enrolls in another school after the consent is obtained and the evaluation has begun but not yet been completed by the other school district, including a determination of eligibility.~~

~~(e) The exception in (d)(ii) of this subsection applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed.~~

~~If the special education building team reviews a request for evaluation and supporting data and does not suspect that the child has a disability, the District may deny the request. In such a case, written notice, including the reason for the denial and the information used as the basis for the denial, must be given to the parent.~~

~~If the determination is that the child should be evaluated, the reviewers shall include information about the recommended areas of evaluation, including the need for further medical evaluation of the student, in a written notice to the parent. A form for obtaining parental consent for the evaluation and the release of appropriate records will be sent with the notice.~~

### **~~2.3.—Initial Evaluation—Part C Students~~**

~~Students turning three, who were previously determined eligible for early intervention services under Part C of IDEA 2004, must be evaluated for initial eligibility for special education services. The evaluation must be completed in enough time to develop an initial IEP by the date of the student's third birthday.~~

### **~~2.4.—Consent~~**

~~Parental consent is usually required for an evaluation. Pursuant to WAC 392-172A-01040(1) "consent" means that:~~

- ~~(a) 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;~~
- ~~(b) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity. This includes a list of any records that will be released, and to whom they will be released, or records that will be requested and from whom; and~~
- ~~(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.~~

~~If a parent revokes consent, that revocation is not retroactive. This means that the revocation does not undo an action that occurred after consent was given and before the consent was revoked.~~

~~Pursuant to WAC 392-172A-03000(1)(d), the District is not required to obtain consent from the parent for an initial evaluation if the student is a ward of the state and is not residing with the student's parent, and~~

- ~~(i) Despite reasonable efforts to do so, the School District cannot discover the whereabouts of the parent of the child;~~
- ~~(ii) The rights of the parents of the child have been terminated; or~~
- ~~(iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.~~

### **~~2.5.—Evaluation Requirements~~**

#### **~~2.5.1.—Evaluation Team~~**

~~The District's special education building team shall select the members of the evaluation team. Members selected must be knowledgeable about the student and the areas of suspected disabilities. Qualifications of a team member include having the appropriate professional license or certification. The team may include outside practitioners when necessary. When assessing for specific learning disabilities, the parent and a group of qualified professionals must be part of the group. If the student requires a medical evaluation in order to determine eligibility, the District will coordinate with the parents to arrange for the evaluation at district expense or through the use of public or private insurance, if the parent consents to the use of the insurance. Professional members of the evaluation team need to be familiar with qualifying disability definitions and criteria in federal and State rules.~~

#### **~~2.5.2.—Evaluation Procedure~~**

~~Specific areas to be included in the evaluation are determined by the special education building team and other qualified professionals, as appropriate. The District will conduct evaluations in compliance with WAC 392-172A-03020 through 03080.~~

WAC 392-172A-03020 provides:

~~(1) The School District must provide prior written notice to the parents of a student, in accordance with WAC 392-172A-05010, that describes any evaluation procedures the District proposes to conduct.~~

~~(2) In conducting the evaluation, the group of qualified professionals selected by the School District must:~~

~~(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining:~~

~~(i) Whether the student is eligible for special education as defined in WAC 392-172A-01175; and~~

~~(ii) The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for a preschool child, to participate in appropriate activities;~~

~~(b) Not use any single measure or assessment as the sole criterion for determining whether a student's eligibility for special education and for determining an appropriate educational program for the student; and~~

~~(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.~~

~~(3) Each school district must ensure that:~~

~~(a) Assessments and other evaluation materials used to assess a student:~~

~~(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;~~

~~(ii) Are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally unless it is clearly not feasible to so provide or administer;~~

~~(iii) Are used for the purposes for which the assessments or measures are valid and reliable. If properly validated tests are unavailable, each member of the group shall use professional judgment to determine eligibility based on other evidence of the existence of a disability and need for special education. Use of professional judgment shall be documented in the evaluation report;~~

~~(iv) Are administered by trained and knowledgeable personnel; and~~

~~(v) Are administered in accordance with any instructions provided by the producer of the assessments.~~

~~(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.~~

~~(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).~~



~~(d) If necessary as part of a complete assessment, the School District obtains a medical statement or assessment indicating whether there are any other factors that may be affecting the student's educational performance.~~

~~(e) The student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.~~

~~(f) Assessments of students eligible for special education who transfer from one school district to another school district in the same school year are coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.~~

~~(g) In evaluating each student to determine eligibility or continued eligibility for special education service, the evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.~~

~~(h) Assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student.~~

~~WAC 392-172A-03025 provides that as part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must:~~

- ~~———— (1) Review existing evaluation data on the student, including:~~
- ~~———— (a) Evaluations and information provided by the parents of the student;~~
- ~~———— (b) Current classroom-based, local, or state assessments, and classroom-based observations; and~~
- ~~———— (c) Observations by teachers and related services providers.~~
- ~~(2) — (a) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:~~
  - ~~(i) Whether the student is eligible for special education services, and what special education and related services the student needs; or~~
  - ~~(ii) In case of a reevaluation, whether the student continues to meet eligibility, and whether the educational needs of the student including any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum; and~~
- ~~———— (b) The present levels of academic achievement and related developmental needs of the student.~~
- ~~———— (3) The group described in this section may conduct its review without a meeting.~~
- ~~(4) The School District must administer such assessments and other evaluation measures as may be needed to produce the data identified in subsection (1) of this section.~~
- ~~(5)(a) If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the student continues to be a student eligible for special education services, and to determine the student's educational needs, the School District must notify the student's parents of:~~
  - ~~———— (i) That determination and the reasons for the determination; and~~

- ~~(ii) The right of the parents to request an assessment to determine whether the student continues to be a student eligible for special education, and to determine the student's educational needs.~~
- ~~(b) The School District is not required to conduct the assessment described in this subsection (5) unless requested to do so by the student's parents.~~

~~Parents and district staff are encouraged to work towards consensus, but the School District has the responsibility to determine whether the student is eligible for Special Education Services. The School District will provide the parent with prior written notice of the eligibility decision, as well as a copy of the evaluation report. If the parent disagrees with the eligibility decision they need to be informed of their dispute resolution options described in the procedural safeguards.~~

#### ~~a. Specific Learning Disability (SLD)~~

~~The District will use the severe discrepancy approach for determining the identification of students with a specific learning disability (SLD).~~

~~The District will document the eligibility determination for children suspected of having SLDs, in compliance with WAC 392-172A-03080, which provides:~~

~~(1) In addition to the requirements for evaluation reports under WAC 392-172A-03035, for a student suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:~~

- ~~\_\_\_\_\_ (a) Whether the student has a specific learning disability;~~
- ~~\_\_\_\_\_ (b) The basis for making the determination, including an assurance that the determination has been made in accordance with WAC 392-172A-03040;~~
- ~~\_\_\_\_\_ (c) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;~~
- ~~\_\_\_\_\_ (d) Any educationally relevant medical findings;~~
- ~~\_\_\_\_\_ (e) Whether:~~
  - ~~(i) The student does not achieve adequately for the student's age or meet state grade level standards in one or more of the areas described in WAC 392-172A-03055(1); and~~
  - ~~(ii) —(A) The student does not make sufficient progress to meet age or state grade level standards when using a process based on the student's response to scientific research-based interventions consistent with WAC 392-172A-03060; or~~
    - ~~(B) The student meets eligibility through a severe discrepancy model consistent with WAC 392-172A-03070; and~~
    - ~~(C) If used as part of the eligibility determination under (A) or (B) of this subsection, a discussion of the student's pattern of strengths and weaknesses in performance, achievement or both, relative to age, state grade level standards, or intellectual development.~~
  - ~~(f) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and~~
  - ~~(g) If the student has participated in a process that assesses the student's response to scientific, research-based intervention;~~

~~(i) The instructional strategies used and the student-centered data collected in accordance with the District's response to intervention procedures; and~~

~~(ii) The documentation that the student's parents were notified about:~~

~~(A) State and school district policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;~~

~~(B) Strategies for increasing the student's rate of learning; and~~

~~(C) The parents' right to request an evaluation.~~

~~(2) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.~~

### **~~b. Evaluation of Transfer Students~~**

~~If a student transfers into the District while an evaluation process is pending from another district, the special education building team is responsible for determining the status of evaluations conducted to date and making a determination as to whether the evaluation can be completed within the 35 school day timeline from the date the parent provided consent. If the determination is that additional time will be needed, the parents will be provided prior written notice of the timeline needed to complete the evaluation and the reasons for the additional time needed.~~

### **~~2.5.3. Evaluation Report~~**

~~The District will provide the parent with an evaluation report, in compliance with WAC 392-172A-03035. Pursuant to WAC 392-172A-03035(1), the evaluation report shall be sufficient in scope to develop an IEP, and at a minimum, must include:~~

~~(a) A statement of whether the student has a disability that meets the eligibility criteria in this chapter;~~

~~(b) A discussion of the assessments and review of data that supports the conclusion regarding eligibility including additional information required under WAC 392-172A-03080 for students with specific learning disabilities;~~

~~(c) How the student's disability affects the student's involvement and progress in the general education curriculum or for preschool children, in appropriate activities;~~

~~(d) The recommended special education and related services needed by the student;~~

~~(e) Other information, as determined through the evaluation process and parental input, needed to develop an IEP;~~

~~(f) The date and signature of each professional member of the group certifying that the evaluation report represents his or her conclusion. If the evaluation report does not reflect his or her conclusion, the professional member of the group must include a separate statement representing his or her conclusions.~~

~~Pursuant to WAC 392-172A-03035(2), individuals contributing to the report must document the results of their individual assessments or observations.~~

~~The special education building team is responsible for notifying parents of the date, time, and location of eligibility meetings by following the procedures in the parent participation section of these procedures (see below).~~

## **~~2.6.—Reevaluations~~**

~~The District will periodically reevaluate students eligible for special education, in compliance with WAC 392-172A-03015. Pursuant to WAC 392-172A-03015(1), the District must ensure that a reevaluation of each student eligible for special education is conducted in accordance with WAC 392-172A-03020 through 392-172A-03080 when:~~

~~(a) The District determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation; or~~

~~—(b) If the child's parent or teacher requests a reevaluation.~~

~~Pursuant to WAC 392-172A-03015(2), a reevaluation:~~

~~(a) May occur not more than once a year, unless the parent and the District agree otherwise; and~~

~~(b) Must occur at least once every three years, unless the parent and the District agree that a reevaluation is unnecessary.~~

~~Pursuant to WAC 392-172A-03015(3), reevaluations shall be completed within:~~

~~(a) Thirty-five school days after the date written consent for an evaluation has been provided to the District by the parent;~~

~~(b) Thirty-five school days after the date the refusal of the parent was overridden through due process procedures or agreed to using mediation; or~~

~~(c) Such other time period as may be agreed to by the parent and documented by the District, within the time frames in WAC 392-172A-03015(2).~~

~~Students who turn six who met the eligibility requirements for the disability category of “Developmentally Delayed” (DD) under the criteria for ages three to six years need not be reevaluated at age six under the criteria for six to nine years until three years after their initial evaluation was completed.~~

~~Students who were previously eligible under the category “Developmentally Delayed” must be reevaluated before age nine to determine eligibility within another category.~~

~~If the IEP team members and any other persons reviewing the data determine that no further testing is necessary, the District will notify the parents of this determination, using prior written notice and will inform parents that they have the right to request an assessment if they disagree with the determination that additional testing is not necessary.~~

~~Parent consent to the reevaluation is not required if the reevaluation does not require additional testing. If additional testing is needed, the District will request written parental consent for reevaluation.~~

~~If the parents do not return the signed consent form, the District will send another letter explaining the need for reevaluation and parent consent and will enclose another consent form and a copy of the prior written notice.~~

- ~~● If the parents do not respond to the request for consent, the District can proceed with the reevaluation;~~
- ~~● If the parents refuse to consent to the reevaluation, the evaluation team will notify the Special Services Director so that the District can determine whether it will seek mediation in order to obtain consent or request a due process hearing to ask an administrative judge to override the parents' refusal to consent.~~

## **~~2.7.—Reevaluation and Graduation~~**

~~No reevaluation is required when special education eligibility terminates due to graduation from high school with a regular diploma or due to reaching the end of the school year during which the student turned 21. Instead, the District will provide prior written notice and the IEP team will provide the student with a summary of academic achievement and functional performance including recommendations on how to assist the student in~~

meeting post secondary goals. This summary will be provided to the student at the time of graduation or termination of special education services after the student turned 21.

## **2.8. —Independent Educational Evaluations (IEE)**

The District will respond to requests by parents for an Independent Educational Evaluation (IEE) at public expense in compliance with WAC 392-172A-05005, which provides:

(1)(a) Parents of a student eligible for special education have the right under this chapter to obtain an independent educational evaluation of the student if the parent disagrees with the School District's evaluation subject to subsections (2) through (7) of this section.

(b) Each school district shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in subsection (7) of this section.

(c) For the purposes of this section:

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

(ii) Public expense means that the School District either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with this chapter.

(2)(a) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation conducted or obtained by the School District.

(b) A parent is entitled to only one independent educational evaluation at public expense each time the School District conducts an evaluation with which the parent disagrees.

(c) If a parent requests an independent educational evaluation at public expense consistent with (a) of this subsection, the School District must either:

- (i) Initiate a due process hearing within fifteen days to show that its evaluation is appropriate; or
- (ii) Ensure that an independent educational evaluation is provided at public expense, without unnecessary delay, unless the School District demonstrates in a hearing under this chapter that the evaluation obtained by the parent did not meet agency criteria.

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

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

(5) If the parent obtains an independent educational evaluation at public or private expense, the results of the evaluation:

- (a) Must be considered by the School District, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student; and
- (b) May be presented as evidence at a hearing under this chapter regarding that student.

(6) If an administrative law judge requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

(7) — ~~(a) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the School District uses when it initiates an evaluation; to the extent those criteria are consistent with the parent's right to an independent educational evaluation.~~

~~(b) Except for the criteria described in (a) of this subsection, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.~~

~~Any parent request for an IEE at public expense should be immediately referred to the Special Services Director. The Special Services Director shall review the request and determine whether the District will pay for the requested evaluation or file a request for a due process hearing.~~

### **~~3.0 — Individualized Education Programs (IEP)~~**

~~The District will develop, maintain, implement, and revise IEPs in compliance with the requirements of WAC 392-172A-03090 through 03115, which are set forth below.~~

~~Parent consent is required before the initial provision of special education services. If a parent refuses to consent to the provision of special education services, the District may not use mediation or due process to override a parent's refusal. When a parent refuses to provide consent the Special Services Director will notify that parent that the District does not have a FAPE obligation to the student. The notification will be documented in the student's file.~~

~~If at any time after the initial provision of special education and related services, the parent revokes consent for the continued provision of special education and related services, in writing, the district will provide the parent written notice in accordance with WAC 392-172A-05015 before ceasing the provision of special education services. The written notice will be documented in the student's file. The district may not use the due process procedures in order to obtain agreement or a ruling that services may be provided to the student. The district will cease providing services the date the written notice is provided and will no longer have a FAPE obligation to the student.~~

~~The District will make a copy of the current IEP accessible to all staff members responsible for providing education, other services, or implementation of the IEP. All staff members will be informed of their responsibilities for its implementation. This includes not only teachers and other service providers, but also bus drivers, playground and lunchroom supervisors, nursing staff, and others who may be responsible for the proper implementation. The special education case manager is responsible for ensuring that staff members are knowledgeable about their responsibilities.~~

### **~~3.1. Definition and Content of IEP~~**

~~The District will develop IEPs that comply with WAC 392-172A-03090, which provides:~~

~~(1) The term IEP means a written statement for each student eligible for special education that is developed, reviewed, and revised in a meeting in accordance with WAC 392-172A-03095 through 392-172A-03100, and that must include:~~

~~(a) A statement of the student's present levels of academic achievement and functional performance, including:~~

~~(i) How the student's disability affects the student's involvement and progress in the general education curriculum (the same curriculum as for non-disabled students); or~~

~~(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;~~

~~(b)(i) A statement of measurable annual goals, including academic and functional goals designed to:~~

~~(A) Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and~~

~~(B) Meet each of the student's other educational needs that result from the student's disability; and~~

~~(ii) For students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;~~

~~(c) A description of:~~

~~(i) How the District will measure the student's progress toward meeting the annual goals described in (b) of this subsection; and~~

~~(ii) When the District will provide periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards);~~

~~(d) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:~~

~~(i) To advance appropriately toward attaining the annual goals;~~

~~(ii) To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and~~

~~(iii) To be educated and participate with other students including non-disabled students in the activities described in this section;~~

~~(e) An explanation of the extent, if any, to which the student will not participate with non-disabled students in the general education classroom and extracurricular and nonacademic activities;~~

~~(f)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments; and~~

~~(ii) If the IEP team determines that the student must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:~~

~~(A) The student cannot participate in the regular assessment; and~~

~~(B) The particular alternate assessment selected is appropriate for the student;~~

~~(g) Extended school year services, if determined necessary by the IEP team for the student to receive FAPE.~~

~~(h) Aversive interventions, if any, required for the student. Aversive interventions will only be considered after a determination has been made that positive interventions alone are not effective. When aversive interventions are considered, the IEP team will include a psychologist or certified employee who understands the appropriate use of aversive interventions. Aversive interventions~~



~~will be established in accordance with requirements in WAC 392-172A-03135 and must be provided by trained staff. The effects of aversive interventions will be evaluated at least once every three months during the school year.~~

~~(i) The projected date for the beginning of the services and modifications described in (d) of this subsection, and the anticipated frequency, location, and duration of those services and modifications;~~

~~(j) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:~~

~~(i) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and~~

~~(ii) The transition services including courses of study needed to assist the student in reaching those goals.~~

~~(k) Transfer of rights at age of majority. Beginning not later than one year before the student reaches the age of eighteen, the IEP must include a statement that the student has been informed of the student's rights under the act, if any, that will transfer to the student on reaching the age of majority.~~

~~When an eligible student reaches the age of 18, all education rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless an educational representative has been appointed for the student. An educational representative may be appointed for a student over the age of 18 if the student is not legally incapacitated but is otherwise deemed unable to provide informed consent. A student may be deemed unable to provide informed consent only if two professionals conduct an examination, interview the student, and conclude the student is unable to provide informed consent. When a student is unable to provide informed consent, the student's spouse, parents or other adult relative or surrogate educational representative will be appointed to represent the student. The appointment of an educational representative will remain in place for one year. The student or appropriately situated adult may challenge the decision certifying the student as incapable of providing informed consent. The district will not rely on the education representative until a challenge is resolved.~~

~~(2) Construction. Nothing in this section shall be construed to require:~~

~~(a) Additional information be included in a student's IEP beyond what is explicitly required by the federal regulations implementing the act or by state law; or~~

~~(b) The IEP team to include information under one component of a student's IEP that is already contained under another component of the student's IEP.~~

### **3.2. Composition of IEP Team**

The District will identify individuals to be members of each eligible student's IEP team, in compliance with WAC 392-172A-03095, which provides:

~~(1) School districts must ensure that the IEP team for each student eligible for special education includes:~~

~~(a) The parents of the student;~~

~~(b) Not less than one general education teacher of the student if the student is, or may be, participating in the general education environment;~~

~~(c) Not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;~~

~~(d) A representative of the public agency who:~~

~~(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students eligible for special education;~~

~~(ii) Is knowledgeable about the general education curriculum; and~~

~~(iii) Is knowledgeable about the availability of resources of the School District.~~

~~(e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in (b) through (e) of this subsection;~~

~~(f) At the discretion of the parent or the School District, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and~~

~~(g) Whenever appropriate, the student.~~

~~(2)(a) The student must be invited to the IEP team meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals.~~

~~(b) If the student does not attend the IEP team meeting, the School District must take other steps to ensure that the student's preferences and interests are considered.~~

~~(c) To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.~~

~~(3) The determination of the knowledge or special expertise of any individual invited pursuant to subsection (1)(f) of this section must be made by the party who invited the individual to be a member of the IEP team.~~

~~(4) A school district may designate one of the members of the IEP team identified in subsection (1)(b), (c), or (e) of this section to also serve as the District representative, if the criteria in subsection (1)(d) of this section are satisfied.~~

~~(5)(a) A school district member of the IEP team is not required to attend a meeting, in whole or in part, if the parent of a student eligible for special education and the School District agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.~~

~~(b) A member of the IEP team described in (a) of this subsection may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:~~

~~(i) The parent, in writing, and the public agency consent to the excusal; and~~

~~(ii) The member submits written input into the development of the IEP prior to the meeting and provides the input to the parent and other IEP team members.~~

~~(6) In the case of a student who was previously served under Part C of the act, an invitation to the initial IEP team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives as specified by the state lead agency for Part C to assist with the smooth transition of services.~~

### ~~3.3.—Parent Participation~~

~~The District will ensure parent participation in the IEP process in compliance with WAC 392-172A-03100 through 03115. WAC 392-172A-03100 provides:~~

~~A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate,~~

~~including:~~

~~(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and~~

~~(2) Scheduling the meeting at a mutually agreed-on time and place.~~

~~(3) The notification required under subsection (1) of this subsection must:~~

~~(a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and~~

~~(b) Inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student, and participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead agency for Part C at the initial IEP team meeting for a child previously served under Part C of IDEA 2004.~~

~~(4) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, the notice also must:~~

~~(a) Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student and that the agency will invite the student; and~~

~~(b) Identify any other agency that will be invited to send a representative.~~

~~(5) If neither parent can attend an IEP team meeting, the School District must use other methods to ensure parent participation, including video or telephone conference calls.~~

~~(6) A meeting may be conducted without a parent in attendance if the School District is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed-on time and place, such as:~~

~~(a) Detailed records of telephone calls made or attempted and the results of those calls;~~

~~(b) Copies of correspondence sent to the parents and any responses received; and~~

~~(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.~~

~~(7) The School District must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.~~

~~(8) The School District must give the parent a copy of the student's IEP at no cost to the parent.~~

~~The special education case manager is responsible for parent notification and communication in arranging meetings, seeking input from parents, and providing IEP information. Communication and notification may occur in person, via phone, or through written correspondence.~~

~~Pursuant to WAC 392-172A-03115 and consistent with WAC 392-172A-05000 (3)(a), the District will ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the student.~~

### **~~3.4. When IEPs Must Be in Effect~~**

~~The District will comply with the effective date requirements for IEPs, as set forth in WAC 392-172A-03105(1) through (3), which provide:~~

~~(1) At the beginning of each school year, each school district must have an IEP in effect, for each student eligible for special education that it is serving through enrollment in the District.~~

~~———— (2) For an initial IEP, a school district must ensure that:~~

~~(a) A meeting to develop the student's IEP within thirty days of a determination that the student is eligible for special education and related services; and~~

~~(b) As soon as possible following development of the IEP, special education and related services are made available to the student in accordance with the student's IEP.~~

~~———— (3) Each school district must ensure that:~~

~~(a) The student's IEP is accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and~~

~~———— (b) Each teacher and provider described in (a) of this subsection is informed of:~~

~~(i) His or her specific responsibilities related to implementing the student's IEP; and~~

~~(ii) The specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.~~

### **~~3.5. When IEPs Must Be in Effect for Transfer Students~~**

~~Pursuant to WAC 392-172A-03105(4), if a student eligible for special education transfers to the District from another school district within the state and has an IEP that was in effect for the current school year from the previous school district, this district, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the student's IEP, until this district either:~~

~~———— (a) Adopts the student's IEP from the previous school district; or~~

~~(b) Develops, adopts, and implements a new IEP that meets the applicable requirements in WAC 392-172A-03090 through 392-172A-03110.~~

~~Pursuant to WAC 392-172A-03105 (5), if a student eligible for special education transfers from a school district located in another state to this district and has an IEP that is in effect for the current school year from the previous school district, this district, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the student's IEP, until this district either:~~

~~(a) Conducts an evaluation to determine whether the student is eligible for special education services in this state, if the District believes an evaluation is necessary to determine eligibility under state standards; and~~

~~(b) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in WAC 392-172A-03090 through 392-172A-03110.~~

~~Pursuant to WAC 392-172A-03105(6), to facilitate the transition for a transfer student:~~

~~(a) This district must take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous school in which the student was enrolled, pursuant to RCW 28A.225.335 and consistent with applicable Family Education Rights and Privacy Act (FERPA) requirements; and~~

~~(b) The School District in which the student was enrolled must take reasonable steps to promptly respond to the request from the new school district, pursuant to RCW 28A.225.335 and applicable FERPA requirements.~~

### **~~3.6.—Development, Review, and Revision of IEPs~~**

~~The District will develop, review, and revise IEPs in compliance with WAC 392-172A-03110, which provides:~~

~~(1) In developing each student's IEP, the IEP team must consider:~~

~~——(a) The strengths of the student;~~

~~——(b) The concerns of the parents for enhancing the education of their student;~~

~~——(c) The results of the initial or most recent evaluation of the student; and~~

~~——(d) The academic, developmental, and functional needs of the student.~~

~~——(2)(a) When considering special factors unique to a student, the IEP team must:~~

~~(i) Consider the use of positive behavioral interventions and supports, and other strategies, to address behavior, in the case of a student whose behavior impedes the student's learning or that of others; and~~

~~(ii) Consider the language needs of the student as those needs relate to the student's IEP, for a student with limited English proficiency;~~

~~(iii) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student'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 student;~~

~~(iv) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and~~

~~——(v) Consider whether the student needs assistive technology devices and services.~~

~~(b) A general education teacher of a student eligible for special education, as a member of the IEP team, must, to the extent appropriate, participate in the development of the student's IEP, including the determination of:~~

~~(i) Appropriate positive behavioral interventions and supports and other strategies for the student; and~~

~~(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with WAC 392-172A-01185.~~

~~(c) After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the School District may agree not to convene an IEP team meeting for the purposes of mak-~~

ing changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the School District must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student, consistent with WAC 392-172A-03105(3).

~~(d) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in (c) of this subsection, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.~~

~~(e) To the extent possible, the School Districts must encourage the consolidation of reevaluation meetings and other IEP team meetings for the student.~~

~~(3) Each public agency must ensure that, subject to subsections (4) and (5) of this section the IEP team:~~

~~(a) Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and~~

~~(b) Revises the IEP, as appropriate, to address:~~

~~(i) Any lack of expected progress toward the annual goals described in WAC 392-172A-03090 (1)(b) and in the general education curriculum, if appropriate;~~

~~(ii) The results of any reevaluations;~~

~~(iii) Information about the student provided to, or by, the parents, as described under WAC 392-172A-03025;~~

~~(iv) The student's anticipated needs; or~~

~~(v) Other matters.~~

~~(4) In conducting a review of the student's IEP, the IEP team must consider the special factors described in subsection (2)(a) of this section. In the case of a student whose behavior continues to impede the progress of the student or others despite the use of positive behavioral support strategies: Consider the need for aversive interventions only as a last resort, if positive behavior supports have been used in accordance with the student's IEP, the use of positive behavior supports has been documented to be ineffective, and the IEP team, consistent with WAC 392-172A-03120 through 392-172A-03135 determines that an aversive intervention plan is necessary for the student.~~

~~(5) A general education teacher of the student, as a member of the IEP team, must, consistent with subsection (2)(b) of this section, participate in the review and revision of the IEP of the student.~~

~~(6)(a) If a participating agency, other than the School District, fails to provide the transition services described in the IEP in accordance with WAC 392-172A-03090 (1)(j), the School District must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.~~

~~(b) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students eligible for special education services who meet the eligibility criteria of that agency.~~

~~(7)(a) The following requirements do not apply to students eligible for special education who are convicted as adults under state law and incarcerated in adult prisons:~~

~~(i) The requirement that students eligible for special education participate in district or state-wide assessments.~~

~~(ii) The requirements related to transition planning and transition services, if the student's eligibility for special education services will end because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.~~

~~(b)(i) Subject to (b)(ii) of this subsection, the IEP team of a student with a disability who is convicted as an adult under state law and incarcerated in an adult prison may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.~~

~~(ii) Contents of the IEP and LRE (least restrictive environment) requirements do not apply with respect to the modifications described in (b)(i) of this subsection.~~

#### **~~4. Least Restrictive Environment (LRE), Access to Extracurricular and Non-Academic Activities, Continuum of Services~~**

##### **~~4.1. Least Restrictive Environment (LRE)~~**

~~The District provides special education and related services to eligible students, in the least restrictive environment (LRE), pursuant to WAC 392-172A-02050 through 02070. WAC 392-172A-02050 provides:~~

~~Subject to the exceptions for students in adult correctional facilities, school districts shall ensure that the provision of services to each student eligible for special education, including preschool students and students in public or private institutions or other care facilities, shall be provided:~~

~~(1) To the maximum extent appropriate in the general education environment with students who are non-disabled; and~~

~~(2) Special classes, separate schooling or other removal of students eligible for special education from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.~~

~~Pursuant to WAC 392-172A-02060(2), when determining the educational placement of a student eligible for special education, including a preschool student, the selection of the appropriate placement for each student shall be based upon:~~

~~(a) The student's IEP;~~

~~(b) The least restrictive environment requirements contained in WAC 392-172A-02050 through 392-172A-02070, including WAC 392-172A-02060;~~

~~(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and~~

~~(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs.~~

~~Pursuant to WAC 392-172A-02060 (3), unless the IEP of a student requires some other arrangement, the student shall be educated in the school that he or she would attend if non-disabled. In the event the student needs other arrangements, placement shall be as close as possible to the student's home.~~

~~Pursuant to WAC 392-172A-02060 (4), a student shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general education curriculum.~~

##### **~~4.2. Access to Extracurricular and Nonacademic Services~~**

~~In compliance with WAC 392-172A-02025, the District will provide nonacademic and extracurricular services and activities in the manner necessary to afford students eligible for special education an equal opportunity for~~



~~participation in those services and activities. Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students. These nonacademic opportunities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, and referrals to agencies that provide assistance to individuals with disabilities, employment of students including both employment by the public agency and assistance in making outside employment available.~~

~~Pursuant to WAC 392-172A-02065, each student eligible for special education will participate with non-disabled students in extracurricular services and activities to the maximum extent appropriate to the needs of that student. The District will ensure that each student eligible for special education has the supplementary aids and services determined by the student's IEP team to be appropriate and necessary for the student to participate in nonacademic settings.~~

#### **~~4.3 Continuum of Alternative Placements~~**

~~The District provides a continuum of alternative placements for students, pursuant to WAC 392-172A-02055, which provides:~~

~~(1) Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students.~~

~~(2) The continuum required in this section must:~~

~~(a) Include the alternative placements listed in the definition of special education in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and~~

~~(b) Make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with general education classroom placement.~~

### **~~5. Procedural Safeguards and Discipline Procedures~~**

#### **~~5.1. Notice of Procedural Safeguards~~**

~~Pursuant to 392-172A-05015:~~

~~(1) School districts must provide a copy of the procedural safeguards that are available to the parents of a student eligible for special education one time a school year, and:~~

~~(a) Upon initial referral or parent request for evaluation;~~

~~(b) Upon receipt of the first state complaint and receipt of the first due process complaint in a school year;~~

~~(c) When a decision is made to remove a student for more than ten school days in a year, and that removal constitutes a change of placement; and~~

~~(d) Upon request by a parent.~~

~~(2) A school district may place a current copy of the procedural safeguards notice on its internet web site if a website exists.~~

~~(3) The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under this chapter that relate to:~~

~~(a) Independent educational evaluations;~~

~~(b) Prior written notice;~~

~~(c) Parental consent;~~

~~(d) Access to education records;~~

~~(e) An opportunity to present and resolve complaints through the due process hearing request and state complaint procedures, including:~~

- (i) The time period in which to file a state complaint and due process hearing request;
- (ii) The opportunity for the school district to resolve the due process hearing request; and
- (iii) The difference between the due process hearing request and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decision timelines, and relevant procedures;
- (f) The availability of mediation;
- (g) The student's placement during the pendency of any due process hearing;
- (h) Procedures for students who are subject to placement in an interim alternative educational setting;
- (i) Requirements for unilateral placement by parents of students in private schools at public expense;
- (j) Hearings on due process hearing requests, including requirements for disclosure of evaluation results and recommendations;
- (k) Civil actions, including the time period in which to file those actions; and
- (l) Attorneys' fees.
- (4)(a) The procedural safeguards notice must be:
  - (i) Written in language understandable to the general public; and
  - (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (b) If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure:
  - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
  - (ii) That the parent understands the content of the notice; and
  - (iii) That there is written evidence that the requirements in (b) of this subsection have been met.

[Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05015, filed 6/29/07, effective 7/30/07.]

## **5.2.—Prior Written Notice**

The District will provide prior written notice as required by WAC 392-172A-05010, which provides:

- (1) Written notice that meets the requirements of subsection (2) of this section must be provided to the parents of a student eligible for special education, or referred for special education a reasonable time before the School District:

- (a) Proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student; or
- (b) Refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student.

- (2) The notice required under this section must include:

- (a) A description of the action proposed or refused by the agency;
- (b) An explanation of why the agency proposes or refuses to take the action;
- (c) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (d) A statement that the parents of a student eligible or referred for special education have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

- ~~(e) Sources for parents to contact to obtain assistance in understanding the procedural safeguards and the contents of the notice;~~
- ~~(f) A description of other options that the IEP team considered and the reasons why those options were rejected; and~~
- ~~(g) A description of other factors that are relevant to the agency's proposal or refusal.~~

~~————(3)(a) The notice required under subsections (1) and (2) of this section must be:~~

- ~~————(i) Written in language understandable to the general public; and~~
- ~~(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.~~

~~————(b) If the native language or other mode of communication of the parent is not a written language, the School District must take steps to ensure:~~

- ~~(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;~~

~~————(ii) That the parent understands the content of the notice; and~~

~~————(iii) That there is written evidence that the requirements in (b) of this subsection have been met.~~

### **~~5.3. Mediation~~**

~~Mediation shall be made available under WAC 392-172A-05060 through 05075. The purpose of mediation is to offer both the parent and the District an opportunity to resolve disputes and reach a mutually acceptable agreement concerning the identification, evaluation, educational placement or provision of FAPE to the student through the use of an impartial mediator.~~

~~Mediation is voluntary and requires the agreement of both parties. It may be terminated by either party at any time during the mediation process. Mediation cannot be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under IDEA 2004.~~

~~Mediation services are provided by the Office of the Superintendent of Public Instruction (OSPI) at no cost to either party, including the costs of meetings described in WAC 392-172A-05075. To access the state-wide mediation system, a request for mediation services may be made in writing or verbally to administrative agents for the OSPI. Written confirmation of the request shall be provided to both parties by an intake coordinator and a mediator shall be assigned to the case. The OSPI will provide mediation services for individuals whose primary language is not English or who use another mode of communication unless it is clearly not feasible to do so. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. See WAC 392-172A-05060.~~

~~If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:~~

- ~~(a) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and~~
- ~~(b) Is signed by both the parent and a representative of the District who has the authority to bind the District.~~

~~Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal or state court. See WAC 392-172A-05070.~~

## **~~5.4. Due Process Hearing~~**

~~Both parents and districts may file requests for due process hearings involving the identification, evaluation, placement, or provision of FAPE to a student, pursuant to WAC 392-172A-05080 through 05125.~~

### **~~5.4.1. Due Process Hearing Request~~**

~~WAC 392-172A-05085 requires that specific information be provided as part of a due process hearing request. The requirements are identified in the procedural safeguards notice and on the due process hearing request form. Due process hearing request forms are available from the Special Services Director and on the OSPI Special Education and Administrative Resources Web site.~~

~~If a staff person receives a request for a due process hearing, a copy of the request should be immediately forwarded to the Special Services Director. If the parent has not filed the request for hearing with the OSPI, the District will forward the parent request to the OSPI Administrative Resources Section. The District may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The Special Services Director is responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.~~

~~When a parent files a due process hearing, the student remains in the placement the student was in when the request was filed, unless the parents and district agree to a different placement. See the discipline section of these procedures for placements when a disciplinary action is challenged.~~

### **~~5.4.2. Resolution Session~~**

~~Pursuant to WAC 392-172A-05090, when parents file a request for a due process hearing, the District Superintendent will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent request for hearing or seven days if the hearing request involves an expedited hearing regarding discipline. The Superintendent will determine the appropriate district staff that will attend the resolution meeting. The District will ensure that one of the District representatives attending the resolution meeting has authority to bind the District in any resolution agreement. The District will not bring an attorney to a resolution meeting unless the parent is bringing an attorney to the meeting.~~

~~Any resolution agreement reached will be documented in writing and is binding on the parties. The document will inform the parent of their right to void the agreement within three business days of signing the agreement.~~

## **~~5.5. Discipline~~**

~~The District will comply with the provisions of WAC 392-172A-05140 through 05175 when disciplining students eligible for special education or who may be deemed to be eligible for special education.~~

### **~~5.5.1. Purpose~~**

~~Under WAC 392-172A-05140 the purpose of the disciplinary procedures set forth in WAC 392-172A-05140 through 392-172A-05155 is to ensure that students eligible for special education services are not improperly excluded from school for disciplinary reasons and are provided services in accordance with WAC 392-172A-05145. The District shall take steps to ensure that each employee, contractor, and other agent is knowledgeable of the disciplinary procedures to be followed for students eligible for special education and students who may be deemed to be eligible for special education, and knowledgeable of the rules and procedures contained in Chapter 392-400 WAC governing discipline for all students.~~

### **5.5.2. Authority of School Personnel**

~~Under WAC 392-172A-05145(1), school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements of WAC 392-172A-05145(1), is appropriate for a student eligible for special education services, who violates a code of student conduct.~~

### **5.5.3. Disciplinary Removals**

~~School personnel may remove a student eligible for special education who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days to the extent those alternatives are applied to students without disabilities under this section, and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement under WAC 392-172A-05155 (set forth below). See WAC 392-172A-05145(2)(a).~~

~~After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent days of removal the District must provide services to the extent required under subsection WAC 392-172A-05145(4). See WAC 392-172A-05145(2)(b).~~

~~When disciplinary changes in placement exceed ten consecutive school days, and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability pursuant to WAC 392-172A-05145(5), school personnel may apply the relevant disciplinary procedures to students eligible for special education in the same manner and for the same duration as a district would apply discipline procedures to students without disabilities, except that services shall be provided in accordance with WAC 392-172A-05145(4). See WAC 392-172A-05145(3).~~

### **5.5.4. Services for Students During Disciplinary Removals**

~~The District will provide services to eligible students who are removed from their current placements in compliance with WAC 392-172A-05145(4), which provides:~~

~~(4) A student who is removed from the student's current placement pursuant to subsection (3) or (5) of [WAC 392-172A-05145] must:~~

~~(a) Continue to receive educational services, that provide a FAPE, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and~~

~~(b) Receive, as appropriate when a student's removal is not a manifestation of the student's disability, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.~~

~~(c) The services required by (a), (d), (e), and (f) of this subsection may be provided in an interim alternative educational setting.~~

~~(d) A school district is only required to provide services during periods of removal to a student eligible for special education who has been removed from his or her current placement for ten school days or less in that school year, if it provides services to a student without disabilities who is similarly removed.~~

~~(e) After a student eligible for special education has been removed from his or her current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement under WAC 392-172A-05155, set forth below, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services~~

are needed, to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

(f) If the removal is a change of placement under WAC 392-172A-05155, set forth below, the student's IEP team determines appropriate services under (a) of this subsection.

### **~~5.5.5. Manifestation Determination~~**

Pursuant to WAC 392-172A-05145(5)(a), within ten school days of any decision to change the placement of a student eligible for special education because of a violation of a code of student conduct, the District, the parent, and relevant members of the student's IEP team (as determined by the parent and the School District) must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- (ii) If the conduct in question was the direct result of the School District's failure to implement the IEP.

Pursuant to WAC 392-172A-05145(5)(b), the conduct must be determined to be a manifestation of the student's disability if the District, the parent, and relevant members of the student's IEP team determine that a either of the conditions (i) or (ii), above, was met.

If the District, the parent, and relevant members of the student's IEP team determine the conduct was a manifestation of the student's disability, the District must take immediate steps to remedy those deficiencies. *See* WAC 392-172A-05145(5)(c).

### **~~5.5.6. Functional Behavioral Assessment and Behavior Intervention Plan~~**

Pursuant to WAC 392-172A-05145(6), if the District, the parent, and relevant members of the student's IEP team determine the conduct was a manifestation of the student's disability, the IEP team must either:

- (a) Conduct a functional behavioral assessment, unless the District had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or
- (b) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- (c) Except as provided in WAC 392-172A-05145(7), set forth below, return the student to the placement from which the student was removed, unless the parent and the District agree to a change of placement as part of the modification of the behavioral intervention plan.

### **~~5.5.7. Removals for Possession of Weapons or Illegal Drugs or Infliction of Serious Bodily Injury~~**

Pursuant to WAC 392-172A-05145(7), school personnel may remove a student to an interim alternative educational setting for not more than forty-five school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- (a) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the District;
- (b) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the District; or
- (c) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the District.

~~See WAC 392-172A-05145(9) for definitions of “controlled substance,” “illegal drug,” “serious bodily injury,” and “weapon.”~~

#### **~~5.5.8. Notification~~**

~~Pursuant to WAC 392-172A-05145(8), on the date on which the decision is made to make a removal that constitutes a change of placement of a student eligible for special education because of a violation of a code of student conduct, the building principal or special education case manager must notify the parents of that decision, and provide the parents the procedural safeguards notice.~~

#### **~~5.5.9. Interim Alternative Setting~~**

~~Pursuant to WAC 392-172A-05150, the student’s IEP team will determines the interim alternative educational setting for services under WAC 392-172A-07105(3), (4)(e) and (7).~~

#### **~~5.5.10. Change of Placement Because of Disciplinary Removals~~**

~~WAC 392-172A-05155 provides:~~

~~For purposes of removals of a student eligible for special education from the student’s current educational placement, because of disciplinary removals, a change of placement occurs if:~~

- ~~—— (1) The removal is for more than ten consecutive school days; or~~
- ~~—— (2) The student has been subjected to a series of removals that constitute a pattern:~~
  - ~~(a) Because the series of removals total more than ten school days in a school year;~~
  - ~~(b) Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and~~
  - ~~(c) Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.~~
- ~~(3) The School District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.~~
- ~~(4) The determination regarding a disciplinary change of placement is subject to review through due process and judicial proceedings.~~

#### **~~5.5.11. Appeal of Placement Decisions and Manifestation Determinations~~**

~~The District will follow the procedures for appeals of placement decisions and manifestation determinations set forth in WAC 392-172A-05160, which provides:~~

- ~~(1) The parent of a student eligible for special education who disagrees with any decision regarding placement under WAC 392-172A-05145 and 392-172A-05155, or the manifestation determination under WAC 392-172A-05145(5), or a school district that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a due process hearing. The hearing is requested by filing a due process hearing request pursuant to WAC 392-172A-05080 and 392-172A-05085.~~
- ~~(2)(a) An administrative law judge under WAC 392-172A-05095 hears, and makes a determination regarding an appeal under subsection (1) of this section.~~
- ~~(b) In making the determination under (a) of this subsection, the administrative law judge may:~~



~~(i) Return the student to the placement from which the student was removed if the administrative law judge determines that the removal was a violation of WAC 392-172A-05145 through 392-172A-05155 or that the student's behavior was a manifestation of the student's disability; or~~

~~(ii) Order a change of placement of the student to an appropriate interim alternative educational setting for not more than forty-five school days if the administrative law judge determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.~~

~~(c) The procedures under subsection (1) of this section and (b) of this subsection may be repeated, if the School District believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.~~

~~(3) Whenever a hearing is requested under subsection (1) of this section, the parents and the School District involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of WAC 392-172A-05080 through 392-172A-05090 and 392-172A-05100 through 392-172A-05110, except:~~

~~(a) The due process hearing must be expedited, and must occur within twenty school days of the date the due process hearing request is filed. The administrative law judge must make a determination within ten school days after the hearing.~~

~~(b) Unless the parents and school district agree in writing to waive the resolution meeting described in (b)(i) of this subsection, or agree to use the mediation process:~~

~~(i) A resolution meeting must occur within seven days of receiving notice of the due process hearing request; and~~

~~(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen days of the receipt of the due process hearing request.~~

~~(4) The administrative hearing decisions on expedited due process hearings may be appealed, by initiating a civil action consistent with WAC 392-172A-05115.~~

### **5.5.12.— Placement During an Appeal Through a Due Process Hearing**

Pursuant to 392-172A-05165, when either the parent or the school district requests a due process hearing, the student must remain in the interim alternative educational setting pending the decision of the administrative law judge or until the expiration of the time period specified in WAC 392-172A-05145 (3) or (7), whichever occurs first, unless the parent and the school district agree otherwise.

[Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. 07-14-078, § 392-172A-05165, filed 6/29/07, effective 7/30/07.]

### **5.5.13.— Protections for Students Not Determined Eligible for Special Education**

Pursuant to WAC 392-172A-05170(1), a student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in Chapter 392-172A WAC, if the District had knowledge as determined in accordance with WAC 392-172A-05170(2) (*see below*) that the student was a student eligible for special education before the behavior that precipitated the disciplinary action occurred.

WAC 392-172A-05170(2) provides:

~~(2) Basis of knowledge. A school district must be deemed to have knowledge that a student is eligible for special education if before the behavior that precipitated the disciplinary action occurred:~~

- ~~(a) The parent of the student expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;~~
- ~~b) The parent of the student requested an evaluation of the student pursuant to WAC 392-172A-03005; or~~
- ~~(c) The teacher of the student, or other personnel of the School District, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other supervisory personnel of the School District.~~

~~Pursuant to WAC 392-172A-05170(3), the District will not be deemed to have knowledge under subsection WAC 392-172A-05170(2) if:~~

~~————— (a) The parent of the student:~~

~~(i) Has not allowed an evaluation of the student pursuant to WAC 392-172A-03000 through 392-172A-03080; or~~

~~————— (ii) Has refused services under this chapter; or~~

~~(b) The student has been evaluated in accordance with WAC 392-172A-03005 through 392-172A-03080 and determined to not be eligible for special education and related services under this part.~~

~~Pursuant to WAC 392-172A-05170(4)(a), if the District does not have knowledge that a student is eligible for special education prior to taking disciplinary measures against the student, the student may be disciplined using the same disciplinary measures applied to students without disabilities who engage in comparable behaviors consistent with the following from WAC 392-172A-05170(4)(b):~~

~~(b)(i) If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under WAC 392-172A-05145, the evaluation must be conducted in an expedited manner.~~

~~(ii) Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.~~

~~(iii) If the student is determined to be eligible for special education services, taking into consideration information from the evaluation conducted by the School District and information provided by the parents, the agency must provide special education and related services in accordance with this chapter and follow the discipline requirements.~~

#### **5.5.14. — Referral to and Action by Law Enforcement and Judicial Authorities.**

~~Nothing in Chapter 392-172A WAC prohibits the District from reporting a crime committed by a student to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student eligible for special education. If the District reports a crime committed by a student eligible for special education, the District must ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the agency reports the crime, to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. See WAC 392-172A-05175.~~

### **6. — Confidentiality and Records Management**

~~The Special Services Department is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education students, consistent with WAC 392-172A-05180 through 05245.~~

The Special Services Department will maintain, for public inspection, a current list of the names and positions of district employees who have access to personally identifiable information of special education students, pursuant to ~~WAC 392-172A-05230(4)~~.

~~Pursuant to WAC 392-172A-05205, the District will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained or used by the District.~~

~~Pursuant to WAC 392-172A-05230(3), the District will provide instruction to employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in Chapter 392-172A WAC, State law, and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 C.F.R. Part 99).~~

~~Pursuant to WAC 392-172A-05190(1), the District shall permit parents of students eligible for special education to inspect and review, during school business hours, any educational records relating to the student, which are collected, maintained, or used by the District. The District shall comply with a request promptly and before any meeting regarding an individualized education program or hearing or resolution session relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. The District shall respond, in no case, more than forty-five calendar days after the request has been made.~~

~~Pursuant to WAC 392-172A-05190(2), the right to inspect and review educational records under WAC 392-172A-05190 includes:~~

- ~~(a) The right to a response from the District to reasonable requests for explanations and interpretations of the records;~~
- ~~(b) The right to request that the District provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and~~
- ~~(c) The right to have a representative of the parent or adult student inspect and review records.~~

~~The District may presume that a parent has authority to inspect and review records relating to his or her student unless the School District or other public agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. See WAC 392-172A-05190(3).~~

~~If an educational record includes information on more than one student, the parents (and/or adult student) may only inspect and review information relating to their own child.~~

~~School personnel receiving requests for educational records will immediately forward the request to the Special Services Department.~~

~~If parents believe that information in an educational record is inaccurate or misleading, or violates the privacy or rights of the student, they may request that the District amend the information. The District's procedure 3231P describes the process and timelines for challenges and hearings regarding student records.~~

~~The District follows the guidelines for records retention outlined in the Secretary of State's, *General Records Retention Schedule and Records Management Manual*. The District shall inform parents or adult students when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student. The information shall be destroyed at the request of the parent(s) or adult student, or will be provided to the parent or adult student upon their request. However, a permanent record of the student's name, address and phone number, his or her grades, attendance, record, classes attended, grade level completed and year completed will be maintained without time limitation. See WAC 392-172A-05235.~~

~~Records management is also governed by the District's procedure 3231P.~~

## **~~7. Transitions of Birth-to-Three Students to Preschool~~**

~~Pursuant to WAC 392-172A-02080, the District will assist with the smooth and effective transition of students who participate in early intervention programs assisted under Part C and are eligible for services under Part B, to the District's preschool program. The District will comply with WAC 392-172A-02080(2) and (3), which provide:~~

~~Each school district shall have policies and procedures for transition to preschool programs to ensure that:~~

~~(1) Students participating in early intervention programs assisted under Part C of the IDEA, and who will participate in preschool programs assisted under Part B of the IDEA, experience a smooth and effective transition to those preschool programs in a manner consistent with the Part C requirements.~~

~~(2) Each school district will participate in transition planning conferences arranged by the designee of the lead agency for Part C in the state. A transition planning conference will be convened for each student who may be eligible for preschool services at least ninety days prior to the student's third birthday.~~

~~(3) By the third birthday of a student described in subsection (1) of this section, an IEP has been developed and is being implemented for the student consistent with WAC 392-172A-02000(1).~~

~~The early childhood special education team is responsible for coordinating with the Regional Family Resource coordinator for timely execution of transition planning conferences.~~

## **~~8. Students Enrolled by Their Parents in Private Schools~~**

~~By November 30 of each year, the District shall conduct an annual count of the number of private elementary and secondary school students eligible for special education who are enrolled by their parents in a private school located within district boundaries and who do not wish to enroll in a public school to receive special education and related services.~~

### **~~8.1. Proportional Share of Funds~~**

~~The District is required to spend a proportionate amount of federal special education Part B and Section 619 funds to provide special education and related services to private elementary school students. The District will provide these services in compliance with WAC 392-172-04000 through 04115.~~

### **~~8.2. Consultation Regarding Private School Students~~**

~~The Special Services Director shall have timely and meaningful consultation with appropriate representatives and parents of private school students and make determinations pursuant to this section.~~

~~Pursuant to WAC 392-172A-04020, to ensure timely and meaningful consultation, the District must consult with private school representatives and representatives of parents of parentally placed private school students eligible for special education during the design and development of special education and related services for the students regarding the following:~~

~~—— (1) The child find process, including:~~

~~(a) How parentally placed private school students suspected of having a disability can participate equitably; and~~

~~—— (b) How parents, teachers, and private school officials will be informed of the process.~~

~~(2) The determination of the proportionate share of federal funds available to serve parentally placed private school students eligible for special education including the determination of how the District calculated the proportionate share of those funds.~~

~~(3) The consultation process among the District, private school officials, and representatives of parents of parentally placed private school students eligible for special education, including how the process will operate throughout the school year to ensure that parentally placed students eligible for special education identified through the child find process can meaningfully participate in special education and related services.~~

~~(4) How, where, and by whom special education and related services will be provided for parentally placed private school students eligible for special education, including a discussion about:~~

~~(a) The types of services, including direct services and alternate service delivery mechanisms; and~~

~~(b) How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school students; and~~

~~(c) How and when those decisions will be made.~~

~~(5) How, if the District disagrees with the views of the private school officials on the provision of services or the types of services, the District will provide to the private school officials a written explanation of the reasons why the School District chose not to provide services directly or through a contract.~~

~~Pursuant to WAC 392-172A-04010(1), parents who have placed their children in private school are entitled to enroll their children part time in their resident district for any course, activity or ancillary service, not provided by the private school under Chapter 392-134 WAC and pursuant to WAC 392-172A-01135. Parents who elect to enroll part time in their resident district in order to receive special education and/or related services are served through an IEP and are counted for federal and State special education reimbursement.~~

~~In providing services to students eligible for special education who are enrolled by their parents in private, including religious, elementary and secondary schools located in the District boundaries, and who are not part time enrolled for special education services under Chapter 392-134 WAC, the District will comply with WAC 392-172A-04010, which provides in relevant part:~~

~~(2) To the extent consistent with the number and location of students eligible for special education who are enrolled by their parents in private, including religious, elementary and secondary schools located in the School District boundaries, and who are not part time enrolled for special education services under chapter 392-134 WAC, districts must allow for the participation of those students by providing them with special education and related services, including direct services determined in accordance with WAC 392-172A-04035.~~

~~(3) In accordance with WAC 392-172A-04010 and WAC 392-172A-04035 through 392-172A-04070, a services plan must be developed and implemented for each private school student eligible for special education who has been designated by the School District to receive special education and related services.~~

~~(4) Each school district must maintain in its records, and provide to the OSPI, the following information related to parentally placed private school students:~~

~~(a) The number of students evaluated;~~

~~(b) The number of students determined eligible for special education; and~~

~~(c) The number of students served through a services plan.~~

## **~~9. Funding and Use of Funds~~**

~~The District will apply annually for Federal Part B and State special education funding to assist in the provision of special education and any necessary related services. This funding is in addition to state basic education funding.~~

### **9.1. — Early Intervening Services (EIS)**

~~The Superintendent and Special Services Director in consultation with the building principal shall annually determine whether to use Part B funds for Early Intervening Services (EIS), pursuant to WAC 392-172A-06085, to provide academic and behavioral support to students in the general education environment.~~

~~The District shall annually report to the OSPI the number of students receiving EIS and the number of students who received EIS and subsequently received special education and related services under Part B of IDEA 2004 during the preceding two-year period.~~

### **9.2. — Students Covered by Public or Private Insurance**

~~Pursuant to WAC 392-172-07005, the District may use Medicaid or other public insurance benefits programs in which a student participates, and/or the parents' private insurance proceeds to provide or pay for services required to provide a FAPE subject to qualifications contained in WAC 392-172A-07005.~~

### **9.3. — Use of Funds**

~~The District will use special education funds in accordance with WAC 392-172A-06010, which provides:~~

~~(1) Part B funds provided to school districts:~~

~~————— (a) Must be expended in accordance with the applicable provisions of this chapter;~~

~~(b) Must be used only to pay the excess costs of providing special education and related services to special education students, consistent with this chapter; and~~

~~(c) Must be used to supplement state, local and other federal funds and not to supplant those funds.~~

~~(2) The excess cost requirement prevents a school district from using funds provided under Part B of the act to pay for all of the costs directly attributable to the education of a student eligible for special education.~~

~~(3) (a) A school district meets the excess cost requirement if it has spent at least a minimum average amount for the education of its students eligible for special education before funds under Part B of the act are used.~~

~~(b) The excess cost amount is determined in accordance with the definition of excess costs in WAC 392-172A-01075. That amount may not include capital outlay or debt service.~~

~~(4) If two or more school districts jointly establish eligibility in accordance with WAC 392-172A-06075 and 392-172A-06080, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in those school districts for elementary or secondary school students, as the case may be.~~

~~Under WAC 392-172A-06035:~~

~~(1) Funds provided to a school district under Part B of the act may be used for the following activities:~~

~~(a) For the costs of special education and related services, and supplementary aids and services, provided in a general education class or other education-related setting to a special education student in accordance with the IEP of the student, even if one or more non-disabled students benefit from these services.~~

~~(b) To develop and implement coordinated, early intervening educational services in accordance with WAC 392-172A-06085.~~

~~(c) To establish and implement cost or risk sharing funds, consortia, or cooperatives for the School District itself, or for school districts working in a consortium of which the District is a part, to pay for high cost special education and related services.~~

~~(2) A school district may use funds received under Part B of the act to purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of students eligible for special education, that are needed for the implementation of those case management activities.~~

The District will comply with WAC 392-172A-06015 through 06030 with respect to maintenance of effort.

## **10. Staff Qualifications and Development**

### **10.1. Qualifications**

All employees of the District funded in whole or part with State or federal excess special education funds will meet the standards established by the Professional Educators Standards Board (PESB) and defined in WAC 392-172-A-02090.

~~Pursuant to WAC 392-172-A-02090(1)(g), special education and related services must be provided by appropriately qualified staff. Other staff including general education teachers and paraprofessionals may assist in the provision of special education and related services, provided that the instruction is designed and supervised by special education certificated staff, or for related services by a certificated educational staff associate. Student progress must be monitored and evaluated by special education certificated staff or for related services, a certificated educational staff associate.~~

~~All employees will hold such credentials, certificates, or permits as are now or hereafter required by the (PESB) for the particular position of employment, and shall meet such supplemental standards as are now or hereafter established by the District.~~

#### **10.1.1. Special Education Teachers**

~~Pursuant to WAC 392-172-A-02090(1)(b), all special education teachers providing, designing, supervising, evaluating or monitoring the provision of special education shall possess "substantial professional training." "Substantial professional training" shall be evidenced by issuance of an appropriate special education endorsement on an individual teaching certificate issued by the OSPI.~~

~~Pursuant to WAC 392-172-A-02090(2), the District will take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to students eligible for special education. There may be occasions when, despite efforts to hire or retain highly qualified teachers, they are unable to do so. Under WAC 392-172-A-02090(2), the following options are available in these situations:~~

~~(a) Teachers who meet state board criteria pursuant to WAC 181-81-110(3) as now or hereafter amended, are eligible for a preendorsement waiver. Application for the special education preendorsement waiver shall be made to the special education section at the Office of the Superintendent of Public Instruction.~~

~~(b) In order to temporarily assign a classroom teacher without a special education endorsement to a special education position, the District must keep written documentation on the following:~~

~~————— (i) The District must make one or more of the following factual determinations:~~

~~(A) The District was unable to recruit a teacher with the proper endorsement who was qualified for the position;~~



~~(B) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable; and/or~~

~~(C) The reassignment of another teacher within the District with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.~~

~~(ii) Upon determination by the District that one or more of these criteria can be documented, and the District determines that a teacher has the competencies to be an effective special education teacher but does not have endorsement in special education, the District can so assign the teacher to special education. The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in special education. The following requirements apply:~~

~~(A) The building principal along with the Special Services Director and any such teacher shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out of endorsement assignment;~~

~~(B) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out of endorsement assignments;~~

~~(C) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and~~

~~(D) The assignment of such teachers for the previous school year shall be reported annually to the professional educator standards board by the employing school district as required by WAC 181-16-195.~~

~~Teachers placed under the options described in WAC 392-172-A-02090(2) do not meet the definition of highly qualified.~~

#### **~~10.1.2. Other Certificated Service Providers~~**

~~Pursuant to WAC 392-172-A-02090(1)(c), other certificated related services personnel providing specially designed instruction or related services, shall meet standards established under the educational staff associate rules of the professional educator standards board, as now or hereafter amended.~~

#### **~~10.1.3. Early Childhood Service Providers~~**

~~Pursuant to WAC 392-172-A-02090(1)(d), employees with only an early childhood special education endorsement may be assigned to programs that serve students birth through eight. Preference for an early childhood special education assignment must be given first to employees having early childhood special education endorsement.~~

#### **~~10.1.4. Braille Instruction~~**

~~Pursuant to WAC 392-172-A-02090(1)(e), certified and/or classified staff assigned to provide instruction in Braille, the use of Braille, or the production of Braille must demonstrate competency with grade two standard literary Braille code by successful completion of a test approved by the professional educator standards board pursuant to WAC 181-82-130.~~

### **~~10.1.5. Paraprofessionals and Aides~~**

~~Pursuant to WAC 392-172-A-02090(1)(f), paraprofessional staff and aides shall present evidence of skills and knowledge necessary to meet the needs of students eligible for special education, and shall be under the supervision of a certificated teacher with a special education endorsement or a certificated educational staff associate, as provided pursuant to WAC 392-172-A-02090(1)(g). Paraprofessional staff in Title One school-wide programs shall meet ESEA standards for paraprofessionals.~~

### **~~10.2. Personnel Development~~**

~~In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed: 1) training will be provided annually to all personnel who may be providing aversive interventions under a student's IEP; 2) in-service training schedules will be developed based upon the results of the District assessment and in support of needs identified; 3) training activities will be conducted for general and special education staff providing services for special education students; and 4) training for classified staff in the state recommended core competencies will occur through local and regional classes and on-line training opportunities.~~

### **~~11. Public Documents Relating to the District's Eligibility~~**

~~The District's application for special education funding and any required policies, procedures, plans, and reports are readily available to parents and other members of the public through the District's Special Services Office and OSPI. A notice regarding the availability of such documents will be placed on the District's Web site and in the District's newsletter.~~

### **~~12. Provision to the OSPI of Necessary Information and Data for the State's Performance Goals~~**

~~Pursuant to WAC 392-172A-6000(4), the District will provide the OSPI with information that addresses the District's progress or slippage in meeting the state's performance goals and in addressing the state's annual performance plan.~~

### **~~13. Provision of Instructional Materials to Blind Persons or Persons With Print Disabilities~~**

~~The District will provide instructional materials to blind persons or persons with print disabilities, in compliance with Chapter 392-172A WAC.~~

### **~~14. Compliance with Corrective Actions as a Result of Monitoring or Dispute Resolution Processes~~**

~~The District will comply with any/all directives from the OSPI to take corrective actions as a result of monitoring pursuant to WAC 392-172A-07010. The District will comply with any/all orders issued as a result of the due process and/or complaint procedures set forth in Chapter 392-172A WAC, or other law or regulation applicable to students with disabilities.~~

### **~~15. Goal and Detailed Timetable for Providing Full Educational Opportunity to All Special Education Students~~**

~~The District has adopted the state's goal and detailed time table for providing full educational opportunity to all special education students, available at OSPI.~~