Nerstrand Elementary School

Total Special Education System (TSES) Manual

This document serves as the Total Special Education System Plan for Nerstrand Elementary School in accordance with Minnesota Rule 3525.1100. This plan also includes an assurance for compliance with the federal requirements pertaining to districts' special education responsibilities found in United States Code, title 20, chapter 33, and Code of Federal Regulations, title 34, part 300. This document is a companion to the Application for Special Education Funds – Statement of Assurances (ED-01350-29).

Nerstrand Elementary School contracts with INDIGO Education for the Director of Special Education services. Dr. Erin Lavery, serves as Director of Special Education and is responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration. Erin Lavery may be reached at elavery@indigoed.org or by telephone at 651-278-2307.

Child Study Procedures

The District's identification system is developed according to the requirement of nondiscrimination as Nerstrand Elementary School does not discriminate in education on the basis of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability.

Identification

Nerstrand Elementary School has developed systems designed to identify pupils with disabilities beginning in Kindergarten through Grade 5. As a charter school, Nerstrand Elementary School is not required to identify students beginning at birth, pupils with disabilities attending other public and nonpublic schools, and pupils with disabilities who are of school age and are not attending any school.

The team shall determine that a child from the age of 3 years through the age of 6 years is eligible for special education when:

A. The child meets the criteria of one of the categorical disabilities in United States Code, title 20, chapter 33, as defined in Minnesota Rules; or

B. The child meets one of the criteria for developmental delay in subitem (1) and the criteria in subitem (2). Nerstrand Elementary School has elected the option of implementing these criteria for developmental delay.

Nerstrand Elementary School provides education to students beginning at the age of 5 and has elected to implement these criteria for developmental delay.

(1) The child:

(a) Has a diagnosed physical or mental condition or disorder that has a high probability or resulting in developmental delay; or

(b) Has a delay in each of two or more of the areas of cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development, that is verified by an evaluation using one or more technically adequate, norm-referenced instruments. The instruments must be individually administered by appropriately trained professionals and the scores must be at least 1.5 standard deviations below the mean in each area.

(2) The child's need for special education is supported by:

(a) At least one documented, systematic observation in the child's routine setting by an appropriate professional or, if observation in the daily routine setting is not possible, the alternative setting must be justified;

(b) A developmental history; and

(c) At least one other evaluation procedure in each area of identified delay that is conducted on a different day than the medical or norm-referenced evaluation; which may include criterion referenced instruments, language samples, or curriculum-based measures.

Nerstrand Elementary School's plan for identifying a child with a specific learning disability is consistent with Minnesota Rule 3525.1341, Criteria A, B & C. The district solely uses the severe discrepancy model to determine eligibility for SLD. Nerstrand Elementary School's plan for identifying a child with a specific learning disability is found in MN statute**.**

Evaluation

The team conducts an evaluation for special education purposes within a reasonable time not to exceed 30 school days from the date the district receives parental permission to conduct the evaluation or the expiration of the 14 calendar-day parental response time in cases other than initial evaluation, unless a conciliation conference or hearing is requested.

Nerstrand Elementary School conducts full and individual initial evaluations before the initial provision of special education and related services to a pupil. The initial evaluation consists of procedures to determine whether a child is a pupil with a disability that adversely affects the child's educational performance as defined in Minnesota Statutes, section 125A.02, who by reason thereof needs special education and related services, and to determine the educational needs of the pupil. The district proposing to conduct an initial evaluation to determine if the child qualifies as a pupil with a disability obtains informed consent from the parent of the child before the evaluation is conducted. Parental consent for evaluation is not construed as consent for placement for receipt of special education and related services. The District will not override the written refusal of a parent to consent to an initial evaluation or re-evaluation.

Evaluation Procedures

Evaluations and reevaluations are conducted according to the following procedures:

A. Nerstrand Elementary School shall provide notice to the parents of the pupil, according to Code of Federal Regulations, title 34, sections 300.500 to 300.505, that describes any evaluation procedures the district proposes to conduct.

B. In conducting the evaluation, Nerstrand Elementary School:

(1) Uses a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and progress in the general curriculum, or for preschool pupils, to participate in appropriate activities;

(2) Does not use any single procedure as the sole criterion for determining whether a child is a pupil with a disability or determining an appropriate education program for the pupil; and

(3) Uses technically sound instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

C. Nerstrand Elementary School ensures that:

(1) Tests and other evaluation materials used to evaluate a child under this part are selected and administered so as not be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;

(2) Materials and procedures used to evaluate a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education and related services, rather than measure the child's English language skills;

(3) Any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;

(4) The child is evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;

(6) If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;

(7) Tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;

(8) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure; and

(9) In evaluating each pupil with a disability, the evaluation is sufficiently comprehensive to identify all of the pupil's special education and related service needs, whether or not commonly linked to the disability category in which the pupil has been classified.

D. Upon completion of administration of tests and other evaluation materials, the determination of whether the child is a pupil with a disability as defined in Minnesota Statutes, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

E. In making a determination of eligibility under item D, a child shall not be determined to be a pupil with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency, and the child does not otherwise meet eligibility criteria under parts 3525.1325 to 3525.1351.

Additional requirements for evaluations and reevaluations

A. As part of an initial evaluation, if appropriate, and as part of any reevaluation under this part, or a reinstatement under part 3525.3100, the IEP team and other qualified professionals, as appropriate, shall:

(1) Review existing evaluation data on the pupil, including evaluations and information provided by the parents of the pupil, current classroom-based assessments and observations, and teacher and related services providers observation; and

(2) On the basis of the review, and input from the pupil's parents, identify what additional data, if any, are needed to determine whether the pupil has a particular category of disability, as described in Minnesota Statutes, section 125A.02, or, in case of a reevaluation of a pupil, whether the pupil continues to have such a disability, the present levels of performance and educational needs of the pupil, whether the pupil needs special education and related services, or in the case of a reevaluation of a pupil, whether the pupil continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

B. The district administers such tests and other evaluation materials as may be needed to produce the data identified by the IEP team under item A, subitem (2).

C. The district obtains informed parental consent, in accordance with subpart 1, prior to conducting any reevaluation of a pupil, except that such informed parental consent need not be obtained if the district can demonstrate that it had taken reasonable measures to obtain such consent and the pupil's parent has failed to respond.

D. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the pupil continues to be a pupil with a disability, the district shall notify the pupil's parents of that determination and the reasons for it, and the right of such parents to request an evaluation to determine whether the pupil continues to be a pupil with a disability, and shall not be required to conduct such an evaluation unless requested to by the pupil's parents.

E. A district evaluates a pupil in accordance with federal regulation before determining that the pupil is no longer a pupil with a disability.

Nerstrand Elementary School **does not** intend to use restrictive procedures. Nerstrand Elementary School follows the restrictive procedure statute, Minnesota

Statute 125A.094-125A.0942.

Procedures for determining eligibility and placement

In interpreting the evaluation data for the purpose of determining if a child is a pupil with a disability under parts 3525.1325 to 3525.1351 and the educational needs of the child, the school district:

(1) Draws upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

(2) Ensures that the information obtained from all of the sources is documented and carefully considered.

If a determination is made that a child is a pupil with a disability who needs special education and related services, an IEP is developed for the pupil according to Minnesota Rule 3525.2810.

Evaluation report

An evaluation report is completed and delivered to the pupil's parents within the specified evaluation timeline. At a minimum, the evaluation report includes:

A. A summary of all evaluation results;

B. Documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability;

C. The pupil's present levels of performance and educational needs that derive from the disability;

D. Whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and

E. Whether any additions or modifications to the special education and related

services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum.

Plan for Receiving Referrals

Nerstrand Elementary School's plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies is attached as **Appendix B**.

Method of Providing the Special Education Services for the Identified Pupils

Nerstrand Elementary School provides a full range of educational service alternatives. All students with disabilities are provided with special instruction and services which are appropriate to their needs. The following is representative of Nerstrand Elementary School's method of providing the special education services for the identified pupils, sites available at which service may occur, and instruction and related services are available.

Appropriate program alternatives to meet the special education needs, goals, and objectives of a pupil are determined on an individual basis. Choice of specific program alternatives are based on the pupil's current levels of performance, pupil special education needs, goals, and objectives, and must be written in the IEP. Program alternatives are comprised of the type of services provided, the setting in which services occur, and the amount of time and frequency in which special education services occur. A pupil may receive special education services in more than one alternative based on the IEP or IFSP.

A. Method of providing the special education services for the identified pupils:

(1) Direct and indirect services in general education

(2) Direct and indirect services in special education

(3) Paraprofessional support in general education

(4) Related services

(5) Homebound

B. Sites available at which services may occur:

- Nerstrand Elementary School - 205 South 2nd Street, Nerstrand, MN 55053
- Homebound services

C. Available instruction and related services:

(1) School psychology services

(2) Speech language services

(3) School social work services

(4) Occupational therapy

(5) Physical therapy

(6) Developmental Adapted Physical Education (DAPE)

(7) Social/emotional/behavioral skills

(8) Academic skills

(9) Low incidence services, as required

Administration and Management Plan.

Nerstrand Elementary School utilizes the following administration and management plan to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils:

A. The following table illustrates the organization of administration and management to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils:

Staff Name and Title	Contact Information (phone/email/mailing address/office location)	Brief Description of Staff Responsibilities Relating to Child Study Procedures and Method of Providing Special Education Services
Nicole Musolf Executive Director	nmusolf@nerstrand.charter.k12.mn.us 507.333.6854 Nerstrand Elementary School PO Box 156 Nerstrand, MN 55053	The Executive Director leads and guides all staff, recruits, hires and evaluates staff, provides guidance and decision making for curriculum and programming decisions, and serves as the Administrative Designee for IEP .
Dr. Erin Lavery Director of Special Education INDIGO Education	elavery@indigoed.org INDIGO Education Court International Building 2550 University Ave W, Suite 200N Saint Paul, MN 55114	The Director of Special Education collaborates with the school director in the development and implementation of systems to support learners experiencing difficulties across all programs; coordinating programming to meet the needs of diverse populations district-wide; develop, coordinate, train and monitor the school's special education processes, due process, and Total Special Education System.
Nicky Schwake Special Education Teacher	nicky@nerstrand.charter.k12.mn.us 507.333.6854 Nerstrand Elementary School PO Box 156 Nerstrand, MN 55053	The special education teacher supports IEP and evaluation planning meetings, provides special education services, case management, and evaluation to students.

B. Due Process Assurances are available to parents: Nerstrand Elementary School has appropriate and proper due process procedures in place to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils, including alternative dispute resolution and due process hearings. *A description of these processes are as follows:*

(1) Prior written notice to a) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and b) state that a parent who objects to a proposal or refusal in the prior written notice may request a conciliation conference or another alternative dispute resolution procedure.

(2) Nerstrand Elementary School will not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

(3) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless medical, dental, mental and other health services are necessary, in the professional's judgment, that the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(4) Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes are provided at no cost to the parent.

(5) Conciliation Conference: a parent has the opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any

proposal of which the parent receives prior written notice. *Nerstrand Elementary School* holds a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. All discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the District's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

(6) In addition to offering at least one conciliation conference, Nerstrand Elementary School informs parents of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

(7) Descriptions of the mediation process, facilitated team meetings, state complaint, and impartial due process hearings may be found in Nerstrand Elementary School's Procedural Safeguard Notice, attached as **Appendix C**.

Interagency Agreements the District has Entered

Nerstrand Elementary School has not entered into the following interagency agreements or joint powers board agreements for eligible children, ages 3 to 21, to establish agency responsibility that assures that interagency services are coordinated, provided, and paid for, and that payment is facilitated from public and private sources.

Special Education Advisory Council

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, Nerstrand Elementary School has a special education advisory council.

A. Nerstrand Elementary School's Special Education Advisory Council is individually established.

B. Nerstrand Elementary School's Special Education Advisory Council is not a subgroup of an existing board/council/committee.

C. At least half of Nerstrand Elementary School's parent advisory councils' members are parents of students with a disability.

D. As a charter school, the district does not have geographical boundaries, nor does it have a nonpublic school located in its boundaries.

E. Each local council meets no less than once each year.

F. Nerstrand Elementary School's Special Education Advisory Council meets annually in the spring.

G. The operational procedures of Nerstrand Elementary School's Special Education Advisory Council are attached as **Appendix D**.

Assurances

Code of Federal Regulations, section 300.201: Consistency with State policies. Nerstrand Elementary School, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under sections 300.101 through 300.163, and sections 300.165 through 300.174. (Authority: 20 U.S.C. § 1413(a)(1)).

Yes: Assurance given.

Appendix A

Specific Learning Disabilities Identification

"Specific learning disability" means a condition within the individual affecting learning relative to potential.

A. A specific learning disability is manifested by interference with the acquisition, organization, storage, retrieval, manipulation, or expression of information so that the individual does not learn at an adequate rate when provided with the usual developmental opportunities and. instruction from a regular school environment.

B. A specific learning disability is demonstrated by a significant discrepancy between a student's general intellectual ability and academic achievement in one or more of the following areas: oral expression, listening comprehension, mathematical calculation or mathematics reasoning, basic reading skills, reading fluency, reading comprehension, and written expression.

C. A specific learning disability is demonstrated primarily in academic functioning, but may also affect self-esteem, career development, and life adjustment skills. A specific learning disability may occur with, but cannot be primarily the result of: visual, hearing, or motor impairment; mental impairment; emotional disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.

Note: IDEA criteria for determining the existence of a specific learning disability is incorporated into the state criteria.

The team shall determine that a student has a specific learning disability and is in need of special education and related services when the student meets the criteria described in items A through C. Information about each item must be sought from the parent and included as part of the evaluation data. The evaluation data must confirm that the disabling effects of the student's disability occur in a variety of settings.

1. The student must demonstrate severe underachievement in response to usual classroom instruction. The performance measures used to verify

this finding must be both representative of the student's curriculum and useful for developing instructional goals and objectives. The following evaluation procedures are required at a minimum to verify this finding:

a. Evidence of low achievement from sources such as cumulative record review, class work samples, anecdotal teacher records, formal and informal tests, curriculum based evaluation results, and results from instructional support programs such as Title I and Assurance of Mastery; and
b. at least one team member other than the student's regular teacher shall observe the student's academic performance in the regular classroom setting. In the case of a child served through an Early Childhood Special Education program or who is out of school, a team member shall observe the child in an environment appropriate for a child of that age.

2. The student must demonstrate a severe discrepancy between general intellectual ability and achievement in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension , mathematical calculation, or mathematical reasoning. The demonstration of a severe discrepancy shall not be based solely on the use of standardized tests. The team shall consider these standardized test results as only one component of the eligibility criteria.
    a. The instruments used to assess the student's general intellectual ability and achievement must be individually administered and interpreted by an appropriately licensed person using standardized procedures.
    b. For initial placement, the severe discrepancy must be equal to or greater than 1.75 standard deviations below the mean of the distribution of difference scores for the general population of individuals at the student's chronological age level.

3. The team must agree that it has sufficient evaluation data that verify the following conclusions:
    a. the student has an information processing condition that is manifested by behaviors such as: inadequate or lack of expected acquisition of information, lack of organization skills, memory, expression, and motor control for written tasks such as pencil and paper assignments, drawing, and copying;

b. the disabling effects of the student's information processing condition occur in a variety of settings; and
c. the student's underachievement is not primarily the result of: visual, hearing, or motor impairment; mental impairment; emotional or behavioral disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.

SLD Evaluation Report

1. The team shall prepare a report of the results of the evaluation. The report must include a statement of:
    a. whether the child has a specific learning disability;
    b. the basis for making the determination;
    c. the relevant behavior noted during the observation of the child;
    d. the relationship of that behavior to the child's academic functioning;
    e. the educationally relevant medical findings, if any;
    f. whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
    g. the determination of the team concerning the effects of environmental, cultural, or economic disadvantage.
2. Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.
3. **Each** SLD evaluation requires team member signatures (initial, reevaluation, override and exit).

Appendix B
Referral

Documentation of Interventions

Before a student is referred for a special education assessment, the district will conduct and document at least two instructional strategies, alternatives, or interventions while the student is in the regular classroom. The student's teacher will provide the documentation. A special education team may waive this requirement when they determine the student's need for the assessment is urgent. A student will not be denied the right to a special education assessment based on this requirement.

Intervention Process

A school district may use alternative intervention services such as assurance of mastery programs and supplemental early education programs to serve at-risk students who demonstrate a need for alternative instructional strategies or interventions.

Referral process for students between the ages of 5 and 21;

1. A concern is identified by a parent or teacher;

   School districts are under an obligation to respond to either a verbal or written request for evaluation. The U.S. Office of Special Education and Rehabilitative Services (OSERS) clarifies this point:

   A school professional may ask that a child be evaluated to see if he or she has a disability. Parents may also contact the child's teacher or other school professional to ask that their child be evaluated. This request may be verbal or in writing. Parental consent is needed before the child may be evaluated. Evaluation needs to be completed within a 30-school day time period after the parent gives consent. A guide to the Individualized Education Program, Office of Special Education and Rehabilitative Services, U.S. Department of Education. p. 2 (July 2000).

2. Information is gathered on the student using the child study form.
3. At least two pre-referral interventions* are conducted and results are documented.

   *There are situations when a student's special education evaluation team may waive the pre-referral intervention requirements. This may include a student

who enters the district with a documented history of blindness, deafness, cognitive delay, paraplegia, autism, traumatic brain injury, or a student whose disability is well documented or has had an IEP in the last 12 months. Parents may also request an evaluation.

4. If concerns persist and performance is discrepant from classmates/norms, the student progress team including parents, determines a special education evaluation is appropriate.
5. A multidisciplinary team will discuss the referral. An evaluation plan will be written. The team will also complete a **Parent Consent/Objection Form** and **Prior Written Notice.** Documents will be sent to parents for review and written approval.
6. If it is determined that an evaluation is not appropriate, the multidisciplinary team will discuss options for action. A Parent Consent/Objection Form and Prior Written Notice will be provided to parents.

The team should consist of the following personnel whenever feasible:

- licensed special education staff;
- a person knowledgeable in evaluation for the specific disability;
- parent*; and
- the referring person (when appropriate)

* Parents must be provided with the opportunity to participate in the decision-making when their child is being considered for special education evaluation. The parent must be notified of the intent to develop an evaluation plan. It is recommended that the parent and classroom teacher discuss concerns regarding the student prior to the referral which should be made to the building Student Assistance Team to implement and review the interventions already attempted, determine the need for evaluation, and assign a case manager. The district staff assigned will provide the parent with an opportunity to have any questions or concerns answered about the evaluation process and the instruments used.

If the parent wishes to be a part of the planning process but is unable to attend the meeting, the IEP case manager should seek input and provide the parent with an opportunity to have questions answered. Attempts to include the parent in the meeting and/or opportunities for participation should be documented on the student's communication log.

Appendix C

PART B NOTICE OF PROCEDURAL SAFEGUARDS
PARENTAL RIGHTS FOR PUBLIC SCHOOL
SPECIAL EDUCATION STUDENTS

The material contained in this document is intended to provide general information and guidance regarding special education rights and procedural safeguards afforded to parents of children age 3 through 21 under state and federal law. This document explains a selection of some of the rights and procedural safeguards provided to parents under the Individuals with Disabilities Education Act (IDEA), the implementing regulations at 34 C.F.R Part 300, and applicable Minnesota laws and regulations; it is not a complete list or explanation of those rights. This notice is not a substitute for consulting with a licensed attorney regarding your specific legal situation. This document does not purport to include a complete rendition of applicable state and federal law, and the law may have changed since this document was issued.

Introduction

This document provides an overview of parental special education rights, sometimes called procedural safeguards. These same procedural safeguards are also available for students with disabilities who have reached the age of 18. This Notice of Procedural Safeguards must be given to you at least one time per year. It must also be given to you:

1. the first time your child is referred for a special education evaluation or if you request an evaluation;
2. the first time you file a complaint with the Minnesota Department of Education (MDE) in a school year;
3. the first time you or the district requests a due process hearing in a school year;
4. on the date the district decides to change the placement of your student by removing the student from school for a violation of the district discipline policy; or
5. upon your request.

Prior Written Notice

The district must provide you with prior written notice each time it proposes to initiate or change, or refuses to initiate or change:
• the identification of your child;
• the evaluation and educational placement of your child;
• the provision of a free appropriate public education (FAPE) to your child; or
• when you revoke consent for services for your child in writing and before the district stops providing special education and related services.

This written notice must include:

1. A description of the action proposed or refused by the district;

2. An explanation of why the district proposes or refuses to take the action;

3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for its proposal or refusal;

4. A statement that you, as parents of a child with a disability, have protection under these procedural safeguards and information about how you can get a copy of the brochure describing the procedural safeguards;

5. Sources for you to contact to obtain assistance in understanding these procedural safeguards;

6. A description of other options the IEP team considered and the reasons why those options were rejected; and

7. A description of other factors relevant to the district's proposal or refusal.

In addition to federal requirements, prior written notice must inform you that, except for the initial placement of your child in special education, the school district will proceed with its proposal for your child's placement, or for providing special education services, unless you notify the district of an objection within 14 days of when the district sent you the prior written notice. The district must also provide you with a copy of the proposed IEP whenever the district proposes to initiate or change the content of the IEP.

The prior written notice must also state that, if you object to a proposal or refusal in the prior written notice, you must have an opportunity for a conciliation conference, and the school district must inform you of other alternative dispute resolution procedures, including mediation and facilitated IEP team meetings, under Minnesota Statutes, section 125A.091, Subdivisions 7-9.

For More Information

If you need help understanding any of your procedural rights or anything about your child's education, please contact your district's special education director or the person listed below. This notice must be provided in your native language or other mode of communication you may be using. If your mode of communication is not a written language, the district must take steps to translate this notice orally or by other means. The district must ensure that you understand the content of this notice and maintain written evidence that this notice was provided to you in an understandable mode of communication and that you understood the content of this notice.

If you have any questions or would like further information, please contact the director of special education or the school director.

For further information, you may contact one of the following organizations:

ARC Minnesota (advocacy for persons with developmental disabilities)
www.arcminnesota.org
952-920-0855
1-833-450-1494

Minnesota Association for Children's Mental Health
www.macmh.org
651-644-7333
1-800-528-4511

Minnesota Disability Law Center
www.mndlc.org
612-334-5970 (Twin Cities Metro)
1-800-292-4150 (Greater Minnesota)
612-332-4668 (TTY)

Minnesota Department of Education
www.education.gov
651-582-8689
651-582-8201 (TTY)

PACER (Parent Advocacy Coalition for Educational Rights)
www.pacer.org
952-838-9000
1-800-53-PACER
952-838-0190 (TTY)

SMRLS' Education Law Advocacy Project (Serves families with low-income in 33 southern MN counties)
www.smrls.org
1-877-696-652

Electronic Mail

If your school district gives parents the choice to receive notices by email, you can choose to receive your prior written notice, procedural safeguards notice, or notices related to a due process complaint via email.

Parental Consent

Definition of Consent

Consent means that you have been fully informed of all information relevant to the activity for which your consent is sought, in your native language, or through another mode of communication. In order to consent you must understand and agree in writing to the carrying out of the activity for which your consent is sought. This written consent must list any records that will be released and to whom.

Revocation of Consent

Consent is voluntary and may be revoked in writing at any time. However, revocation of consent is not retroactive; meaning revocation of consent does not negate an action that has occurred after the consent was given and before the consent was revoked.

When the District Must Obtain Your Consent

Initial Evaluation

The district must obtain your written and informed consent before conducting its initial evaluation of your child. You or a district can initiate a request for an initial evaluation. If you do not respond to a request for consent or if you refuse to provide consent for an initial evaluation, the district cannot override your refusal to provide consent. An initial evaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation, unless a conciliation conference or hearing is requested.

A district will not be found in violation of meeting its child find obligation or its obligations to conduct evaluations and reevaluations if you refuse to consent to or fail to respond to a request for consent for an initial evaluation.

If you consent to an initial evaluation, this consent cannot be construed as being consent for the initial provision of special education and related services.

Initial Placement and Provision of Special Education Services and Related Services

The district must obtain your written consent before proceeding with the initial placement of your child in a special education program and the initial provision of special education services and related services to your child determined to be a child with a disability.

If you do not respond to a request for consent, or if you refuse to consent to the initial provision of special education and related services to your child, the district may not override your written refusal.

If you refuse to provide consent for the initial provision of special education and related services, or you fail to respond to a request to provide consent for the initial provision of special education and related services, the district will not be considered in violation for failure to provide your child with special education and related services for which the district requested consent.

Reevaluations

Your consent is required before a district conducts a reevaluation of your child. If you refuse consent to a reevaluation, the district may not override your written refusal. A reevaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation or within 30 days from the expiration of the 14 calendar day time period during which you can object to the district's proposed action.

Transition Services

Your consent is required before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

When Your Consent is not Required

Except for an initial evaluation and the initial placement and provision of special education and related services, if you do not notify the district of your objection within 14 days of when the district sends the notice of the district's proposal to you, the district's proposal goes into effect even without your consent.

Additionally, your consent is not required for a district to review existing data in your child's educational file as part of an evaluation or a reevaluation.

Your consent is also not required for the district to administer a test or other evaluation that is given to all children, unless consent is required from parents of all children.

Parent's Right to Object and Right to a Conciliation Conference

You have a right to object to any action the district proposes within 14 calendar days of when the district sends you the prior written notice of their proposal. If you object to the district's proposal, you have the right to request a conciliation conference, mediation, facilitated IEP team meeting or a due process hearing. Within ten calendar days from the date the district receives notice of your objection to its proposal or refusal in the district's prior written notice, the district will ask you to attend a conciliation conference.

Except as provided under Minnesota Statutes, section 125A.091, all discussions

held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five days after the final conciliation conference, the district must prepare and provide to you a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible evidence in any subsequent proceeding. You and the district may also agree to use mediation or a facilitated individualized education program (IEP) team meeting to resolve your disagreement. You or the district can also request a due process hearing (see section about Impartial Due Process Hearings later in this document).The district must continue to provide an appropriate education to your child during the proceedings of a due process hearing.

Confidentiality and Personally Identifiable Information

Personally identifiable information is information that includes, but is not limited to, a student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's Social Security number, student number, or biometric record, another indirect identifier, such as the student's date of birth, place of birth, a mother's maiden name, other information that, alone or in combination, is linked to or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Districts and MDE must protect the confidentiality of any personally identifiable data, information, and records they collect, maintain, disclose and destroy.

Generally, your written consent is required before a district may disclose personally identifiable information from your child's educational record with anyone other than officials of participating agencies collecting or using the information under the Individuals with Disabilities Education Act (IDEA) or for any purpose other than meeting a requirement of that law.

When your consent is not required to share personally identifiable information. Your consent, or the consent of an eligible student (age 18 or older), is not required before personally identifiable information contained in education records is released to officials of a school district or the state department of education for meeting IDEA requirements.

Your child's educational records, including disciplinary records, can be transferred without your consent to officials of another school, district, or postsecondary institution if your child seeks to enroll in or attend the school or institution or a school in that district.

Disclosures made without your consent must be authorized under the Family Educational Rights and Privacy Act (FERPA). Please refer to 34 C.F.R. Part 99 for additional information on consent requirements concerning data privacy under federal law.

Directory Information

Directory information can be shared without your consent. This type of information is data contained in an education record of your child that would not generally be considered harmful or an invasion of privacy if disclosed.

Directory information includes, but is not limited to, a student's address, telephone number, email address, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in official activities and sports, weight and height of athletic team members, degrees, honors, and awards received, the most recent educational agency or institution attended, and a student ID number, user ID, or other unique personal identifier used for accessing or communicating electronically if certain criteria are met.

Directory information does not include a student's Social Security number or a student ID number not used in connection with accessing or communicating electronically as provided under federal law.

Districts must give you the option to refuse to let the district designate any or all data about your child as directory information. This notice can be given to you by any means reasonably likely to inform you or an eligible student of this right. If you do not refuse to release the above information as directory information, that information is considered public data and can be shared without your consent.

Data about you (meaning parents) is private data but can be treated as directory information if the same procedures that are used by a district to designate student data as directory information are followed.

Written Annual Notice Relating To Third Party Billing For IEP Health-Related Services

Before billing Medical Assistance or MinnesotaCare for health-related services the first time, and each year, the district must inform you in writing that:

1. The district will share data related to your child and health-related services on your child's IEP with the Minnesota Department of Human Services to determine if your child is covered by Medical Assistance or MinnesotaCare and whether those services may be billed to Medical Assistance or MinnesotaCare.

2. Before billing Medical Assistance or MinnesotaCare for health-related services the first time, the district must obtain your consent, including specifying the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided), the purpose of the disclosure, the agency to which the disclosure may be made (i.e. the Department of Human Services) and which specifies that you understand and agree that the school district may access your (or your child's) public benefits or insurance to pay for health-related services.

3. The district will bill Medical Assistance or MinnesotaCare for the health-related services on your child's IEP.

4. The district may not require you to sign up for or enroll in Medical Assistance or MinnesotaCare or other insurance programs in order for your child to receive special education services.

5. The district may not require you to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for health services provided, but may pay the cost that you otherwise would be required to pay.

6. The district may not use your child's benefits under Medical Assistance or MinnesotaCare if that use would: decrease available lifetime coverage or any other insured benefit; result in your family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time your child is in school; increase your premiums or lead to the discontinuation of benefits or insurance; or risk your loss of eligibility for home and community-based waivers, based on aggregate

health-related expenditures.

7. You have the right to receive a copy of education records the district shares with any third party when seeking reimbursement for IEP health-related services.

You have the right to stop your consent for disclosure of your child's education records to a third party, including the Department of Human Services, at any time. If you stop consent, the district may no longer share your child's education records to bill a third party for IEP health-related services. You can withdraw your consent at any time, and your child's IEP services will not change or stop.

Independent Educational Evaluations

An independent educational evaluation (IEE) is an evaluation by a qualified person(s) who is not an employee of your district. You may ask for an IEE at school district expense if you disagree with the district's evaluation. A hearing officer may also order an independent educational evaluation of your child at school district expense during a due process hearing.

Upon request for an IEE, the district must give you information regarding its criteria for selection of an independent examiner and information about where an independent education evaluation may be obtained.

If you request an IEE, the district must, without delay, ensure that it is provided at public expense or request a hearing to determine the appropriateness of its evaluation. If the district goes to hearing and the hearing officer determines the district's evaluation is appropriate, you still have the right to an independent evaluation, but not at public expense.

If you obtain an IEE, the results of the evaluation must be considered by the IEP team and may be presented as evidence at a due process hearing regarding your child.

Education Records

Definition of an Education Record

Under federal law an education record means those records that are directly related to a student and that are maintained by the department or the district.

Access to Records

If you want to look at your child's education records, the district must give you access to those records for your review. Education records include most of the information about your child that is held by the school. However, information held solely by your child's teacher for his or her own instructional use may not be included in the education records.

The district must allow you to review the records without unnecessary delay, and before any meeting regarding an IEP, or any hearing or resolution session about your child. In addition, the district must comply with your request to review your child's education records immediately, if possible, or within 10 days of the date of the request (excluding Saturdays, Sundays and legal holidays), if immediate compliance is not possible.

Your right to inspect and review records includes the right to:

1. An explanation or interpretation from the district of your child's records upon request;

2. Have your representative inspect and review the records on your behalf;

3. Request that the district provide copies of your child's educational records to you; and

4. Review your child's records as often as you wish in accordance with state law. State law provides that if you have been shown private data and have been informed of its meaning, that data does not need to be disclosed to you for a period of 6 months unless a dispute or action is pending or new information is created or collected.

Transfer of Rights

Your rights regarding accessing your child's education records generally transfer to your child at age 18. Notice must be provided to you and your child regarding this transfer of rights.

Records on More Than One Child

If any education record includes information on more than one child, you have the right to inspect and review only information relating to your child. You can seek consent to review and inspect education records that include information about children in addition to your own, but parents of those children have a right to refuse your request for consent.

List of Types and Locations of Information

Upon your request, the district and the department must provide you with a list of the types and locations of education records they collect, maintain or use.

Record of Access by Others

The district must keep a record of each request for access to, and each disclosure of, personally identifiable information in your child's education records. This record of access must include the name of the individual who made the request or received personally identifiable information from your child's education records, the date access was given and the purpose of the disclosure or the individual's legitimate interest in the information.

Consent to Release Records

Generally, your consent is required before personally identifiable information is released to unauthorized individuals or agencies. The consent must be in writing and must specify the individuals or agencies authorized to receive the information: the nature of the information to be disclosed; the purpose for which the information may be used; and a reasonable expiration date for the authorization to release information. Upon request, the district must provide you with a copy of records it discloses after you have given this consent.

The district may not disclose information contained in your child's IEP, including

diagnosis and treatment information, to a health plan company without your signed and dated consent.

Fees for Searching, Retrieving and Copying Records

The district may not charge a fee to search or retrieve records. However, if you request copies, the district may charge a reasonable fee for the copies, unless charging that fee would prevent you from exercising your right to inspect and review the education records because you cannot afford to pay it.

Amendment of Records at Parent's Request

If you believe that information in your child's records is inaccurate, misleading, incomplete or in violation of your child's privacy or other rights, you may request in writing that the district amend or remove the information.

The district must decide within a reasonable time whether it will amend the records. If the district decides not to amend the records, it must inform you that you have the right to a hearing to challenge the district's decision. If, as a result of that hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of your child's privacy right, it must inform you that you have the right to include a statement of your comments and disagreements alongside the challenged information in your child's education records. A hearing to challenge information in education records must be conducted according to the procedures for such hearings under FERPA.

Transfer of Records

Minnesota Statutes require that a district, a charter school, or a nonpublic school transfer a student's educational records, including disciplinary records, from a school a student is transferring from to a school in which a student is enrolling within 10 business days of a request.

Destruction of Records

The district must inform you when personally identifiable information is no longer needed in order to provide education services to your child. That information must be destroyed at your request. However, the school may retain a permanent record of your child's name, address, phone number, grades,

attendance records, classes attended, grade level completed and year completed.

Under federal law, destruction means the physical removal of personal identifiers from information so that the information is no longer personally identifiable. Thus, the student's record does not need to be physically destroyed to comply with your request to destroy special education related records. Districts can appropriately comply with this requirement by removing personally identifiable information from the student's records. The choice of destruction method generally lies with the school district.

The district shall not destroy any education records if there is an outstanding request to inspect or review the records.

Despite your request to destroy records a district can keep certain records necessary to comply with the General Education Provision Act (GEPA), which requires that recipients of federal funds keep records related to the use of those funds. You may want to maintain certain special education records about your child for documentation purposes in the future, such as for applying for SSI benefits.

Mediation

Mediation is a free, voluntary process to help resolve disputes. You or your district may request mediation at no charge from the Minnesota Department of Education's Special Education Alternative Dispute Resolution program at 651-582-8689. Mediation uses a neutral third party trained in dispute resolution techniques. Mediation may not be used to deny or delay your right to a due process hearing. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation.

If you and the district resolve all or a portion of the dispute or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by both you and the district and that both parties receive a copy of the document. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding.

The resolution or agreement is legally binding on both you and the district and is enforceable in state or federal district court. You or the district can request another mediation to resolve a dispute over implementing the mediation agreement, if needed.

Filing a Written Special Education State Complaint

Any organization or individual may file a complaint with the Minnesota Department of Education (MDE). Complaints sent to MDE must:

1. Be in writing and be signed by the individual or organization filing the complaint;

2. Allege violations of state or federal special education law or rule;

3. State the facts upon which the allegation is based;

4. Include the name, address and telephone number of the person or organization making the complaint;

5. Include the name and address of the residence of the child and the name of the school the child is attending;

6. A description of the nature of the child's problem; including facts relating to the problem;

7. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed; and

8. Be forwarded to the public agency providing services to the child at the same time the complaint is sent to MDE.

The complaint must be sent to:

Minnesota Department Education
Division of Assistance and Compliance
Due Process Supervisor
400 NE Stinson Blvd
Minneapolis, MN 55413

Phone: 651.582.8689
Fax 651.582.8725

The complaint must be received by MDE no later than one year after the alleged violation occurred. MDE will issue a written decision within 60 days, unless exceptional circumstances require a longer time or you or the district agree to extend the time to participate in mediation. The final complaint decision may be appealed to the Minnesota Court of Appeals by you (the parent) or the school district injured-in-fact by the decision within 60 days of receiving notice of the final decision.

Impartial Due Process Hearing

Both you and the district have a right to file a due process complaint and request an impartial due process hearing in writing within two years of the date you or the agency knew or should have known about the alleged action that forms the basis of the due process complaint.

A due process complaint can be filed regarding a proposal or refusal to initiate or change a child's evaluation, IEP, educational placement, or to provide FAPE.

A due process complaint may address any matter related to the identification, evaluation, educational placement, manifestation determination or provision of a free and appropriate public education of your child. Within 15 days of receiving notice of your due process complaint, and prior to the due process hearing, the school district must arrange for a resolution meeting with you and the relevant members of the IEP team who have knowledge of the facts alleged in the due process complaint.

The purpose of this meeting is for you to discuss the due process complaint, and the facts that form the basis of the due process complaint, and to allow the school district an opportunity to resolve the dispute that is the basis for the due process complaint.

The resolution meeting need not be held if you and the school district agree in writing to waive the meeting or agree to mediation. A resolution meeting is also not required to be held when the district is the filing party.

If the matter is not resolved within 30 days of receipt of the due process

complaint, the hearing timelines begin.

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made, and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

Loss of Right to a Due Process Hearing

NOTE: Due to an interpretation of state law by the 8th Circuit Court of Appeals, if your child changes school districts and you do not file a due process complaint before your child enrolls in a new district, you may lose the right to have a due process hearing about any special education issues that arose in the previous district. You do still have a right to file a due process complaint about special educational issues that may arise in the new district where your child is attending.

Procedures for Initiation of a Due Process Hearing

Upon filing a written due process complaint, the district must give you a copy of this procedural safeguard notice and a copy of your rights at hearing. If you or the district file a due process complaint, the other party must be provided with a copy of the complaint and submit the complaint to MDE. Once it receives the request, MDE must give a copy of the procedural safeguards notice to you. All written requests must include:

1. The name of your child;

2. The address of your child;

3. The name of the school your child is attending;

4. A description of the problem(s), including your view of the facts; and

5. A proposed resolution of the problem to the extent known and available to you at the time.

MDE maintains a list of qualified hearing officers. Upon receipt of a written due process complaint, MDE will appoint a hearing officer from that list to conduct the hearing. Below are a few of your rights at hearing. This is not a complete list of rights.

Both you and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

2. Present evidence and confront, cross-examine and compel the attendance of witnesses;

3. Prohibit the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including evaluation data and recommendations based on that data; and

4. Receive a free copy of the hearing transcript or electronic recording of findings of fact and decisions.

As a parent, you, specifically, have the right to:

1. Have your child, who is the subject of the hearing, present;

2. Open the hearing to the public; and

3. Have the record or transcript of the hearing and the hearing officer's findings of fact, conclusions of law and decisions made provided to you at no cost.

Responding to a Due Process Complaint

If you file a due process complaint and you did not previously receive a prior written notice from the district about the subject matter of the complaint, the district must send you a written explanation of why the district refused to take the action raised in the complaint within 10 days of receiving your complaint.

This explanation must include a description of other options considered by the IEP team, why those options were rejected, a description of each evaluation

procedure, assessment, record, or report that the district used as the basis for the proposed or refused action, and a description of the factors relevant to the district's proposal or refusal decision.

The district can assert that the due process complaint does not meet the requirements under state law. A due process complaint is considered sufficient unless the party who received the request notifies the hearing officer in writing within 15 days of receiving the request that they believe the request does not meet statutory requirements. The hearing officer must determine whether the due process complaint meets statutory requirements within five days of receiving the complaint and notify the parties.

Upon receiving your due process complaint, the district must also send you a written response that addresses the issues you raised in the complaint within 10 days of receiving the request.

Disclosure of Additional Evidence before a Hearing

A prehearing conference must be held within five business days of the date the commissioner appoints a hearing officer. This conference can be held in person, at a location within the district, or by telephone. At least five business days before a hearing, you and the district must disclose to each other all evaluations of your child completed by that date and recommendations based on those evaluations that are intended to be used at the hearing. A hearing officer may refuse to allow you to introduce any undisclosed evaluations or recommendations at the hearing without consent of the other party.

The Hearing Decision

A hearing decision must be issued and provided to each party within 45 calendar days, or within an appropriately extended time period, upon the expiration of the 30-day resolution period after the due process complaint was received by the state agency. A hearing officer may extend the time beyond the 45-day period if requested by either party for good cause shown on the record. A hearing officer must conduct oral arguments in a hearing at a time and place that is reasonably convenient to you and your child.

A hearing officer's decision on whether your child received FAPE must be based on evidence and arguments that directly relate to FAPE. The hearing decision is

final unless you or the district files a civil action. A hearing officer lacks the authority to amend a decision except for clerical and mathematical errors.

Separate Due Process Complaint

You have the right to file a separate due process complaint on an issue separate from a due process complaint already filed.

Free or Low-Cost Legal Resources

The district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or if you or the school district file a due process complaint. A legal resource list is also available on MDE's Special Education Hearings web page.

Complaint and Hearings Database

Final decisions on special education complaints and due process hearings are available to the public on the MDE website. MDE maintains a public database and makes decisions available that are redacted, removing all personally identifiable information. This database is available on MDE's Special Education Complaint website.

Civil Action

When you or the district disagrees with the findings or decisions made by a hearing officer, either party may file a court action. The action may be brought in federal district court or the state court of appeals. Different standards of review apply in each court. An appeal to the state court of appeals must be made within 60 calendar days of your receipt of the decision. An appeal to federal district court must be made within 90 days of the date of the decision.

Placement during a Hearing or Civil Action

During a hearing or court action, unless you and the district agree otherwise, your child will remain in the educational placement where he/she is currently placed and must not be denied initial admission to school. This is commonly referred to as the "stay-put" rule.

Two exceptions to the "stay-put" rule exist:

1. Students may be removed from their educational setting for not more than 45 school days to an interim alternative educational placement for certain weapon, drug or serious bodily injury violations); and

2. A hearing officer's decision agreeing with you that a change in placement is appropriate as the "stay-put" placement during subsequent appeals.

Expedited Hearings

You (the parent) or the district can file a due process complaint and request an expedited hearing in the following situations:

1. Whenever you dispute the district's proposal to initiate or change the identification, evaluation or educational placement of your child or the district's provision of FAPE to your child;

2. Whenever you dispute the district's refusal to initiate or change the identification, evaluation or educational placement of your child or the district's provision of FAPE to your child;

3. Whenever you dispute the manifestation determination; and

4. Whenever the district believes that maintaining the current placement of your child is substantially likely to result in injury to the child or to others.

You or a school district may file a written due process complaint and request an expedited due process hearing as described above.

Timelines for Expedited Hearings

Expedited hearings must be held within 20 school days of the date the expedited due process complaint is filed. The hearing officer must issue a decision within 10 school days after the hearing. A resolution meeting must occur within 7 days of receiving the expedited due process complaint unless you and the school district agree in writing to either waive the resolution meeting or use the mediation process.

The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the request.

Dismissal of Due Process Complaint

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

Placement by a Hearing Officer

A hearing officer may decide to move your child to an interim alternative educational setting for up to 45 school days if the hearing officer determines your child is substantially likely to injure themselves or others if they remain in the current placement.

Right to Appeal Decision

You or the district can appeal the decision of a hearing officer in an expedited due process hearing.

Interim Alternative Educational Placement

The district may change your child's educational placement for up to 45 school days, if your child:

1. Carries a dangerous weapon to or possesses a dangerous weapon at school, on school premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law;

2. 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 school district or MDE. This does not include alcohol or tobacco; or

3. Inflicts serious bodily injury upon another person while at school, on school

premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law.

On the date the district decides to remove your child and the removal is a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with the procedural safeguards notice.

The IEP team determines the interim alternative educational setting and appropriate special education services. Even though this is a temporary change, it must allow your child:

1. To continue to participate in the general education curriculum and progress towards meeting goals set out in your child's IEP, although in a different setting; and

2. Include services and modifications designed to prevent the behavior from recurring.

If your child is placed in an interim alternative educational setting, an IEP meeting must be convened within 10 school days of the decision. At this meeting, the team must discuss behavior and its relationship to your child's disability. The team must review evaluation information regarding your child's behavior, and determine the appropriateness of your child's IEP and behavior plan.

The team will then determine if your child's conduct was caused by, or had a direct relationship to his or her disability, or if your child's conduct was the direct result of the school district's failure to implement the IEP.

Attorney's Fees for Hearings

You may be able to recover attorney fees if you prevail in a due process hearing. A judge may make an award of attorney's fees based on prevailing rates in your community. The court may reduce an award of attorney's fees if it finds that you unreasonably delayed the settlement or decision in the case. If the district prevails and a court agrees that your request for a hearing was for any improper purpose, you may be required to pay the district's attorney's fees.

Exclusions and Expulsion of Pupils With a Disability

Before your child with a disability can be expelled or excluded from school, a manifestation determination must be held. If your child's misbehavior is related to his or her disability, your child cannot be expelled.

When a child with a disability is excluded or expelled under the Pupil Fair Dismissal Act, Minnesota Statutes Sections 121A.41-56, for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services after the period a period of suspension, if imposed.

Disciplinary Removals

If a child with a disability is removed from his or her current educational placement, this is considered a change of placement if:

1. The removal is for more than 10 school days in a row; or

2. Your child has been subjected to a series of removals that constitute a pattern because:

    a. The series of removals total more than 10 school days in a year;

    b. Your child's behavior is substantially similar to your child's behavior in previous incidents that resulted in a series of removals; and

    c. Of additional factors such as the length of each removals, the total amount of time your child has been removed, and the proximity of the removals to one another.

The determination of whether a pattern of removals constitutes a change of placement is made by the district .If this determination is challenged it is subject to review through due process and judicial proceedings.

Children not Determined Eligible for Special Education and Related Services

If your child has not been determined eligible for special education and related services and violates a code of student conduct, and the school district knew

before the discipline violation that your child was a child with a disability then your child can utilize the protections described in this notice.

A district is deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. You expressed concern in writing to supervisory or administrative personnel at the district or to your child's teacher that your child is in need of special education and related services;

2. You requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; or

3. Your child's teacher or other district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the district's director of special education or to other district supervisory staff.

Exceptions to a District's Knowledge

A district would not be deemed to have such knowledge if:

1. You have previously refused consent for an evaluation of your child or you have previously refused special education services; or

2. Your child has already been evaluated and determined to not be a child with a disability under Part B of IDEA.

Conditions that apply if there is No Basis of Knowledge

If a district does not have knowledge that your child is a child with a disability prior to taking disciplinary measures against your child, your child may be subjected to similar disciplinary consequences that are applied to children without disabilities who engage in similar behaviors.

If a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is complete, your child remains in the educational placement determined by the district, which can include suspension or expulsion without educational services. In Minnesota,

regular special education services are provided on the sixth day of a suspension and alternative education services are provided.

Referral To and Action by Law Enforcement and Judicial Authorities

A district can report a crime committed by a child with a disability to appropriate authorities and State law enforcement and judicial authorities can exercise their responsibilities under the law related to crimes committed by a child with a disability.

Transmittal of Records

If a district reports a crime committed by a child with a disability, the district must ensure that copies of the child's special education and disciplinary records are transmitted to the appropriate authorities to whom the crime is reported for consideration. However, the district may only transmit copies of your child's special education and disciplinary records to the extent permitted by FERPA.

Private School Placement

IDEA does not require the district to pay for the cost of educating your child, including special education and related services, at a private school if the district made FAPE available to your child and you chose to place your child in a private school. However, you may be able to recover tuition expenses for a private school placement if you informed the district of your intent to enroll your child in a private school at public expense in a timely manner and if a hearing officer finds that the district did not promptly make FAPE available to your child prior to your child being enrolled in the private school and if the private placement is appropriate.

You must inform the district of your intent to place your child in a private placement at public expense at the most recent IEP meeting prior to removal of your child from public school or by written notice to the district at least 10 business days prior to removal of your child from public school.

Your notice must state why you disagree with the district's proposed IEP or placement. If a hearing officer or court finds that the district failed to provide or is unable to provide your child with an appropriate education and that the private placement is appropriate, you may be reimbursed for the cost of the

private placement.

Failure to tell the school of your intent to enroll your child in a private school at public expense, failure to make your child available for evaluation prior to placing your child in a private school after the district has given you notice of its intent to evaluate your child, or other unreasonable delay on your part could result in a reduction or denial of reimbursement for the private school placement.

A hearing officer cannot reduce or deny the cost of reimbursement if: the district prevented you from being provided with this notice; you did not receive notice of your responsibilities as discussed above in this section; or if compliance with the above requirements would likely result in physical harm to your child and if you failed to provide the required notice because you cannot write in English or if compliance with the above requirements would likely result in serious emotional harm to your child.

Appendix D

Special Education Advisory Council

The committee shall advise the Director of Special Education and the Executive Director of the school regarding current issues, program development, and parental concerns and involvement related to special education.

Reports of committee activities and recommendations shall be presented to the Special Education Advisory Council.

The Director of Special Education shall serve as an information source to all stakeholders regarding special education programs and policies.

Recommendations from the Council shall be recorded, kept on file with the Executive Director and presented to the appropriate source (i.e. Administration, School Board, teaching staff, and/or committee via the Executive Director).