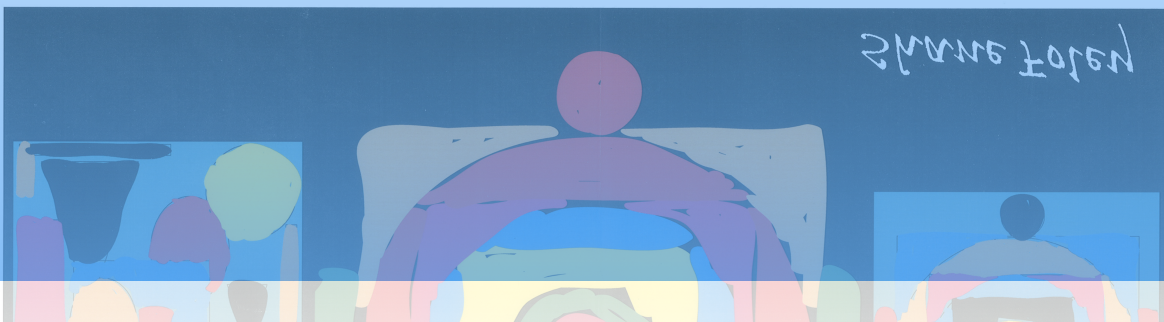
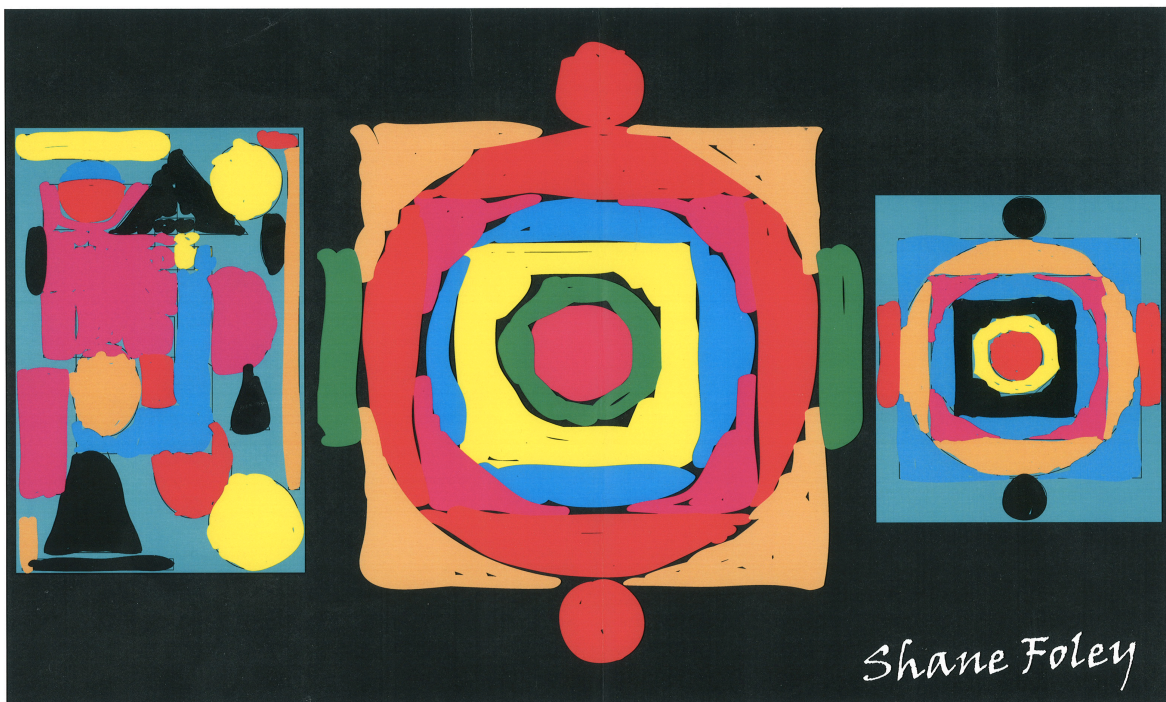


# Procedures and Guidelines

## for Special Education and Related Services







BOARD OF EDUCATION	
<p><b>HCPSS MISSION:</b></p> <p><b>The mission of the Howard County Public School System is to ensure excellence in teaching and learning so that each student will participate responsibly in a diverse and changing world.</b></p>	<p><b>LIST BOARD MEMBERS</b></p> <p>Sandra H. French, Chairman  Frank J. Aquino, Esq., Vice President  Allen Dyer, Esq.  Ellen Flynn Giles  Brian J. Meshkin  Janet Siddiqui, M.D.  Cynthia L. Vaillancourt  Cole T. Rosenberg, Student</p>

SECTION 2  
HOWARD COUNTY PUBLIC SCHOOL SYSTEM PROCEDURES

Table of Contents

<b>Definitions .....</b>	<b>8</b>
<b>Special Education and Related Services .....</b>	<b>8</b>
<b>Educational Disabilities .....</b>	<b>11</b>
<b>Other Definitions.....</b>	<b>13</b>
<b>Five-Day Rule: Provision of Accessible Documents to Parents.....</b>	<b>19</b>
<b>Procedures for Implementation.....</b>	<b>19</b>
<b>Child Find .....</b>	<b>23</b>
<b>Child Find for Children Ages Birth to 3 .....</b>	<b>23</b>
<b>Child Find for Children Ages 3 to Kindergarten.....</b>	<b>23</b>
<b>Child Find Process for Students Over Kindergarten Eligibility Age .....</b>	<b>24</b>
<b>Initial Referral.....</b>	<b>27</b>
<b>Content of a Referral:.....</b>	<b>27</b>
<b>Initial Eligibility for Special Education and Related Services .....</b>	<b>28</b>
<b>Exceptions to the Timelines for an Initial Evaluation.....</b>	<b>32</b>
<b>Informed Consent for Assessments.....</b>	<b>32</b>
<b>Parent Refusal for Evaluation Consent: .....</b>	<b>33</b>
<b>Parent Revokes Consent for Assessments: .....</b>	<b>33</b>
<b>Assessment and Evaluation Procedures .....</b>	<b>34</b>
<b>Requirements for Assessment Materials:.....</b>	<b>34</b>
<b>Screening or Assessment: .....</b>	<b>35</b>
<b>HCPSS Procedures for Educational Assessments:.....</b>	<b>35</b>
<b>Assessment Requirement.....</b>	<b>35</b>
<b>Requirements for Determining Specific Learning Disabilities: .....</b>	<b>38</b>
<b>Requirements for Assessment Reports: .....</b>	<b>40</b>
<b>Independent Assessments at Parent's Expense:.....</b>	<b>43</b>
<b>Independent Educational Evaluation (IEE) at Public Expense: .....</b>	<b>45</b>
<b>IEP Team Membership and Responsibilities .....</b>	<b>47</b>
<b>IEP Team Meeting Participants .....</b>	<b>47</b>
<b>Parent Participation in IEP Team Meetings:.....</b>	<b>48</b>
<b>Transfer of Parental Rights to the Student of Majority Age:.....</b>	<b>52</b>
<b><u>General Education Teacher Participation In IEP Team Meetings: .....</u></b>	<b>53</b>
<b>IEP Chairperson/Administrator:.....</b>	<b>54</b>
<b>Student Participation in IEP Team Meetings:.....</b>	<b>54</b>
<b>Transitioning a Child from Infants and Toddlers Services (Part C of IDEA) to IEP Services (Part B of IDEA):.....</b>	<b>54</b>
<b>Transition Services for Students 14 Years of Age and Older: .....</b>	<b>55</b>
<b>Students Attending Nonpublic Schools:.....</b>	<b>55</b>
<b>Excusal of an IEP Team Member .....</b>	<b>56</b>
<b>Notice of the IEP Team Meeting.....</b>	<b>56</b>
<b>Alternative Means of Participation in IEP Team Meetings:.....</b>	<b>57</b>
<b>Holding an IEP Team Meeting If the Parent is Not in Attendance: .....</b>	<b>57</b>
<b>Continuing an IEP Team Meeting: .....</b>	<b>58</b>

Facilitated IEP Team Meetings: .....	58
Audio Recordings of the IEP Team Meetings:.....	58
<b>Developing, Reviewing, and Revising IEPs .....</b>	<b>60</b>
<b>IEP Content .....</b>	<b>60</b>
Required IEP Considerations: .....	60
Required IEP Content:.....	60
HCPSS Procedures for Providing FAPE to Students with IEPs in Local Adult Correctional Facilities (LACF) Located in Howard County .....	76
Initial IEP:.....	79
When IEPs Must be in Effect: .....	80
Review and Revision of IEPs.....	82
Annual Review Meetings:.....	82
<b>Reevaluation .....</b>	<b>86</b>
Reevaluation Procedures:.....	86
Reevaluation Before Change in Eligibility .....	89
Reevaluation – Frequently Asked Questions .....	90
Disciplinary Procedures for Students with Disabilities.....	93
In-School Option .....	95
Out of School Options.....	96
Manifestation Determinations.....	97
45 Day Removal to an Interim Alternative Educational Setting (IAES) for Drugs, Weapons, or Serious Bodily Injury Offenses.....	99
Student Reassignment.....	101
Student Suspected of Being a Student with a Disability.....	102
Referral to Law Enforcement and Judicial Authorities .....	103
<b>Guidelines for Transfer Students Requiring Special Education and Related Services .....</b>	<b>105</b>
Within the State of Maryland.....	105
Implementing IEPs from Another Public School District .....	105
General Guidelines and Examples for Transfer Students.....	10
<b>Students Parentally-placed in Private/ Religious Schools or on Home Instruction .....</b>	<b>111</b>
Consultation Responsibilities .....	111
Consideration of Special Education Services:.....	111
IEP Team Responsibilities:.....	111
Resident Preschool Student Who Attends a Private/Religious School in Howard County: .....	112
Resident School-Aged Student Who Attends a Private/Religious School or is Home Schooled in Howard County:.....	112
Development of a Service Plan .....	113
Follow-up Responsibilities: .....	114
<b>Procedural Safeguards: Written Complaints, Mediation, and Due Process...</b>	<b>116</b>
Informal Dispute Resolution Measures .....	116
Formal Dispute Resolution Measures .....	116
State Complaints:.....	116

OCR Complaint: .....	117
Mediation: .....	117
Due Process Hearings:.....	118
Resolution Session:.....	119
School Observations:.....	122
<b>Educational Records.....</b>	<b>122</b>
Maintenance Procedures for Student Records .....	124





## Definitions

### Overview:

Definitions are included in this subsection under the following headings:

- Special Education and Related Services;
- Educational Disabilities; and
- Other Definitions.

### Special Education and Related Services

**Student with a disability:** student, 3 years old through the end of the school year in which the student turns 21 years old, evaluated as having autism, deaf-blindness, emotional disability, hearing impairment (including deafness), intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment (including blindness); and who, because of the impairment, needs special education and related services.

**Special education:** specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education. Special education includes speech-language pathology services or any other related service, if the service is considered special education rather than a related service under State standards, travel training, and vocational education.

**Related services:** transportation and such developmental, corrective, and other supportive services as may be required to assist a student with a disability to benefit from special education. Related services include:

- 1) Speech-language pathology;
- 2) Audiology;
- 3) Interpreting services;
- 4) Psychological services;
- 5) Physical and occupational therapy;
- 6) Recreation, including therapeutic recreation;
- 7) Early identification and assessment of disabilities in students;
- 8) Counseling services, including rehabilitation counseling;
- 9) Orientation and mobility services;
- 10) Medical services for diagnostic or evaluation purposes;
- 11) School health services in schools; and
- 12) Social work services in schools; and
- 13) Parent counseling and training.

Related services do **not** include:

- A surgically implanted medical device;
- The optimization of the device's functioning;
- Maintenance of the device; or
- Replacement of the device.

**Audiology:** services include:

- 1) Identification of students with hearing loss;
- 2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- 3) Provision of habilitative activities such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation;
- 4) Creation and administration of programs for the prevention of hearing loss;
- 5) Counseling and guidance of students, parents, and teachers regarding hearing loss;
- 6) Counseling and administration of programs for the prevention of hearing loss; and
- 7) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

**Counseling services:** services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

**Interpreting Services:** services for students who are deaf or hard of hearing. Interpreting services include:

- 1) Oral transliteration services;
- 2) Cued language transliteration services;
- 3) Sign language transliteration and interpreting services;
- 4) Transcription services, including Communication Access Realtime Translation (CART), C-Print, and TypeWell; and
- 5) Special interpreting services for students who are deaf-blind.

**Medical services:** services provided by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services.

**Occupational therapy:** services include:

- 1) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;
- 2) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and
- 3) Preventing, through early intervention, initial or further impairment or loss of function.

**Orientation and Mobility Services:** services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community. Orientation and mobility services include:

- 1) Teaching students spatial and environmental concepts and use of information received by the senses, such as sound, temperature, and vibrations, to establish, maintain, or regain orientation and line of travel;
- 2) Teaching students to use the long cane or a service animal, as appropriate, to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;
- 3) Teaching students to understand and use remaining vision and distance low vision aids, as appropriate; and
- 4) Other concepts, techniques, and tools, as determined appropriate.

**Parent counseling and training:**

- 1) Assisting parents in understanding the special needs of the child; and
- 2) Providing parents with information about child development.

**Physical therapy:** services provided by a qualified physical therapist or physical therapy assistant, in accordance with Health Occupation Article, §13-101(h), Annotated Code of Maryland, and COMAR 10.38.03.02.

**Psychological services** include:

- 1) Administering psychological and educational tests, and other assessment procedures;
- 2) Interpreting assessment results;
- 3) Obtaining, integrating, and interpreting information about student behavior and conditions relating to learning;
- 4) Consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- 5) Planning and managing a program of psychological services, including psychological counseling for students and parents; and
- 6) Assisting in developing positive behavioral intervention strategies.

**Recreation:** services include assessment of leisure function, therapeutic recreation services, recreation programs in schools and other community agencies, and leisure education.

**Rehabilitation counseling services:** services provided by qualified personnel in individual or group sessions that focus specifically on:

- 1) Career development,
- 2) Employment preparation,
- 3) Achieving independence, and
- 4) Integration in the workplace and community of a student with a disability; and



To students with disabilities by vocational rehabilitation services funded under the Rehabilitation Act of 1973.

**School health services:**

- 1) Provided by a qualified school nurse or other qualified individual; and
- 2) Designed to enable a student with a disability to receive a free appropriate public education (FAPE) as described in the student's IEP.

**Social work services in schools include:**

- 1) Preparing a social or developmental history of a student with a disability;
- 2) Group and individual counseling with the student and family;
- 3) Working with those problems in a student's living situation, such as home, school, and community, that affect the student's adjustment in school;
- 4) Mobilizing school and community resources to enable the student to learn as effectively as possible in the student's educational program; and
- 5) Assisting in the development of positive behavioral intervention strategies.

**Speech-language pathology services include:**

- 1) Identification of students with speech or language impairments;
- 2) Diagnosis and appraisal of specific speech or language impairments;
- 3) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- 4) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- 5) Counseling and guidance of parents, students, and teachers regarding speech and language impairments.

**Transportation services include:**

- 1) Travel to and from school and between schools;
- 2) Travel in and around school buildings; and
- 3) Specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a student with a disability.

**Travel training:** providing instruction to students with disabilities, as appropriate, who require this instruction to enable them to:

- 1) Develop an awareness of the environment in which they live; and
- 2) Learn the skills necessary to move effectively and safely from place to place within that environment.

## **Educational Disabilities**

**Autism:** developmental disability that does not include emotional disability; significantly affects verbal and nonverbal communication and social interaction; is generally evident before 3 years old; adversely affects a student's educational performance; and may be characterized by engagement in repetitive activities and stereotyped movements,

resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

**Deaf-Blindness:** concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated solely as a student with deafness or a student with blindness.

**Deafness:** hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification; and adversely affects the student's educational performance.

**Developmental Delay:** for students within the age range of 3 years old through 7 years old exhibiting a delay of 25 percent or greater in adaptive, cognitive, communicative, emotional, physical, or social development; atypical development or behavior; or a diagnosed physical or mental condition.

**Emotional Disability:** condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

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

Emotional disability includes schizophrenia and does not include a student who is socially maladjusted, unless it is determined that the student has an emotional disability.

**Hearing Impairment:** an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance, but which is not included in the definition of deafness.

**Intellectual Disability:** general intellectual functioning, adversely affecting a student's educational performance, that is significantly subaverage; exists concurrently with deficits in adaptive behavior; and is manifested during the developmental period.

**Multiple Disabilities:** concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational problems that the student cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include students with deaf-blindness.

**Orthopedic Impairment:** severe orthopedic impairment that adversely affects a student's educational performance. It includes impairments caused by congenital anomaly, such as clubfoot or absence of some member; caused by disease such as poliomyelitis or bone tuberculosis; and from other causes such as cerebral palsy, amputations, and fractures or burns which cause contractures.

**Other Health Impairment:** having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is adversely affecting a student's educational performance, due to chronic or acute health problems such as: Asthma; Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder; Diabetes; Epilepsy; a heart condition; Hemophilia; Lead poisoning; Leukemia; Nephritis; Rheumatic fever; Sickle Cell Anemia; or Tourette Syndrome.

**Specific Learning Disability (SLD):** a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, consistent with Maryland State Department of Education (MSDE) criteria. SLD includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLD does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments, intellectual disability, emotional disability, or environmental, cultural, or economic disadvantage.

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

**Traumatic Brain Injury (TBI):** an acquired injury to the brain, caused by an external force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Includes open or closed head injuries resulting in impairments in one or more areas such as: cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. TBI does not include brain injuries that are congenital or degenerative or induced by birth trauma.

**Visual impairment:** impairment in vision which, even with correction, adversely affects a student's educational performance. It includes partial sight and blindness.

### **Other Definitions**

**Accommodation:** practices and procedures, in accordance with the Maryland Accommodations Manual, that provide students with disabilities equitable access during

instruction and to assessments in the areas of presentation, response, setting and scheduling.

**Assistive technology device:** any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

- Exception: The term does not include a medical device that is surgically implanted, or the replacement of such device.

**Assistive technology service:** any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such service includes:

- 1) The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
- 2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by a student with disabilities;
- 3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- 4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- 5) Training or technical assistance for a student with a disability, or, where appropriate, the family of a student with a disability; and
- 6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a student with a disability.

**Behavior Intervention Plan (BIP):** proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

**Bona Fide Residence:** person's actual residence maintained in good faith. It does not include a temporary residence or a superficial residence established for the purpose of attendance in Howard County public schools. Determination of a person's bona fide residence is a factual one and must be made on an individual basis.

**Bridge Plan for Academic Validation (Bridge Plan):** Bridge Plan is for students failing to meet the passing score on any one of the High School Assessments (HSA) at least twice. Eligible students would have also have to meet additional local and state criteria-such as minimum grade point average (GPA), satisfactory attendance, passing grades in all HSA subjects, and participation in academic remediation. Students meeting the eligibility criteria are permitted to complete an Academic Validation project that demonstrates mastery in the content and skills of each HSA they failed to pass. For additional information, see: <http://www.mdbbridgeplan.org>.



**Business day:** day when a public agency is open for business whether or not students are required to be in attendance for instruction.

**Career and technology education:** organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

**Code of Maryland Regulations (COMAR) 13.A.05.01:** Maryland Bylaw for the implementation of Part B of the Individuals with Disabilities Education Act (IDEA), 34 CFR 300, and Education Article, Title 8, Subtitles 3 and 4, Annotated Code of Maryland, which assure a free appropriate public education (FAPE) for all students with disabilities, birth through the end of the school year in which the student turns 21 years old, in accordance with the student's Individualized Education Program (IEP).

**Consultation:** services provided to a teacher, parent, or other service provider, regarding a specific student, designed to support and enhance the implementation of a student's IEP.

**Critical life skill:** skill determined by the IEP team to be critical to the student's overall educational progress.

**Day:** calendar day unless otherwise indicated as a school day or business day.

**Direct service:** instructional and/or related services provided to the student.

**Enrollment:** students and/or parents meeting the legal standards related to age, immunization, and authority to make educational decisions, residency, and immigrant status.

**Free appropriate public education (FAPE):** special education and related services that:

- 1) Are provided at public expense, under public supervision and direction;
- 2) Meet the standards of MSDE, including the requirements of 34 CFR §§300.8, 300.101, 300.102, and 300.530(d), and this chapter;
- 3) Include preschool, elementary, or secondary education; and
- 4) Are provided in conformity with an IEP that meets the requirements of 20 U.S.C. §1414 and COMAR.

**Functional Behavioral Assessment (FBA):** systematic process of gathering information to guide the development of an effective and efficient behavior intervention plan for the problem behavior. An FBA includes the identification of the functions of problem behavior for the student; a description of the problem behavior exhibited in the educational setting; and identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence, and maintenance of the behavior over time.

**Independent educational evaluation (IEE):** assessment procedures conducted by a qualified individual who is not employed by the public agency responsible for the education of the student.

**Indirect service:** a service provided for or on behalf of the student to ensure implementation of the IEP in the least restrictive environment (LRE).

**Individualized Education Program (IEP):** written description of the special education and related services for a student with a disability that is developed, reviewed, and revised by the student's IEP team.

**Individualized Family Service Plan (IFSP):** written plan for providing early intervention and other services to an eligible child and the child's family, which shall be consistent with 34 CFR §303.344 and:

- Be developed jointly by the family and appropriate qualified personnel involved in the provision of early intervention services;
- Be based on the multidisciplinary evaluation and assessment of the child, and the assessment of the child's family, as required in 34 CFR §303.322; and
- Include services necessary to enhance the development of the child and the capacity of the family to meet the special needs of the child.

**Individuals with Disabilities Education Act (IDEA):** the federal statute which provides for a free appropriate public education (FAPE) for children with disabilities from ages 3 to 21 and early intervention services for infants and toddlers with developmental delay, from birth to age 3. Infants and toddlers with disabilities (birth-2) and their families receive early intervention services under IDEA Part C. Children and youth (ages 3-21) receive special education and related services under IDEA Part B.

**Modification:** practice or procedure that changes, lowers, or reduces learning expectations. Modifications can increase the gap between the achievement of students with disabilities and expectations for proficiency at a particular grade level. Using modifications may result in implications that could adversely affect students throughout their educational career.

**Parent:**

- A biological or adoptive parent;
- A guardian;
- A person acting as a parent of a student, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare;
- A foster parent with whom the student lives, if the foster parent has been granted limited guardianship for educational decision-making purposes by the court that has placed the child in foster care; or
- A surrogate parent who has been appointed in accordance with 34 CFR §300.519 and Education Article, §8-412, Annotated Code of Maryland.

Parent does not include an employee of a public agency responsible for the education or care of the child, or the State if the child is a ward of the State.

**Parent surrogate:** person who is appointed by the local school superintendent to act in place of a parent of a student in the educational decision making process when a student is a ward of the State, or the student's parents are unknown or unavailable, in accordance with Education Article §8-412, Annotated Code of Maryland.

**Physical Education:** development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports. Physical education includes special physical education, adaptive physical education movement education, and motor development.

**Registration:** completing required HCPSS documents that make a student eligible for enrollment in a Howard County public school.

**School day:** day, including a partial day, when a public agency is open and students with and without disabilities are required to be in attendance for instruction.

**Specially designed instruction:** adaptation of content, methodology, or delivery of instruction to address the unique needs of a student with a disability to ensure access to the general curriculum, so that the student can meet the educational standards that apply to each student within the jurisdiction of the public agency.

**Student in an out-of-county living arrangement:** student who is placed by a State agency, a licensed child placement agency as provided by 5-507 of the Family Law Article, or a court in a county other than where the child's parent or legal guardian resides. It does not include a child living with a relative, stepparent, or a person exercising temporary care, custody, or control over a child at the request of a parent or guardian of the child.

**Transition services:** coordinated set of activities for a child with a disability that:

- 1) Are designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, career and technology education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- 2) Are based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and
- 3) Include needed activities in the areas of instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

**Ward of the State:** child for whom a State or county agency or official has been appointed legal guardian, or who has been committed by a court of competent jurisdiction to the legal custody of a State or county agency or official with the express authorization that the State or county agency or official make educational decisions for the child. A ward of the state does not include a foster child who has a foster parent who meets the definition of a parent.

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**Legal References:**

34 CFR §300.8 Child with a disability



## **FIVE-DAY RULE: PROVISION OF ACCESSIBLE DOCUMENTS TO PARENTS**

### **Overview:**

School personnel must provide parents with an accessible copy<sup>1</sup> of each assessment, report, data chart, draft IEP, or other document the IEP team or other multidisciplinary education team plans to discuss at that meeting.

Providing documents in advance of a meeting allows for meaningful participation in the meeting process and can create more efficient use of time during the meeting. Parents must receive the IEP documents or other multidisciplinary education team documents teams plan to discuss 5 business days prior to IEP or other multidisciplinary team meetings. Following the meeting, parents must receive a copy of the draft, or finalized IEP, or other multidisciplinary documents within 5 business days following the team meeting.

Failure of school personnel to comply with the timelines and actions listed above for providing copies of reports in advance of a meeting or copies of a child's completed IEP following the IEP team meeting does not constitute a substantive violation of the requirement to provide a FAPE.

### **Procedures for Implementation**

At the beginning of each school year, the case manager provides parents with a copy of the memo entitled, *Documents Provided To Parents Before and After an Individualized Education Program (IEP) Team Meeting* (found in the Forms section of this handbook). As outlined in the memo, the parent selects the delivery method the school will follow for providing documents to the parents 5 business days prior to an IEP team meeting as well as 5 days following an IEP team meeting. The parent selects from the options: send home with the student; U.S. Mail; or pick up in the office.

If the parent does not notify the case manager of a delivery method, "send home with the student" becomes the parent's chosen method until the case manager is notified otherwise. If the parent informs the case manager that he or she does not wish for the documents to be sent home with his or her child at least 5 business days prior to and following an IEP team meeting, the parent will choose one of the following two options and relate the choice to the case manager:

- **United States Mail:** An accessible copy of the documents the IEP team plans to discuss at the IEP team meeting will be mailed to the parent via United States Mail at least 8 business days prior to the scheduled IEP team meeting. The final or draft IEP with the team's decisions, if not provided to the parent at the IEP team meeting, will be mailed to the parent two days following the IEP team meeting.

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<sup>1</sup> Accessible copy includes a copy of a document provided to an individual in a format as defined on Education Article, §8-408, Annotated Code of Maryland.

- **School Pick Up:** An accessible copy of the documents the IEP team plans to discuss at the IEP team meeting will be placed in a sealed envelope and available for the parent to pick up in the front office of the school at least 5 business days prior to the scheduled IEP team meeting. The final or draft IEP with the team's decisions, if not provided to the parent at the IEP team meeting, will be placed in a sealed envelope and available for the parent to pick up in the front office of the school not more than 5 business days following the IEP team meeting. The parent signs the *Confirmation of Receipt of Documentation for Individualized Education Program (IEP) Team Meeting* form.

### **Waiver of the 5-Day Disclosure Prior to an IEP Meeting**

Parents may notify the case manager that they do not want to receive the required documents for the 5-day disclosure. Case managers must document such notification on the 5-day delivery method form and file within the IEP documents folder.

NOTE: This procedure applies to scheduled IEP team meetings and does not apply to expedited IEP team meetings to:

- Address disciplinary issues;
- Determine the placement of the student with a disability not currently receiving educational services; or
- Meet other urgent needs of the student with a disability to ensure the provision of FAPE.

### Required 5-Day Approval for IEP Meeting

1. Generate a *Notice of IEP Team Meeting* document. Select the document(s) that the IEP team plans to discuss at the IEP team meeting. Two categories are available with a list of documents within each one:
  - a. Copies of the following documents will be provided to you 5 business days before the scheduled meeting.
  - b. The following documents were previously provided to you 5 business days prior to the upcoming IEP team meeting and additional copies will not be provided unless requested. Please contact your child's case manager if you would like an additional copy.
2. At least 5 business days before a scheduled IEP team meeting or other multidisciplinary education team meeting, the parents are to **receive** an accessible copy of each assessment, report, data chart, draft IEP, or other document the team plans to discuss at the meeting.
  - a. A business day is defined as Monday through Friday, except for federal or State holidays, when HCPSS is open for business whether or not students are required to be in attendance for instruction.
3. An assessment, report, data chart, or other document prepared by a school psychologist or other medical professional that the IEP team plans to discuss at the meeting may be provided to parents orally and in writing prior to the meeting.
4. If school personnel are unable to provide an accessible copy of the material(s) at least 5 business days before the scheduled meeting because of an extenuating circumstance, school personnel are to document this in the *Parent Input* section of the IEP or *IEP Team Meeting Report* and communicate to parents the nature of the extenuating circumstance that prevented school personnel from providing accessible copies of the material(s).
  - a. Extenuating circumstances may include: death in the family, personal emergency, natural disaster, student absence, and any other similar situation defined by MSDE.
5. If parents state they are unable to participate in the meeting due to documents not being provided in advance, the case manager will reschedule the meeting to allow the opportunity for their meaningful participation.

Note: Refer to a parent's right to waive the 5-day disclosure requirement.

### **Required Actions After an IEP Team Meeting**

1. No later than 5 business days after a scheduled IEP or other multidisciplinary education team meeting, appropriate school personnel are to provide parents an accessible copy of the completed IEP. If the IEP has not been completed by the 5th business day after the IEP team meeting, school personnel shall provide the parents with the draft copy of the IEP.
2. If school personnel are unable to provide the draft of the IEP or the completed copy of the IEP no later than 5 business days following the scheduled meeting because of an extenuating circumstance, school personnel document this in the *Parent Input* section of the IEP or *IEP Team Meeting Report* and communicate to parents the nature of the extenuating circumstance that prevented school personnel from providing accessible copies of the material(s).
  - a. Extenuating circumstances may include: death in the family, personal emergency, natural disaster, student absence, or any other similar situation as defined by MSDE.

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### **Legal References:**

Education Article, §8-405, Annotated Code of Maryland

## **CHILDFIND**

### **Overview:**

HCPSS has the responsibility to identify, locate, and evaluate all children with disabilities, regardless of the severity of their disabilities, from birth to 21 years of age who may be in need of special education and related services. This includes children residing in the county, including homeless children, wards of the state, and children suspected of having a disability needing special education even though they have not failed or been retained in a course or grade and are advancing from grade to grade. Additionally, HCPSS has responsibilities for children with disabilities enrolled by their parents in private schools, including religious, elementary, and secondary schools located in Howard County. These responsibilities include developing and implementing a practical method to determine which children with disabilities are currently receiving special education and related services.

Activities to inform the general public and personnel at private schools about the Child Find Program are conducted annually. Referral, screening, and other services are published in the following methods:

- Media announcements in local newspapers and on television;
- Brochures sent to physicians, personnel in private schools, and child care providers;
- Activities designed to reach individuals within the county who are non-English proficient;
- HCPSS website; and
- An annual meeting with representatives from private and religious schools.

### **Child Find for Children Ages Birth to 3**

The Howard County Infants and Toddlers Program in the Early Intervention Office provides the single point of entry and Child Find activities for children birth to age 3 and their families who reside in Howard County. When there is a concern about the achievement of developmental milestones of an age-eligible child, the child is referred through the Early Intervention Office to a regional service center for assessment and, if eligible, development of an Individualized Family Services Plan (IFSP). The IFSP services are provided in the natural environment, which is typically the home or childcare setting and include developmental evaluations and assessments.

### **Child Find for Children Ages 3 to Kindergarten**

The County Diagnostic Center (CDC) in the DSE provides the single point of entry and Child Find activities for children ages 3 to Kindergarten. This includes determining eligibility for preschool children who reside in the county or nonresident children who attend preschool programs approved by the MSDE located in the county. Children ages 3

through 5 are considered to be parentally-placed private school children with disabilities enrolled by their parents in private schools, including religious, elementary schools, if they are enrolled in a private school that meets the IDEA definition of “elementary school”. This includes a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under Maryland Education Code.

### **Required Actions for Referral of Children Ages 3 to Kindergarten with Suspected Disabilities**

1. A parent or guardian, medical personnel, or other concerned individuals may make a referral for a young child who may be in need of special education and related services by contacting the County Diagnostic Center. Phone calls or written referrals should include the name of the child, the suspected disability, the date of the referral, and the name, address, and telephone number of the person making the referral.
2. Information is obtained from the parents using the *Referral for a Preschool or Kindergarten Age Child Suspected of Having a Disability*, *Parent Questionnaire for a Preschool or Kindergarten Age Child* form, and *Ages and Stages Questionnaire* form.
3. An IEP team meeting is scheduled at the County Diagnostic Center to review the written referral and the questionnaires completed by the parent. When appropriate, a *Preschool-Kindergarten Educational Report*, observations by private preschool teachers, and assessments provided by the parent will be requested and reviewed.
4. County residents are asked to provide documentation (a copy of a lease/mortgage and utility bill) to prove residency in Howard County. Nonresidents submit a completed *Verification of Enrollment and Attendance for Students Parentally Placed in a Private/Religious School Located in Howard County* form.
5. Upon review of the existing information, the IEP team may recommend gathering additional information regarding developmental areas, vision, or hearing. If the IEP team suspects that the child has a disability and may need special education, assessments in all areas related to the suspected disability are recommended.
6. In order for assessments to be completed, the parent must provide informed consent on the form *Parental Consent for Evaluation or Reevaluation*.

### **Child Find Process for Students Over Kindergarten Eligibility Age**

Child Find for children enrolled in HCPSS consists of the referral procedures described on the Initial Referral section of this handbook. The CDC in the DSE provides the Child

Find activities for children over kindergarten eligibility age who are considered to be parentally-placed private school children with disabilities enrolled by their parents in private schools, including religious, elementary schools, if they are enrolled in a private school that meets the following IDEA definition of “elementary school”. This includes a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under COMAR.

**Required Actions for Referral of Over Kindergarten Eligibility Age with Suspected Disabilities**

1. School-age children who attend a private or religious school in Howard County, whether residing in Howard County or another jurisdiction, may be referred by a parent or guardian, medical personnel, or other concerned individuals by calling the Child Find Program at the CDC. Students who are home-schooled and who reside in Howard County may also begin the referral process at the CDC.
2. When a student in a private or religious school or a student who is home-schooled begins the referral process, the parents are asked to complete the *Parent Referral*, *Parent/Guardian Questionnaire* form, and *Educational Report* form.
3. Written permission is obtained for HCPSS staff to review the student’s records, reports from any specialists who have worked with the student, and educational reports completed by the student’s current teachers. Parents are asked to send the requested information to:
  - a. The principal of the student’s neighborhood school for Howard County residents; or
  - b. The principal of a school near the private or religious school (designated by the CDC) for non-Howard County residents.
4. County residents are asked to provide documentation (a copy of a lease/mortgage and utility bill) to prove residency in Howard County. Nonresidents submit a completed *Verification of Enrollment and Attendance for Students Parentally Placed in a Private/Religious School Located in Howard County* form.
5. The IEP team at the student’s neighborhood school or designated school near the private or religious school reviews the information and determines whether to recommend gathering additional information regarding developmental areas, vision, or hearing. If the IEP team suspects that the child has a disability and may need special education, assessments in all areas related to the suspected disability are recommended.
6. In order for assessments to be completed, the parent must provide informed consent on the form *Parental Consent for Evaluation or Reevaluation*.

### **Required Actions for Referral of Students with an Existing IEP**

1. HCPSS Child Find staff review the document and identify which educational facility should schedule a meeting to determine comparable services.
2. The parent is referred to the educational facility for an IEP team meeting.
3. The school-based IEP team reviews the IEP, identifies services needed to implement the IEP, and considers options for the provision of services.

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### **Legal References:**

34 CFR §300.8 Child with a disability  
34 CFR §300.13 Elementary school  
34 CFR §300.36 Secondary school  
34 CFR §300.37 Services plan  
34 CFR §300.111 Child find  
34 CFR §300.122 Evaluation  
34 CFR §300.131 Child find for parentally-placed private school children with disabilities.  
34 CFR §300.325 Private school placements by public agencies



# INITIAL REFERRAL, EVALUATION, AND IDENTIFICATION

## Initial Referral

### Overview:

When a student is suspected of having a disability and may need special education, the person suspecting the disability should refer the student to an IEP team. The referral may be initiated by a school staff member, school intervention team, state education agency, or any other state agency, or the parent of the student. Upon receipt of a referral, the school staff will promptly schedule an IEP team eligibility meeting to review the referral and determine whether assessments are necessary.

### Referral Sources:

A school may receive a referral regarding a student who is suspected of having a disability from any of the following:

- School intervention team;
- Classroom teacher when the student has not made adequate progress after an appropriate period of time with appropriate instruction provided;
- Parent;
- State educational agency; or
- Any other State agency.

Any referral for a student currently enrolled in a HCPSS school received at the Central Office shall be forwarded promptly to the correct school or program.

### Content of a Referral:

There is no particular format required for the written referral. It is recommended that the referral include: the name of the student suspected of having a disability; the suspected disability; the name, address, and telephone number of the person making the referral; and the date of the referral.

- School Referrals: The form, *School Referral to the Individualized Education Program (IEP) Team*, shall be completed. The parent should be asked to complete the *Parent Questionnaire* form. For students referred from the Infants and Toddlers Program, the assessment reports serve as the written referral to the IEP team.
- Parent or Other Referrals: Parents or other persons making referrals should be asked to complete the *Referral for a Student Suspected of Having a Disability* form or the *Referral for a Preschool or Kindergarten Age Child Suspected of Having a Disability* form. The *Parent Questionnaire* form is optional at the time of referral. The IEP Chairperson shall designate a staff member to complete the *School Referral to the Individualized Education Program (IEP) Team* form.
- If a referral is made orally or is received without the recommended information through an educational assessment report or from someone other than the parent, the school staff member receiving the information shall request the parent to complete the *Referral for a Student Suspected of Having a Disability* form or the *Referral for a Preschool or Kindergarten Age Child Suspected of Having a Disability* form.

In all cases, each of the student's teachers shall complete the *Teacher Report for an Elementary Student* form or the *Teacher Report for a Secondary Student* form.

#### **Required Procedures for Receipt of a Written Referral**

1. Each principal shall designate a front office secretary or guidance office secretary to receive a written referral for special education and date stamp the referral with the date received.
2. The designated secretary shall promptly forward the referral to a designated member of the IEP team, preferably on the same day that it is received. The written referral may be received by mail, fax, electronic mail (email), or in person.
3. During the summer months the principal is responsible for ensuring that special education timelines are met; therefore, there must be designees to provide coverage during the summer to date stamp the referral and to forward the referral to the IEP team designee.

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

##### **Overview:**

When a student is suspected of having an educational disability, the IEP team must review the referral, the available classroom and other related data, and determine whether assessments are necessary to determine eligibility for special education and related services. If the team does not recommend assessments or refuses to complete assessments requested by the parent, the IEP team must provide the parent with written notice regarding the decisions and an explanation as to why the team refuses to complete the assessments. If the team recommends assessments to determine eligibility and the parent provides informed consent, the IEP team must meet and review the assessments within the required timelines. Based upon the review of assessments and other related data, the IEP team must determine whether the student is eligible to receive special education and related services.

Not all students who have educational difficulties are suspected of having a disability, and the student's school should attempt various general education interventions before referring a student to an IEP team. It is recommended that the school communicate with the parent in the development of general education interventions. During the course of the general education interventions, the student is monitored and data collected relating to the instructional interventions and strategies attempted, results of current classroom-based assessment, and observation by teachers. The data will be useful if a referral is made, and an evaluation is necessary.

**Possible Data for Review at the Initial IEP Team Meeting:**

Existing school-based data for review should include, but is not limited to:

- *School Referral to the IEP Team* form;
- *Teacher Report* form from each teacher;
- Questionnaires completed by teachers for related service providers;
- State and local assessments;
- Observations by teachers;
- Classroom-based assessments;
- Work samples;
- Instructional interventions and strategies that are relevant to the areas of concern including information about the effectiveness of the targeted strategies;
- Unit or quarterly assessment data in reading and mathematics;
- Previously administered informal reading inventories;
- Review of results of Degree of Reading Power (DRP), grades 6 – 8;
- Review of the student record, including educational history, report cards, and attendance records;
- Vision and hearing screening results; and
- Review of other factors that may impact a student's educational performance such as:
  - Environmental variables
  - Cultural differences
  - Economic disadvantage
  - Availability of appropriate interventions.

Data from the parent may include:

- *Parent Questionnaire*;
- *Referral for a Student Suspected of Having a Disability* form or the *Referral for a Preschool or Kindergarten Age Child Suspected of Having a Disability* form;
- Pertinent medical records, including medications;
- Outside agency reports;
- Reports from independent evaluators;
- Tutoring data; and
- Any other information provided.

If the parent provides school staff with an independent assessment, school staff must document the review on the *Review of Independent Assessment* form.

If the parent does not return the *Parent Questionnaire*, the IEP team shall document attempts to obtain parental input in *Section I: Meeting and Identifying Information - Eligibility* of the *Howard County IEP*.

**Possible IEP Team Decisions After Review of Referral and Data:****1. Gather Additional Data:**

The IEP team may decide to gather additional data prior to determining the need for assessment. This may involve administration of individual measures that are used to gain information regarding a student's current level of performance in targeted areas.

The additional data needed may require parental consent. Written parental consent is required when a student who is suspected of having a disability is administered individual measures not given to all students in a school, grade, or class. Written parental consent is NOT required before reviewing existing data.

The IEP team is required to convene another IEP team meeting to review the additional data. The gathering of additional data shall be completed in an expedited manner. During this period **the initial eligibility timelines continue.**

2. Recommend Assessments:

The IEP team may recommend assessments as part of a comprehensive evaluation, in all areas related to the suspected disability or disabilities, that will address the questions formulated by the IEP team. IEP team questions may include:

- Is the student a student with an educational disability?
- What are the suspected educational disabilities?
- What are the student's educational needs?
- What does the student require in order to be involved in and progress in the general curriculum, or, for preschool students, to participate in appropriate activities?
- What special education and related service(s) are needed by the student, regardless of whether the need is commonly linked to the student's disability?

For students suspected of requiring assessments by qualified personnel not assigned to the school, the appropriate qualified personnel shall be included in the IEP team designation of assessments to be completed. For example, for students requiring an audiological assessment, the school staff shall follow the specified referral procedures.

3. Refer to School Problem Solving Team:

If the IEP team determines that no additional data are needed and if the team does not suspect a disability that requires special education and related services, recommendations shall be made to address current concerns regarding the student's educational performance. The IEP team may refer the student to the school's collaborative, problem-solving team for consideration of appropriate interventions or actions. A full written explanation of the actions proposed and the decisions of the IEP team must be provided to the parent through the *IEP Team Meeting Report* (prior written notice). If the parent disagrees with the IEP team's decision, the IEP chairperson shall refer the parent to the section *Resolving Disagreements* in the *Parental Rights, Maryland Procedural Safeguards Notice*.

### **Required IEP Team Actions for Reviewing Referral Information and Determining the Need for Assessments**

1. At least 10 days prior to the proposed IEP team meeting, parents are **provided** with a *Notice of IEP Team Meeting* and the *Parental Rights, Maryland Procedural Safeguards Notice* booklet.
2. 5 business days before the IEP team meeting, parents must be provided with any document the IEP team plans to review at the meeting.
3. At the IEP team meeting, the IEP team reviews the referral, existing school-based data, any information from the parents, and records the decisions of the team on the *IEP Team Meeting Report*.
4. In making decisions regarding a student's possible need for special education, the IEP team must consider environmental, cultural, and economic differences that may impact the student's educational performance. The team must also consider evidence that the student is being taught at the appropriate instructional level.
5. If assessments are recommended, the parent is provided with the appropriate *Parent Consent for Evaluation* form and written notice of any assessment procedure the IEP team proposes or refuses to conduct. The written notice of the team's decisions is provided through the *IEP Team Meeting Report* as well as on the *Parent Consent for Evaluation* form.
6. **Timeline Requirements: All assessments for an initial evaluation must be recommended and completed concurrently within the mandated timelines of 60-calendar days from receipt of parental consent for assessments or 90 days from receipt of written referral, whichever date occurs first.**
7. If the IEP team is provided with assessments and data that meet required standards, the IEP team reviews the data in conjunction with existing school-based data, and can determine eligibility at this meeting, the eligibility determination is documented on the *IEP Team Meeting Report* as well as the *Initial Evaluation Eligibility Data* section of the IEP. No single measure or assessment may be used as the sole criterion for determining whether the child is a child with a disability and for determining an appropriate educational program for the child.
8. If the IEP team determines additional assessments are not needed and the student does not have an educational disability requiring special education and related services, the written notice is provided through the *IEP Team Meeting Report*. The parent may appeal this decision by pursuing mediation or a due process hearing.
9. All written decisions of the IEP team must be provided to the parent 5 business days following the meeting.

## Exceptions to the Timelines for an Initial Evaluation

The required timeline for an **initial** evaluation may be extended if one of the following exceptions occurs and must be **documented on the *Eligibility* page** of the IEP:

- A student enrolls in a school in the HCPSS after the timeline has begun and prior to a determination by the student's previous school district as to whether the student is a student with a disability. This exception only applies if the HCPSS is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the HCPSS agree to a specific time when the evaluation will be completed;
- The parent of a student repeatedly fails or refuses to produce the student for the evaluation; or
- The student's parent and the IEP team extend the timeline by mutual written agreement.

Note: Prior to extending the timeline for an initial evaluation for any reason, the DSE Instructional Facilitator must be contacted and options explored.

## Informed Consent for Assessments

### Overview:

Informed consent means a parent has been fully informed of all information regarding the requested assessments in the parent's native language or other mode of communication. The parent should understand to what they are agreeing and indicate his or her agreement in writing. If the student's parents are unavailable due to the child being a ward of the State, homeless, living in foster care, or other out-of-home placement arrangement, the IEP Chairperson should refer to the [Parent Surrogate section](#) for additional guidance.

### Informed Consent:

Before an IEP team conducts an initial evaluation to determine if the student qualifies as a student with a disability, the IEP team must make reasonable efforts to obtain written informed consent from the parent. Informed consent includes providing written notice of any assessment procedure(s) the team plans to conduct and the specific suspected educational disability(ies) identified by the IEP team. A parent's consent for initial evaluation does not mean the parent also gives consent for the public agency to start providing early intervention or special education and related services to their child.

The IEP chairperson must ensure the parent:

- Is fully informed of all information relevant to the activity for which consent is sought in the parent's native language or other mode of communication;
- Understands and agrees in writing to the assessment processes and activities identified on the consent form;
- Understands that granting consent is voluntary;
- Understands that consent can be revoked at any time, and that revocation is not retroactive. Any assessment data accomplished prior to revocation will be documented and reviewed at a subsequent IEP team meeting;

- Understands that records will not be released without signed and written consent except under the provisions of the [Family Education Rights and Privacy Act \(FERPA\)](#).

The IEP chairperson is responsible for ensuring that each assessor obtains informed parental consent prior to conducting any test or assessment procedures. If the parent does not provide informed consent at the meeting and forms are sent home for consideration, the IEP chairperson must make a copy of the form, provide it to the qualified examiner, and place a copy in the student's IEP assessment folder. If after 5 days, the form is not returned or is returned incomplete, the qualified examiner must make documented attempts to contact the parent. Documented attempts may include phone logs, copies of correspondence, or records of visits to the parent's home or work. If attempts to contact the parent are unsuccessful, the qualified examiner must contact the IEP chairperson and the DSE or the Office of Psychological Services for assistance.

### **Parent Refusal for Evaluation Consent**

If a parent attends the IEP team meeting (IEP 1) to review referral information and determine the need for assessments, and refuses consent for assessments, this refusal is documented in the *IEP Team Meeting Report*. The parent may also indicate refusal on the *Parent Consent for Evaluation* form. Attempts should be made to resolve any disagreements by identifying the parent's concern and exploring possible solutions.

If all attempts to resolve the issues are unsuccessful, the IEP chairperson shall contact the DSE Instructional Facilitator to discuss options that may include requesting consent for assessments through mediation or due process.

### **Parent Revokes Consent for Assessments**

A parent has the right to revoke consent for assessments at any time during the assessment process. If a parent revokes consent, that revocation is not retroactive (i.e., it does not cancel out an action that has occurred after the consent was given and before it was revoked). In such cases, the IEP team meets to hold an evaluation meeting to review the assessment(s) completed up to the point that the parent revoked consent. The team may or may not have adequate information to make an appropriate educational decision. The decision(s) of the IEP team are recorded in the *Eligibility* section of the student's IEP.

Contact the DSE Instructional Facilitator or Resource Teacher when a parent revokes consent for assessments.

## Assessment and Evaluation Procedures

### Overview:

Assessment is the process of collecting data to be used by the IEP team to determine a student's need for special education and related services. The student shall be assessed in all areas of suspected disability. The IEP team and individual assessors must use a variety of assessment tools and strategies to gather relevant, functional, developmental, and academic information including information from the parent to enable the IEP team to determine -

- if the student is a student with a disability;
- the student's educational needs;
- the content of the student's IEP including information related to enabling the student to be involved in and make progress in the general education curriculum, or for prekindergarten children, to participate in appropriate activities; and
- each special education and related service needed by a student, regardless of whether the need is commonly linked to the student's disability.

### Requirements for Assessment Materials:

All assessment instruments shall be selected from the *Howard County Public School System List of Approved Tests*, which has been developed and published by the Testing Advisory Committee, and shall be administered by individuals certified and trained to do so. An up-to-date copy of the *Howard County Public School System List of Approved Tests* is available on the HCPSS Intranet.

Testing and assessment materials and procedures used to assess a student's need for special education and related services must be technically sound, selected and administered so as to not be discriminatory on a racial or cultural basis, and 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 provide or administer.

A standardized test administered to a student shall be valid for the specific purpose for which it is used and administered by trained and knowledgeable personnel in conformance with the instructions provided by the producer of the test.

Tests and other assessment materials are not limited to procedures designed to provide a single general intelligence quotient and include procedures tailored to assess:

- a) Specific areas of educational need; and
- b) The extent to which a student with limited English is a student with a disability, rather than measuring a student's English language skills.

The results of assessment procedures selected for use with a student with impaired sensory, manual, or speaking skills shall accurately reflect the student's aptitude or achievement level, and the other factors procedures purport to measure, rather than the



student's impaired sensory, manual, or speaking skills, except when those skills are the factors that procedures purport to measure.

Assessment materials, tools, and strategies include, but are not limited to:

- Norm-referenced measures;
- Adaptive behavior measures;
- Authentic assessments;
- Checklists;
- Criterion-referenced measures;
- Curriculum-based assessments;
- Diagnostic tests;
- Informal instruments;
- Information from parents and others familiar with the student;
- Interviews;
- Observations and anecdotal records;
- Performance assessments;
- Portfolio assessment;
- Questionnaires and surveys;
- Rating scales;
- Record reviews; and
- Teacher developed activities.

#### **Screening or Assessment:**

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall **not** be considered to be an evaluation for eligibility for special education and related services.

#### **HCPSS Procedures for Educational Assessments:**

All HCPSS special educators are provided training to complete educational assessments for students. This training takes place during the special educator's second year of employment. Once the training process is completed and the teacher receives a certificate of completion from the HCPSS DSE, the special educator may complete educational assessments for which training has been received.

<b>Assessment Requirements</b>			
<b>Disability</b>	<b>Areas of Concern</b>	<b>Assessments Required</b>	<b>Qualified Personnel</b>
Autism (Rule out Emotional Disability as a primary factor.)	Academic Performance Social Interaction Behavior Verbal and Nonverbal Communication	Educational Assessment Physician's Assessment or Psychological Assessment Speech-Language Assessment	Special Educator Physician and/or Psychologist  Speech-Language Pathologist (SLP)

<b>Assessment Requirements</b>			
<b>Disability</b>	<b>Areas of Concern</b>	<b>Assessments Required</b>	<b>Qualified Personnel</b>
Deaf-Blindness	Academic Performance Hearing Vision  Communication	Educational Assessment Audiological Assessment Physician's Assessment  Speech-Language Assessment	Special Educator Audiologist and Ophthalmologist or Optometrist SLP
Deafness	Academic Performance Hearing Communication	Educational Assessment Audiological Assessment Speech-Language Assessment	Special Educator Audiologist SLP
Developmental Delay (For child ages 3 - 7 years)	Concerns identified during referral process	Educational Assessment Other assessments, as needed	Special Educator Other Qualified Personnel
Emotional Disability	Academic Performance Cognitive/Intellectual Social, Emotional, and Behavioral	Educational Assessment Psychological Assessment or Psychiatric Assessment	Special Educator Psychologist or Psychiatrist
Hearing Impairment	Academic Performance Hearing Communication	Educational Assessment Audiological Assessment Speech-Language Assessment	Special Educator Audiologist SLP
Intellectual Disability	Academic Performance Cognitive/Intellectual Adaptive Behavior	Educational Assessment Psychological Assessment	Special Educator Psychologist
Multiple Disabilities	Academic Performance Concerns identified during referral process	Educational Assessment Other assessments, as needed, to identify concomitant impairments in the areas of cognitive, sensory, and/or physical impairments.*	Special Educator Other Qualified Personnel needed to identify the possible impairments
Orthopedic Impairment	Academic Performance Medical Fine Motor Gross Motor	Educational Assessment Physician's Assessment Occupational and Physical Therapy Assessments, as needed	Special Educator Physician Occupational or Physical Therapist
Other Health Impairment	Academic Performance Health/Medical Attention	Educational Assessment Physician's Assessment and/or Psychological Assessment	Special Educator Physician or Psychologist (for ADHD)
Specific Learning Disability	Academic Performance Cognitive/Intellectual Psychological Processes Classroom Performance	Educational Assessment Psychological Assessment Classroom Observation Informal Classroom Data	Multidisciplinary Team, including Special Educator and Psychologist
Speech or Language Impairment	Academic Performance Communication	Educational Assessment Speech-Language Assessment	Special Educator SLP

Assessment Requirements			
Disability	Areas of Concern	Assessments Required	Qualified Personnel
Traumatic Brain Injury	Academic Performance Medical Verification of an Acquired Brain Injury caused by an external force. As needed: cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory/perceptual/motor abilities, psychosocial behavior, physical functions, information processing, or speech	Educational Assessment Physician's Assessment  Psychological Assessment Speech-Language Assessment	Special Educator Physician  Psychologist SLP
Visual Impairment Including Blindness	Academic Performance Vision  Orientation and Mobility	Educational Assessment Physician's Assessment  Functional Vision Assessment/Learning Media Assessment Orientation and Mobility Assessment, as needed	Special Educator Ophthalmologist or Optometrist Teacher of Students with Visual Impairment Orientation and Mobility Instructor

***\*MSDE Guidance for Determining Multiple Disabilities:***

The IEP team is to document, to the extent the team has information and data to support the presence of two or more disabling conditions that manifest themselves with such severe educational problems that the student's educational needs must be addressed through specialized instruction and supplementary services that address the multiple identified disabilities. Following federal guidance, these disabilities may be a combination of:

- Sensory and cognitive impairments, such as Blindness and Emotional Disability,
- Sensory and physical impairments, such as Blindness and Orthopedic Impairment, or
- Cognitive and physical impairments, such as Specific Learning Disability and Orthopedic Impairment.

Cognitive impairments include:

Autism, Emotional Disability, Intellectual Disability, Specific Learning Disability, Speech or Language Impairment, and Traumatic Brain Injury.

Sensory impairments include:

Deaf-Blindness, Deafness, Hearing Impairment, and Visual Impairment including Blindness.

Physical impairments include:

Orthopedic Impairment and Other Health Impairment.

### **Requirements for Determining Specific Learning Disabilities**

MSDE allows school districts to choose from the following two options for determining whether a student has a specific learning disability (SLD):

- determination of responsiveness to intervention through a tiered instructional approach; or
- determination of a pattern of strengths and weaknesses based on individual assessment data.

In addition, IDEA specifies that States may not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

HCPSS utilizes individual assessment data to determine whether the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development that is relevant to the identification of a specific learning disability, using appropriate assessments (see the above Assessment Requirements chart). It is important to consider the specific needs related to students who are both gifted and talented and learning disabled when making determinations.

#### **Criteria for Specific Learning Disability Determination:**

The IEP team shall determine that a student has a SLD if the student does not achieve adequately for the student's age or meet State-approved grade-level standards in one or more of the following areas when provided with learning experiences appropriate for the student's age and ability levels:

- oral expression;
- listening comprehension;
- basic reading skills;
- reading fluency skills;
- reading comprehension;
- written expression;
- math calculation; or
- math problem solving; and

The student's pattern of strengths and weaknesses is not primarily the result of:

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

**Required IEP Team Members for Determination of an SLD:**

The determination of whether the student is suspected of having a specific learning disability must be made by the student's parents and a team of qualified professionals, which must include:

- The student's general education teacher; or
- If the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age; or
- For a student of less than school age, an individual qualified by MSDE to teach a student of his or her age; and
- A special educator who can interpret the instructional implications of the educational assessment; and
- At least one person qualified to conduct individual diagnostic evaluations of children, such as a school psychologist.

**Evaluation:**

To ensure that underachievement in a student suspected of having a specific learning disability is not due to the lack of appropriate instruction in reading or math, the IEP team must, as a part of the evaluation, consider data that demonstrates that:

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

If the student has not made adequate progress after an appropriate period of time (to be determined by the IEP team), during which both the conditions listed above have been implemented, a referral for an evaluation to determine if the student needs special education and related services must be made. Once the student is referred for an evaluation to determine if the student needs special education and related services, the timelines for evaluation apply. **The evaluation must demonstrate and document the student's performance through the collection and review of multiple sources of information.**

**Pattern of Strengths and Weaknesses:**

At a minimum, patterns of a student's strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development should be evaluated in terms of the level of performance, the degree of variation among strengths and weaknesses, the frequency of such variation across individuals, and the relevance to the identification of a specific learning disability. Criteria need to account for the fact that some profile variation is typical of non-disabled peers. That is, significant intra-individual differences in score profiles are normal and can be expected to occur among all students. Furthermore, when two assessment scores are

compared, the difference between the two scores (i.e., difference score) is nearly always less reliable than the separate scores on which the difference is based. The IEP team will use a variety of assessment procedures that address achievement, including curriculum-based measures and classroom performance.

### **Observation Requirement**

A student suspected of having a SLD must be observed by at least one member of the IEP team following receipt of parental consent for evaluation. A member of the student's IEP team, other than the general education teacher, shall conduct the observation in the general education classroom. If a student is younger than school age or not in school, an IEP team member shall observe the student in an environment appropriate for a student of that age. The staff member completing the observation may be an administrator, guidance counselor, school psychologist, special educator, or others familiar with the student and the educational program. This staff member shall observe the student in additional learning environments in which the concerns raised may be observed to document academic performance and behaviors in the areas of difficulty. The observation of the student's academic performance will be documented in a written statement on the Classroom Observation form and summarized in the *Evaluation Report Specific Learning Disability (SLD) Supplement* form. The IEP will use the information obtained from the observation to assist in determining whether the student has a SLD.

The *Evaluation Report Specific Learning Disability (SLD) Supplement* form must be completed at the IEP team meeting documenting the requirements listed above including the observation, exclusions, and team determination. A copy is provided to the parent, and a copy is filed with the assessment reports in the assessment folder within the student record.

### **Requirements for Assessment Reports:**

Staff designated to complete assessments must adhere to the HCPSS requirements for reports. These requirements may be supplemented within the Psychological Services Handbook and related services requirements per licensure.

HCPSS assessment reports shall meet the following requirements:

- Written form, dated and signed by the assessor;
- Describe the student's performance in each area of suspected disability;
- Include a statement addressing the validity of the assessment procedures for the student;
- Address the student's educational needs;
- Describe the instructional implications of the assessment results to enable the student to participate and make progress in the general education curriculum (or for a prekindergarten child to participate in age appropriate activities);
- Provide any other information useful to the team's decision making; and
- Describe the extent to which assessment procedures were not conducted under standard conditions.

The written report shall be provided to the parents in accordance with HCPSS 5 business day procedures prior to the IEP team meeting and the reports must be available at the IEP team meeting.

It is best practice to discuss the written assessments with the parents prior to the IEP team meeting. This practice facilitates meaningful participation by the parent in the upcoming meeting. This can be accomplished through an informal meeting or a telephone conference. It must be made clear, however, that the IEP team determines the need for special education and related services.

**Assessment of English Language Learners:**

The DSE and the English for Speakers of Other Languages (ESOL) Program staff have developed a resource guide to assist teachers, special education staff, and related service providers as they review available data and conduct assessments for English Language Learners (ELLs). These students may be in need of accommodations and/or modifications in the general education program or special education services. The guidelines were written to assure that assessment services would be provided and that the parent would be properly informed and have full participation in the process. To obtain a copy of *English Language Learners: Guidelines for Promoting Educational Success, July 2007*, contact the Office of Special Education and Student Services. These guidelines are also available on the HCPSS intranet under Special Education Resources or at [http://login.hcpss.org/login/\\_WWW/Portal/Special\\_Education/Resources](http://login.hcpss.org/login/_WWW/Portal/Special_Education/Resources).

### **Required IEP Team Actions for English Language Learners**

1. An IEP team meeting shall be held to review the referral information and determine the need for assessments.
2. The IEP Chairperson makes arrangements for the provision of the *Notification of IEP Team Meeting* to the parent in the native language through an interpreter as well as the review of any documents the team plans to share at the IEP team meeting through the use of an interpreter, if needed.
3. The *Parental Rights, Maryland Procedural Safeguards Notice* is provided to the parent in the native language through the versions available on the [MSDE web-site](#) or through an interpreter. This is provided upon initial referral (mailed with notice for IEP team meeting to review the initial referral and upon parental request for evaluation).
4. If the IEP team determines the student with limited English proficiency shall be assessed, the qualified examiner must determine whether the assessment should be completed in English or in the student's native language. This decision should be made in consultation with the DSE or ESOL office.
5. When a bilingual assessor is needed, the qualified examiner will make arrangements with the appropriate office for names of qualified examiners and approval for their use. (Psychological Assessment – Office of Psychological Services; Speech-Language and Educational Assessments – CDC).
6. The school assessor from the discipline area being assessed should be present during the assessment for purposes of monitoring the assessment and providing insight into educational planning.
7. If a bilingual assessor is not available, refer to the certified world language interpreter list available at the International Office.



### **Required IEP Team Actions for Evaluation and Identification**

1. At least ten days prior to the proposed IEP team meeting, parents are provided with a *Notice of IEP Team Meeting*.
2. When subject to child find activities for students not attending an HCPSS school, a representative from the school in the child's neighborhood or a representative from the private school is invited to the IEP team meeting.
3. 5 business days before the IEP team meeting, parents must be provided with any document the IEP team plans to review at the meeting including assessment reports.
4. The IEP team completes the review of assessments on the *Eligibility* page of the IEP. The IEP team review of assessments is considered the evaluation of the child and must be completed within the required timeframe.
5. The evaluation summary includes performance in each area of suspected disability; relevant functional, cognitive, developmental, behavioral, and physical information; and instructional implications for the child's participation in the general curriculum.
6. Based upon the evaluation, the IEP team determines whether the child has an educational disability as defined by IDEA. Evaluation Report Supplement forms may be required depending upon the suspected disability.
7. For special education eligibility, the IEP team must also determine whether the student requires specialized instruction such as the adaptation of the content, methodology, or delivery of instruction. If the team determines that the disability adversely affects the student's educational performance, the IEP team determines whether the student requires related services to assist a student with a disability to benefit from special education.
8. If the IEP team determines that, although the student meets one or more of the IDEA disability criteria, he/she does not require special education, the student may be referred to the school-based 504 team for a Section 504 evaluation.
9. The IEP chairperson must provide written notice as to the IEP team's decisions to the parent within 5 business days following the IEP team meeting.

### **Evaluation Report Supplement Forms:**

The IEP team shall complete the appropriate *Evaluation Report Supplement* form(s) when the suspected disability is Specific Learning Disability (SLD), Developmental Delay (DD), Other Health Impairment (OHI) because of Attention Deficit Hyperactivity Disorder (ADHD), Emotional Disability (ED), or Autism. Detailed information for completing the supplements is found in the Appendix of this handbook.

### **Independent Assessments at Parent's Expense**

A parent of a student with a disability may obtain an independent educational evaluation at his or her **own expense** at any time. On request, the DSE shall provide the parent with information about where an independent educational evaluation may be obtained. The parent may contact the Instructional Facilitator or Resource Teacher for Nonpublic

Services and Special Education Compliance. In addition, the parent should be provided the HCPSS' criteria applicable for independent educational evaluations. The criteria are included in the *Review of Independent Assessment* form. A blank copy of the form may be provided to the parent.

Any assessment procedures may be waived if a comparable independent evaluation has been made available to the school by the parent and the IEP team determines that a HCPSS evaluation is not required. **The IEP team must consider all independent evaluations provided by the parent.** The findings from the evaluation may or may not be used if the information contained in the independent evaluation is inconsistent with reports and data from the school. There is no required timeline for the review of an independent evaluation; however, HCPSS practice is to review the evaluation within 30 days of receipt. All independent evaluations must be an original copy, signed, and received directly from the examiner.

At the IEP team meeting where the evaluation is reviewed, the qualified examiner completes the *Review of Independent Assessment* form ensuring accepted evaluations meet the following HCPSS evaluation requirements:

1. The examiner is professionally qualified to conduct the evaluation requested.
2. The report is written, dated, and signed by the individual examiner who conducted the assessment.
3. Assessment materials and procedures used to assess a student's need for special education and related services are:
  - Technically sound;
  - Administered in accordance with instructions provided by the producer of the assessment material (if available);
  - Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; and
  - Selected and administered in a manner which is not racially or culturally discriminatory.
4. Any assessment or evaluation measure administered to the student is used for purposes for which the assessments or measures are valid and reliable.
5. The results of assessment procedures selected for use with a student with impaired sensory, manual, or speaking skills shall accurately reflect the student's aptitude or achievement level, and the other factors procedures purport to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills, except when those skills are the factors that procedures purport to measure.
6. The report includes:
  - A description of the student's performance in each area of suspected disability.
  - Relevant information from a variety of assessment tools and strategies used to gather relevant functional, cognitive, developmental, academic, behavioral, and physical information, as appropriate, that directly assists the IEP team to

- determine if the student is a student with an educational disability and to determine the educational needs of the student; and
- Information related to enabling the student to be involved in and progress in the general curriculum, or, for preschool children, to participate in appropriate activities.
- Instructional implications for the student's participation in the general curriculum or, for a preschool child, participation in appropriate activities.

**The IEP team determines whether:**

- The report's conclusions are consistent with the assessment data;
- The assessment data are consistent with existing data collected by the school team;
- The identified educational disability is consistent with COMAR regulations;
- Recommendations as listed are supported by the assessment data. **The team must also reconcile any recommendations that are inconsistent with existing reports and data from the school.**

The IEP team's conclusion regarding the use of information contained in the independent assessment is recorded on the *IEP Team Meeting Report* form. The *Review of Independent Assessment* form shall be completed and attached to the assessment.

Detailed directions for completing the *Review of Independent Assessment* form are included in the Forms section of this handbook.

### **Independent Educational Evaluation (IEE) at Public Expense**

Parents of a child with a disability who disagree with a HCPSS evaluation results may request an independent educational evaluation (IEE) at public expense. An IEE is an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child. Parents may seek an IEE at public expense only when they are in disagreement with a current HCPSS evaluation. If the request is stated orally, the parents should be advised to put the request in writing. Parents may be asked for the reason they object to the HCPSS evaluation; however, the HCPSS cannot require the parent to provide an explanation. Upon receipt of a request for an IEE, the principal or IEP chairperson shall immediately forward the request and the copy of the assessment report(s) in question to the DSE, Office of Nonpublic Services and Special Education Compliance. HCPSS staff must respond to a parent's written or verbal request for an IEE without unnecessary delay. This decision whether to fund the IEE or to defend the HCPSS assessment is made by the DSE. HCPSS must respond in one of the following ways:

1. File for a due process hearing to show that the HCPSS evaluation is appropriate.
2. Ensure that an IEE is provided at HCPSS' expense.

### **HCPSS Limitations on IEE(s) at Public Expense:**

A HCPSS funded IEE must meet the HCPSS evaluation criteria to the extent the criteria is consistent with the parents rights to an IEE. HCPSS may not impose conditions or timelines for the IEE. Parents are entitled to only one IEE at HCPSS expense each time HCPSS conducts an evaluation with which the parent disagrees. The IEE obtained by the

parent must be considered by the IEP team if it meets the HCPSS evaluation criteria. IEEs may also be presented by any party as evidence at a due process hearing.

When HCPSS agrees to fund an IEE, parents will be provided an approval letter with a list of possible evaluators as well as range of approved rates for evaluation. Independent evaluators must be located within the Washington, D.C., Metropolitan area, including Washington, D.C., Maryland, and Virginia. For consideration of evaluators outside this area or for evaluations priced outside of the stated range, parents should submit written requests to the Instructional Facilitator for Nonpublic Services and Special Education Compliance. The written request must demonstrate a necessity for using examiners outside of the specified area or for explanation of fees in excess of established fee range.

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**Legal References:**

- 34 CFR §300.9 Consent
- 34 CFR §300.15 Evaluation
- 34 CFR §300.300 Parental consent
- 34 CFR §300.301 Initial eligibility
- 34 CFR §300.304 Evaluation procedures
- 34 CFR §300.306 Determination of eligibility
- 34 CFR §300.307 Specific learning disabilities
- 34 CFR §300.308 Additional group members
- 34 CFR §300.309 Determining the existence of a specific learning disability
- 34 CFR §300.310 Observation
- 34 CFR §300.311 Specific documentation for the eligibility determination
- 34 CFR §300.502 Independent educational evaluation

## **IEP TEAM MEMBERSHIP AND RESPONSIBILITIES**

### **Overview:**

An IEP team is a group of individuals who bring different perspectives and expertise to a scheduled and formal meeting. Through collaboration and pooling of knowledge, the team crafts an individualized program for the student with disabilities taking into account the student's strengths and needs. The IEP team meeting is a prearranged event conducted in accordance with special education law and regulations where the team is responsible for:

- Identifying and evaluating students with disabilities;
- Developing, reviewing, or revising IEPs for students with disabilities;
- Determining the placement of students with disabilities in the least restrictive environment; and
- Making manifestation determinations.

The IEP team membership requirements vary depending upon the meeting purpose but may include general educators, special educators, administrators, related service providers, school psychologists, agency participants, parents, and students.

### **Meetings that are NOT IEP team meetings:**

The following are not IEP team meetings and do not involve a legal requirement for parent participation:

- Informal or unscheduled conversations involving school system personnel;
- Conversations on issues of teaching methodology, lesson plans, or coordination of service provision, if these issues are not addressed on the student's IEP; or
- Preparatory activities necessary to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Screening activities by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation are not considered an evaluation for special education and related services eligibility, and thus do not require an IEP team meeting. Additionally, school-based problem solving meetings, parent-teacher conferences, and "intake conferences" with a parent involving a student with a disability who is transferring to HCPSS from another Maryland school system or from an out-of-state school system are not IEP team meetings.

### **IEP Team Meeting Participants**

At a minimum, each IEP team must include the following:

- Parent(s) of a child with a disability.
- General education teacher of the student (if the student is, or may be participating in the general education environment).
- Not less than one special education teacher, or not less than one special education provider of the student.
- HCPSS representative who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with

disabilities, knowledgeable about the general education curriculum, and who can commit the HCPSS resources.

- Individual who can interpret the instructional implications of evaluation results; this requirement may be met by one of the professionals listed above.
- Student, when appropriate.

Other individuals who have special knowledge or expertise regarding the student may participate in IEP team meetings at the discretion of HCPSS or the parents. When parents invite meeting participants to an IEP team meeting, the parents determine whether the invitee offers special knowledge or expertise regarding their child.

When transition services are a required IEP component, the IEP team includes other team members as outlined in the Transition Section.

### **Parent Participation in IEP Team Meetings:**

A parent is defined as:

1. Biological or adoptive parent of a child;
2. Foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;
3. Guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
4. Individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
5. Surrogate parent who has been appointed in accordance with the Act.

The federal regulations provide that the biological or adoptive parent of a child, when attempting to act as the parent under the Act and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child or unless a judicial decree or order identifies a specific person(s) to act as the parent or to make educational decisions.

Although the statute includes a foster parent in the definition of "parent," the definition of parent in Education Article §8-412, Annotated Code of Maryland does not include a foster parent, unless the foster parent is a relative or stepparent. Therefore, individuals serving as foster parents, who are not relatives or stepparents, need to be appointed as the student's parent surrogate in order to represent the student in the educational decision making process.

Until a student reaches the [age of majority](#), unless the rights of the parent to act for the child are terminated or otherwise limited, only the parent has the authority to make educational decisions for the child, including whether the child should attend an IEP team meeting.

An interpreter must be provided if the parent cannot communicate in English or requires a sign language interpreter. The certified world language interpreter list is available from the International Office.

Parents must be afforded the opportunity to participate in IEP team meetings with respect to identification, evaluation, educational placement, and the provision of a free and appropriate public education (FAPE). This occurs through notifying parents of meetings in accordance with the 10 day notification requirement and scheduling meetings at a mutually agreed upon time and place.

***Parent Surrogate:***

The IDEA requires the protection of a child's early intervention/special education rights in four situations when a parent is unavailable and the child has not had his/her educational rights transferred to him/her. These situations exist when:

1. Parents cannot be identified;
2. The public agency, after reasonable efforts, cannot locate a parent;
3. The child is a ward of the State under Maryland law<sup>2</sup>; or
4. The child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act<sup>3</sup>.

**Parent Surrogate Qualifications:**

1. The individual cannot have an interest that conflicts with the interests of the child;
2. The individual must have knowledge and skills that ensure adequate representation of the child; and
3. The individual may not be an employee of MSDE, the HCPSS, or any other agency that is involved in the education and care of the child, and under Part C, the person may not be an employee of any service provider involved in the provision of early intervention or other services to the child or the child's family.

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<sup>2</sup> Education Article § 8-412 defines a ward of the State as a child for whom a State or county agency or official has been appointed legal guardian, or who has been committed by a court of competent jurisdiction to the legal custody of a State or county agency or official with the express authorization that the State or county agent or official make educational decisions for the child.

<sup>3</sup> Youth in homeless situations who are not in the physical custody of a parent or guardian. McKinney-Vento Act Sec. 725(6)

<b>Parent Surrogate Process Chart</b>	
Part C of IDEA	Part B of IDEA
<b>Step 1: Eligibility</b> The child has or is suspected of having a developmental delay or disability classified under IDEA Part C.  The child does not have parents, as defined by state and federal law, with authority to make early intervention decisions.	<b>Step 1: Eligibility</b> The student has or is suspected of having a disability classified under IDEA.  The student does not have parents, as defined by State and federal law, with authority to make educational decisions.
<b>Step 2: Request</b> HCPSS Early Intervention Services identifies a “qualified” parent surrogate and submits a request to MSDE.	<b>Step 2: Request</b> In collaboration with the school, the HCPSS Office of Nonpublic Services and Special Education Compliance identifies a “qualified” parent surrogate and submits a request to the HCPSS Superintendent.
<b>Step 3: Qualification</b> The MSDE ensures the appointment is appropriate and the parent surrogate meets the qualifications.	<b>Step 3: Qualification</b> The HCPSS Superintendent ensures the appointment is appropriate and the parent surrogate meets the qualifications.
<b>Step 4: Appointment</b> The MSDE makes a decision to appoint the parent surrogate or make an alternative appointment within 10 days after receipt of the written request submitted in step 2.	<b>Step 4: Appointment</b> The HCPSS Superintendent confirms the student is eligible for a parent surrogate and the parent surrogate is qualified to serve.
	<b>Step 5: Additional Procedures</b> The HCPSS Superintendent shall send written notice to MSDE of the appointment within 30 days after the appointment is made.



### **Required School-Based Actions for Appointment of a Parent Surrogate**

1. If a student enrolls in a Howard County public school without a parent, the school-based administrator shall obtain a copy of the court order to determine if educational rights have been terminated.
2. If educational rights have been terminated, the school-based administrator will contact the DSE Instructional Facilitator for Nonpublic Services and Special Education Compliance for assistance in obtaining a parent surrogate.
3. If educational rights have not been terminated, there is no need for a parent surrogate. The parent must be notified of all IEP team meetings and consent must be obtained, regardless of the district in which the parent lives. **Neither the caseworker, nor the foster parent may sign IEPs on behalf of the parent.**
4. The school-based administrator completes the *Parent Surrogate Application, Part 1 – Request* form and asks the prospective parent surrogates to complete the *Parent Surrogate Application, Part 2*.
5. The Instructional Facilitator for Nonpublic Services and Special Education Compliance reviews applications and arranges the training required for individuals to become parent surrogates.
6. When the Instructional Facilitator for Nonpublic Services and Special Education Compliance receives the *Parent Surrogate Application* request forms from a school-based administrator, the Facilitator will complete the remaining training and application process with the Superintendent's office.
7. The school-based administrator will be notified once the parent surrogate has been approved.

Upon review of both parts of the *Parent Surrogate Application*, the Instructional Facilitator for Nonpublic Services and Special Education Compliance will forward the application for a parent surrogate and the request for appointment of a parent surrogate (*Request to the HCPSS Superintendent for Appointment of a Parent Surrogate* form), as well as appropriate documentation, to the HCPSS Superintendent. After the Superintendent has appointed a parent surrogate, the Instructional Facilitator for Nonpublic Services and Special Education Compliance will notify the parent surrogate and appropriate school personnel (*Notification of Appointment to a Parent Surrogate* form). A parent surrogate is appointed within 10 days of receiving the request.

Written notice (*Approval/Denial by HCPSS Superintendent of Appointment of a Parent Surrogate* form) is provided to the Instructional Facilitator for Nonpublic Services and Special Education Compliance, the school-based administrator, and the proposed parent surrogate when the Superintendent finds that the student is not eligible for the appointment of a parent surrogate, or the proposed parent surrogate is not qualified to represent the student in the educational decision-making process. The notice specifies the reasons and includes a request that the administrator or the Instructional Facilitator for Nonpublic Services and Special Education Compliance propose another parent

surrogate who is qualified or a statement that the Superintendent has selected and appointed a parent surrogate who is qualified.

**Notification to State Superintendent of Parent Surrogate Appointment:**

The HCPSS Superintendent provides to the State Superintendent written notification (*Notification to State Superintendent of Appointment of a Parent Surrogate*) of the parent surrogate within 30 days of the appointment. Notification includes the student's name and date of birth; the parent surrogate's name, the date of the appointment of the parent surrogate; and any other information deemed applicable.

The HCPSS operates the Parent Surrogate Program as a volunteer program. Upon request, reimbursement for transportation to training and other expenses associated with training are paid to a prospective parent surrogate. Students and parent surrogates are matched based on geographic location and cultural and language considerations.

The Instructional Facilitator for Nonpublic Services and Special Education Compliance maintains a list of parent surrogates in the Office of Special Education and Student Services.

**Termination of a Parent Surrogate:**

When it comes to the attention of school personnel that the appointment of a previously assigned parent surrogate should be terminated, the school-based administrator shall forward to the Instructional Facilitator for Nonpublic Services and Special Education Compliance the *Request for Termination of a Parent Surrogate* form as well as the *Parent Surrogate Application, Part 1 – Request* form supporting the appointment of a new parent surrogate and the *Parent Surrogate Application, Part 2* form from the proposed parent surrogate. Qualifications for serving as a parent surrogate are included in this part of the application.

The Instructional Facilitator for Nonpublic Services and Special Education Compliance completes a request to the HCPSS Superintendent to terminate the appointment of a previously assigned parent surrogate for good cause (*Request to HCPSS Superintendent to Terminate the Appointment of a Parent Surrogate* form). The Superintendent notifies the State Superintendent of the termination of the appointment of a parent surrogate (*Notification to State Superintendent of the Termination of Appointment of a Parent Surrogate* form) within 30 days of the action, including termination due to the resignation of the parent surrogate or the student's dismissal from special education services.

**Transfer of Parental Rights to the Student of Majority Age:**

In Maryland, parental rights transfer to students of majority age under very specific and limited circumstances. Education Article §8-412.1, Annotated Code of Maryland, outlines the seven, specific circumstances for the transfer of rights at age of majority. If any one of the circumstances exist for a student with disability, HCPSS DSE shall provide the student and the student's parents or parent surrogate with a copy of the procedural safeguards and written notice of the HCPSS' proposal to transfer the parental rights under the IDEA to the student. If the rights afforded parents under the IDEA are

transferred to a student, the rights regarding educational records must also be transferred to the student. HCPSS must provide any notice required under the IDEA to both the student and the parents. If the parental rights have transferred to a student of majority age, the parents continue to be a part of the IEP team if invited by the student or by HCPSS.

If rights are transferred, the IEP chairperson or case manager shall contact the DSE and provide the following information for State reporting purposes:

- The student's name;
- The student's school system identification number;
- School of attendance;
- Grade;
- Date of transfer of rights;
- The name of the parent surrogate, if applicable;
- The circumstance under which the parental rights were transferred; and
- Any other information deemed applicable.

If a request is made for the transfer of rights and an IEP team finds that a student is not eligible for the transfer of rights, the student and the student's parents or parent surrogate shall be provided with written notice, specifying the reasons for not transferring the parental rights to the student.

#### **General Education Teacher Participation In IEP Team Meetings:**

If the student is or may be participating in the general education environment, a general education teacher of the student with a disability must participate in the development, review, and revision of the student's IEP, including assisting in the determination of –

- Appropriate positive behavioral interventions and supports and other strategies for the student; and
- Supplementary aids and services, program modifications, or supports based on peer-reviewed research to the extent practicable, for school personnel that will be provided for the student to –
  - advance appropriately toward attaining the annual goals;
  - be involved in and make progress in the general education curriculum;
  - participate in extracurricular and other nonacademic activities; and
  - be educated and participate with other children with disabilities and nondisabled children.

If a student has more than one general education teacher, the principal/designee may designate the teacher to participate in IEP team meetings. Although only one general education teacher of the child is required to attend the meeting, the input of all of the general education teachers should be sought through a teacher input form. The student's completed IEP must be accessible to all staff responsible for implementing the IEP. If a student does not have a general education teacher or is younger than school age, the general educator shall be an individual qualified to teach a student of the student's age.

The general education teacher for children aged three through 5 who may be participating in the general education environment should be one of the following:

- For a kindergarten-aged student, a general education kindergarten teacher would appropriately be the general education teacher who would be a member of the IEP team;
- For a 4-year-old child in a HCPSS Pre-K Program, the teacher would serve as the general education teacher; and
- For a child who is dually enrolled in the HCPSS and in a Head Start Program or a private or religiously affiliated preschool, the Head Start teacher or other preschool teacher would serve as the general education teacher. It is important to seek direct input from the staff of these facilities.

### **IEP Chairperson/Administrator:**

The IEP chairperson is a school-based administrator who can serve as the representative qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, the individual knowledgeable about the general curriculum, and the individual knowledgeable about the availability of resources of the public agency. In some circumstances the IEP chairperson may designate a school-based case manager to chair the IEP team. Such circumstances include IEP team meetings when:

- The need for assessment is determined;
- Goals and objectives are developed;
- Eligibility is determined; and
- A review of the child's progress is conducted, except in such cases where resources are committed or placement is determined.

### **Student Participation in IEP Team Meetings:**

A student with a disability must be invited to attend his/her IEP meeting when the purpose of the meeting will be the consideration of the student's interests and preferences toward their postsecondary goals and the transition services needed to assist the student in reaching those goals. Consideration should always be given to genuine student participation, particularly at the secondary level where students may be able to add pertinent information regarding their specific preferences and interests. If the student does not attend the IEP team meeting, a member of the IEP team must take other steps to ensure that the student's preferences and interests are considered. Any information provided by the student should be strongly considered.

### **Transitioning a Child from Infants and Toddlers Services (Part C of IDEA) to IEP Services (Part B of IDEA):**

Transition planning begins when a child is 24 months of age and continues until the initiation of IEP services. A HCPSS special education representative will attend the child's Individual Family Service Plan (IFSP) to IEP transition planning meeting, which is held at least 90 calendar days prior to the child's transition. The IEP must be in place for a student by his/her third birthday. Parental consent is required to determine a child's eligibility determination for IEP services. Parents who do not wish to pursue IEP eligibility for their child will be given information about other community resources.

When a child transitioning from the Infants and Toddlers Program is determined to be a student with a special education disability or developmental delay, parents may choose to extend the IFSP or to develop an IEP. HCPSS staff will provide the parent with a detailed explanation of the differences between an IFSP and an IEP. An extended IFSP developed for children age three will include school readiness outcomes. If an IEP is developed, the IEP team shall, at the request of the child's parent, invite the Infants and Toddlers Program Service Coordinator or other representatives of the Infants and Toddlers Program to assist with the smooth transition of services. The IEP team shall consider the student's IFSP when determining eligibility and developing the child's IEP. If the parent chooses an IEP, written informed consent from the parent is required before the IEP can be implemented. The student's IEP must be in effect on the student's third birthday, unless the parents elect to continue receiving services through the extended IFSP option until the child's fourth birthday.

#### **Transition Services for Students 14 Years of Age and Older:**

The student must be invited to attend his or her IEP team meeting when the purpose of the meeting includes the consideration of the student's interests and preferences toward their postsecondary goals and the transition services needed to assist the student in reaching those goals. Consideration should always be given to genuine student participation, particularly at the secondary level. The student's case manager, in consultation with the work study/transition coordinators, is responsible for transition and shall interview the student and complete other informal/formal assessments to document the student's preferences and interests. If the student does not attend the IEP team meeting, a member of the IEP team must take other steps such as utilizing the information from the student interview to ensure that the student's preferences and interests are considered. If transition services will be discussed, the HCPSS must invite any representatives of any participating agency that are likely to be responsible for providing or paying for transition services. The case manager must obtain parental consent before inviting a participating agency to attend a student's IEP team meeting to consider transition services. The *Release of Records* form should be used to obtain parental consent. The agency must be listed on the *Notice of Individualized Education Program (IEP) Team Meeting* form sent home to the parent. Parental consent is not required to invite a representative from the Division of Rehabilitation Services (DORS). If the invited agency does not send a representative to the meeting, HCPSS is not required to take additional steps to obtain the participation of those agencies in the planning of transition.

#### **Students Attending Nonpublic Schools:**

If a student with a disability attends a nonpublic school and is receiving, or may receive, special education and related services from HCPSS, the Nonpublic Services office shall invite a representative of the nonpublic school to the IEP team meeting. If a representative from the nonpublic school does not attend the IEP team meeting, HCPSS shall take other steps to obtain the involvement of the nonpublic school, including individual or conference telephone calls.

### **Excusal of an IEP Team Member**

An IEP team member 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:

1. The member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting. This may include written input into the draft IEP through such formats as the *Individualized Education Program Planning* form and *Teacher Report* forms prior to the meeting. By providing the draft IEP to the parent prior to the meeting, this may allow a staff member to be excused from the meeting, with written parent consent; and
2. The parent and the IEP team agree, **in writing**, to the excusal before the meeting begins. This agreement shall be documented in the Parent Input section of the *IEP Team Meeting Report* or in the Parent Input section of the IEP document.

### **Notice of the IEP Team Meeting**

The notification must include the purpose, time, date, location of the meeting, and the titles of those who will be in attendance. The IEP team meeting shall be scheduled at a mutually agreed-upon time with at least 10 days written notice provided to the parent, unless an expedited meeting is being held for the following reasons:

- Disciplinary issues;
- Determine the placement of a student with a disability who is not currently receiving educational services;
- Meet other urgent needs of the student to ensure the provision of a free appropriate public education (FAPE).

When an expedited meeting must be held, the parent is initially contacted by telephone but must still be provided with written notice of the meeting, even if it can only be provided just prior to the IEP team meeting. If an expedited meeting is needed, the parent is not required to sign a waiver of the 10 day notification on the *Notice of Individualized Education Program (IEP) Team Meeting* form.

Notice of an IEP team meeting must be provided in language that is understandable to the general public. For a parent who does not read English, the notice should be provided in his/her native language, unless it is clearly not feasible to do so. For a parent who does not read English, HCPSS provides oral translation of the document. The interpreter must take steps to ensure the parent understands the content of the notice. Once interpretation has been provided, documentation of such must be maintained within the student's special education records.

A copy of the *Parental Rights, Maryland Procedural Safeguards Notice* booklet must be given to the parents one time per year and is provided to the parent at the annual review meeting. A copy shall also be given to the parents upon:

- Initial referral (mailed with notice for IEP team meeting to review the initial referral);
- Parental request for evaluation;
- Receipt of an individual's first State complaint in the school year;
- Parent's first due process complaint in a school year;
- The day of a decision of a disciplinary referral that results in a change of placement (long-term suspension or cumulative days of short term suspensions totaling 10 days or more in a school year); and
- Request by a parent.

HCPSS best practice is to offer the *Parental Rights, Maryland Procedural Safeguards Notice* booklet at each IEP team meeting. The booklet is available in various languages on the [MSDE web-site](#).

It is the joint responsibility of all members of the IEP team to ensure that the concerns of the parent are addressed and that parents are treated as full, participating members of the IEP team. In an effort to increase parent participation in the IEP development process, two forms have been developed to provide for parent input to the team. The *Parental Input for IEP Development* form is intended to obtain information from the parent that will help the team in drafting an appropriate IEP for the student. When a draft of the IEP is sent home, the accompanying cover letter ("has submitted Parental Input" form or "has not submitted Parental Input" form) allows the parent a second opportunity to provide input in the development of the IEP. In the Regional Early Childhood Centers, parental input is obtained through the use of the *Information to Help Plan my Child's Individualized Education Program* form.

#### **Alternative Means of Participation in IEP Team Meetings:**

If neither parent can attend, HCPSS may use other methods to ensure parent participation, including individual, video conference, or conference calls.

#### **Holding an IEP Team Meeting If the Parent is Not in Attendance:**

An IEP team meeting may be conducted without a parent in attendance if school staff members are unable to convince the parent to attend or unable to obtain the parent's participation. Staff must record attempts to arrange meetings with the parents. Documentation of at least three attempts to arrange an IEP team meeting at a mutually agreed upon time and place shall be maintained in the student record. Documentation may include copies of *Notice of IEP Team Meeting* forms, other correspondence sent to the parent and any responses received, detailed records of telephone calls made or attempted and the results of those attempts, or detailed records of visits made to the parent's home or work and the results of those visits. The *Conference Notes (in Person or Teleconference)* form may be used as a record of such documentation.

Within 5 business days after the IEP team meeting, the parent must receive written notification of the IEP team's decisions. Following the IEP team meeting, the case manager or other IEP team member sets a date with the parent to discuss each section of the new IEP and clarify the decisions made and the rationale for the decisions. The

*Conference Notes (in Person or Teleconference)* form should be used to document the decisions of the team have been shared with the parent. This form is attached to the file copy of the IEP. If the parent is unable to meet with school staff, the school administrator should notify the parent in writing that the IEP will be implemented. If the IEP is the student's initial IEP and the parent refuses to provide written consent, the IEP cannot be implemented.

### **Continuing an IEP Team Meeting:**

IEP team meetings should be scheduled so that all the purposes of the meeting can be addressed within the allotted time. When the IEP team is unable to complete the meeting and it must be continued, another meeting should be scheduled before the parents leave the meeting. An invitation to the next meeting is sent to the parents. It is permissible to provide the parents with less than 10 days notice of the continued meeting if the date was mutually agreed upon at the first meeting, providing the parents are willing to sign the waiver of 10-day notice. If the meeting concludes without a mutually agreed upon date, the parents must be provided with the required 10-day notice of the continued meeting.

### **Facilitated IEP Team Meetings**

Facilitated IEP team meetings are meetings that include an impartial facilitator who promotes effective communication and assists the IEP team with completing the IEP process. The facilitator takes no position about the contents of the IEP and does not participate in decision making. Facilitated IEP team meetings can be of benefit when communication between the parent and the school staff has deteriorated. Both the parents and the school staff must agree that a facilitator will be used. IEP Meeting Facilitation may be requested by contacting the Family Support and Resource Center at (410) 313-7150. [Additional information about facilitated IEP team meetings is available on the MSDE web-site.](#)

### **Audio Recordings of the IEP Team Meetings**

Parents who wish to record an IEP team meeting must be permitted to do so. If a parent chooses to record an IEP team meeting, school personnel must also record the meeting. The school copy of the recording is treated as confidential information but is not considered the official record of the meeting. The discussion and decisions recorded in the *IEP Team Meeting Report* and/or *Howard County IEP* documents remain the official record.

IEP teams read the following statement when parents choose to record IEP team meetings:

#### ***Recording Statement for IEP Team Meetings***

*You have requested to record your child's IEP team meeting. Since you have elected to record, the school team will also record. The purpose of*



*our recording is strictly to preserve the authenticity of what is being recorded. We understand that your recording will allow you to meaningfully participate without having to take notes.*

*The recording needs to be treated as confidential. It is not to be considered the official record of this meeting. Since the IEP team makes all decisions, the recording is not to be used to single out any statements made by an individual. The discussion and decisions recorded in the IEP Team Meeting Report and/or Howard County IEP documents remain the official record. Individual statements made by IEP team members do not represent the official record if the information is not recorded in the decision sections of the IEP Team Meeting Report or Howard County IEP documents. The IEP documents direct the outcome for your child, rather than the individual comments of team members.*

*Please be aware that by law any individual on this team has the right to refuse to be recorded. If this is the case, someone will present the information for that individual.*

Reference: *Avjian v. Weast*, 48 IDELR 61 (4th Cir. 2007).

NOTE: MD. Code Ann. Courts and Judicial Proceeding Article, § 10-402(c)(3) provides that it is a criminal offense to tape-record another person without that person's prior consent.

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### **Legal References:**

- 34 CFR §300.23 Individualized education program team
- 34 CFR §300.320 Definition of individualized education program
- 34 CFR §300.321 IEP team
- 34 CFR §300.322 Parent participation
- 34 CFR §300.324 Development, review and revision of IEP
- 34 CFR §300.328 Alternative means of meeting participation.
- 34 CFR §300.501 Opportunity to examine records; parent participation in meetings
- 34 CFR §300.503 Prior notice by the public agency; content of notice
- 34 CFR §300.504 Procedural safeguards notice
- 34 CFR §300.519 Surrogate parents
- 34 CFR §300.520 Transfer of parental rights at age of majority

## DEVELOPING, REVIEWING, AND REVISING IEPs

### Overview:

IEP teams must develop an IEP for every student between the ages of 3 and 21 eligible for special education and related services. The IEP document is developed in collaboration with parents, teachers, and school administrators and conforms to the content requirements of IDEA. The IEP must provide the child with a free appropriate public education (FAPE) that is designed to achieve the high standards reflected in the No Child Left Behind Act of 2001 (NCLB). FAPE means “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.” *Board of Educ. v. Rowley*, 458 U.S. 179, 203 (1982).

After an IEP team determines a student eligible for special education and related services, the IEP team must develop an initial IEP within 30 calendar days. Thereafter, at least annually, and sometimes more frequently, a student’s IEP must be reviewed and, if necessary, revised, and implemented as soon as possible.

### IEP Content

#### Required IEP Considerations:

IEP teams must consider the following:

- The student’s strengths;
- The parent’s concerns for enhancing the education of their child;
- The results of the initial or most recent evaluation of the student;
- The results of the student’s performance on statewide, district-wide, or alternate assessment programs, as appropriate; and
- The student’s academic, developmental, and functional needs.

#### Required IEP Content:

##### Present Levels:

A statement of the student’s present levels of academic achievement and functional performance (PLAAFP), including:

- How the student’s disability affects the student’s involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
- For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities;

Present levels should include data from multiple sources including current psychological or educational assessment results, classroom-based assessments, district and/or statewide assessments, classroom-based observations as well as parent, student and general education teacher input in all relevant areas.

**Consideration of Special Factors:**

The IEP must demonstrate consideration of the following, as applicable:

- In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports, and other strategies to address behavior.
- In the case of a student with limited English proficiency, the student's language needs relating to his/her IEP;
- In the case of a student who is blind or visually impaired, instruction in Braille and the use of Braille including textbooks in Braille, unless the IEP team determines, after an evaluation of the student's 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 is not appropriate for the student; and
- In the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in his/her language and communication mode, academic level and full range of needs, including direction instruction in the student's language and mode of communication.
  - Staff must routinely check hearing aids and external components of surgically implanted medical devices.

The IEP must demonstrate consideration of the following for all students:

- Whether the student has communication needs;
- Whether the student needs assistive technology and services. (For additional information regarding assistive technology contact DSE Instructional Access Team.)

Assistive technology may be used to help students improve their performance in the areas of communication, written language, computer access, reading, math, activities of daily living, mobility, environmental control, vision, hearing, seating and positioning. The IEP team should complete the *Support Plan for Instructional Access* form with consultation from school-based therapists (OT, SLP). The local IEP team should use this support plan in the development of the IEP. The IEP document should only include assistive technology that is required for the student to meet his/her educational goals. Use of assistive technology is recorded under the Special Considerations, Instructional and Testing Accommodations, and/or Supplemental Aids and Services sections of the IEP.

IEP teams may request assistive technology assistance or student-specific consultation from the DSE Instructional Access Team. A minimum of 2 weeks notice should be provided in order to accommodate scheduling.

The Office of Media and Educational Technologies (OMET) must approve all technology-based instructional products before they can be purchased for use. This approval ensures that the software has been reviewed for accessibility as required by COMAR 13A.05.02.13H, meets curriculum needs and is compatible with current computer systems in schools. Staff must follow current guidelines prior to the purchase and use of assistive technology software and technology-based instructional products.

**Special Considerations and Accommodations:**

Instructional and Testing Accommodations: 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 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 –

- The student cannot participate in the regular assessment, and
- Why the particular alternate assessment selected is appropriate for the student.

The IEP team must select accommodations on the basis of the individual student's needs. The accommodations must be used consistently for instruction and assessment. When considering adding or removing accommodations, the IEP team should utilize data, which may include trials, teacher observation, and/or assessment reports. The [\*Maryland Accommodations Manual\*](#) should be used to guide the decision-making for the IEP team.

**Maryland State Assessments (MSA) or High School Assessments (HSA) Alternate Assessments:**

Students with the most significant cognitive disabilities who are not pursuing the regular Maryland Content Standards leading to a Maryland High School Diploma may take alternate assessments (Alt-MSA) aligned to alternate achievement standards. Students not meeting the required criteria for Alt-MSA will participate in MSA or HSA with or without accommodations, as appropriate, based on their IEPs, unless a modified assessment is determined appropriate by the IEP team and is available through MSDE. IEP teams must determine appropriate assessments using the eligibility worksheets available in the HCPSS IEP program. HCPSS' philosophy and practice includes working collaboratively with parents in determining whether a student will take an alternate assessment and the worksheets must document the collaborative discussion and data reviewed by the team including that presented by parents as to the student's participation in activities outside of the school setting. If the IEP team determines a student qualifies for an alternate assessment, the student's parent must be informed how the student's achievement will be measured.

Bridge Plans: Students who fail to pass the HSA assessment after 2 attempts and have participated in interventions are eligible to participate in the Bridge Plan. The student must be on track for fulfilling all graduation requirements. Information regarding the Bridge Program can be found on the MSDE website at [http://hsaexam.org/about/options/bridge\\_plan.html](http://hsaexam.org/about/options/bridge_plan.html).

**Supplementary Aids and Services:**

Program modifications or supports for school personnel that will be provided for the student to enable the student to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
- Be educated and participate with other students with disabilities and students without disabilities in these activities.

Supplementary aids and services must include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

**Measurable Goals and Objectives:**

A statement of measurable academic and functional annual goals including benchmarks or short-term instructional objectives related to meeting the student's needs that result from his/her disability to enable the student to be involved in and make progress in the general education curriculum, and meeting each of the student's other educational needs that result from his/her disability; or for a preschool student, as appropriate, to participate in appropriate activities.

Goals and objectives are written in measurable terms and are aligned with the State standards.

**Progress Toward Goals:**

A description of how the student's progress toward meeting the annual goals described above will be measured and when 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) will be provided.

Quarterly progress is reported in Section *IV – Goals* in the IEP and indicates the student's progress towards the IEP goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the annual review date. If progress is marked *"Not making sufficient progress to meet the goal,"* the IEP team must meet to address the insufficient progress and determine a course of action.

IEP progress reports must be provided quarterly with the report cards unless the IEP team determines more frequent reporting is necessary. IEP progress reports must include data references to support the determination as to whether the student is making sufficient progress. Staff must make a good faith effort to assist each student to achieve his/her IEP goals and objectives and to address insufficient progress; however, IDEA does not require that staff be held personally accountable if the student does not achieve the growth projected in the IEP. Quarterly progress reports toward the IEP goals are completed by each service provider and a copy is -

- Attached to the IEP and placed in the student folder; and
- Sent home to the parent along with the quarterly report card.

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

ESY services are the individualized extension of specific special education and related services that are provided to a student with a disability beyond the normal school year, in accordance with the IEP, at no cost to the parents of the student; and meet the standards of the MSDE. The IEP case manager shall ensure that the IEP team determines annually whether the student requires ESY services. This decision does not have to occur at the

annual review and may be deferred to a later date, as long as the ESY decision is made on an annual basis. The IEP team shall consider the following factors in determining ESY eligibility:

- Whether the student's IEP includes annual goals related to critical life skills;
- Whether there is a likelihood of substantial regression of critical life skills caused by the normal school break in the regular school year and a failure to recover those lost skills in a reasonable time;
- The student's degree of progress toward mastery of IEP goals related to critical life skills;
- The presence of emerging skills or breakthrough opportunities;
- Interfering behaviors;
- The nature and severity of the disability, and
- Special circumstances.

Following the consideration of the above-listed factors, the IEP team must determine whether the benefits the student with a disability gains during the regular school year will be **significantly jeopardized** if that student is not provided with an educational program during a normal break in the regular school year.

If a student is eligible for ESY services, the IEP team must determine specific objectives from the goal areas that include critical life skills and relate to the factors that contributed to determination of the need for ESY. When selecting an appropriate number of objectives, the IEP team is to consider the need to focus instruction on a limited number of key skills related to the student's eligibility factor. Each IEP team needs to use professional judgment with regard to the individual needs of each student when selecting objectives for ESY. The IEP team then recommends services required to provide instruction in the ESY goals/objectives. ESY services depend on the student's ESY goals/objectives and will most likely vary from those services needed to implement the full IEP. Lastly, the IEP team determines the ESY placement based on ESY eligibility, ESY goals/objectives, and special education and related services.

If the parent declines the offer of ESY services, this should be documented on the services page of the IEP. Parental disagreement with the recommended services or placement must also be documented in this section.

The case manager of the student is responsible for confirming transportation needs with parents, completing any required ESY forms, and submitting ESY documentation to the ESY office by required deadlines.

Each spring updated instructions, schedules, locations as well as registration, articulation, and transportation forms are provided to special education teachers and related services providers by the DSE.

#### **Lack of Attendance During ESY:**

When the parent waives ESY services or does not make the student available for ESY services, or if the student does not have regular attendance during ESY, the case manager shall convene the IEP team near the mid-point of the first marking period. The IEP team

needs to determine whether or not the student's educational program during the regular school year will be significantly jeopardized as a result of the student not participating in ESY.

The IEP goals and objectives may need to be revised to reflect the student's current level of academic achievement and functional performance rather than those anticipated based on the recommendation for ESY services.

**Additional Explanation for ESY Considerations:**

Critical life skills relate to those skills that lead to independent functioning. Development of these skills can lead to reduced dependency on future caretakers and enhance a student's integration with nondisabled individuals. Critical life skills include, but are not limited to toileting, feeding, mobility, communication, dressing, self-help, and social/emotional development. In determining critical life skill, it is important to recognize the complicated mixture of academic and behavioral issues that need to be considered. Reading, math, and written language could be considered critical life skills; however, seldom would deficits in these areas alone be considered critical life skills without consideration of the student's age, ability, and the number of years the student has remaining in school.

The following questions may be helpful to the IEP team in determining which goals are related to critical life skills:

- How old is the student?
- How many years does the student have remaining in school?
- Is the skill required across a number of current environments?
- Is the skill required across a number of future environments? and
- If the student does not perform the skill, will someone else have to do it for him or her?

After consideration of the required factors, the IEP team must decide whether or not the benefits the student receives from his or her educational program during the regular school year will be **significantly jeopardized** if the student is not provided ESY services. None of these factors in isolation, or in some combination, necessarily entitles a student to ESY services.

**Transition:**

Beginning not later than the first IEP to be in effect when the student turns 14 years old, and updated annually thereafter, the IEP must include a statement of the transition service needs of the student that focuses on the student's course of study. For a student who is age 14, or younger if appropriate, the IEP shall include the following:

- A statement of needed transition services including, if appropriate, a statement of HCPSS' and a participating agency's responsibilities or linkages or both, before the student leaves the secondary school setting.
- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to employment, training and/or education and where appropriate, independent living skills.

- The transition services (including courses of study) needed to assist the student in reaching those goals.
- Beginning not later than one year before the student reaches the age of majority under State law, a statement that the student has been informed of IDEA rights, if any, that will transfer to the student on reaching the age of majority. (In Maryland, 18 years is the age of majority but the rights transfer under limited circumstances. See [Section on Transfer of Rights](#) for additional information.

The following HCPSS forms are used to assist in transition planning and IEP development for students 14 years of age and older:

- *Future Planning Inventory-Parent/Guardian Questionnaire* (sent home yearly to be completed and returned prior to the development of the IEP);
- *Student Preference/Interest Sheet* (completed at school, with assistance if needed); and
- *Transition Folder Checklist* (used by the IEP planning team to ensure that all the components are documented and stored as a separate file within the IEP folder system).

#### **Linkages to Adult Service Providers:**

Students with disabilities receiving special education services are entitled to educational services until one of the following occurs:

- the end of the school year in which he/she reaches age 21;
- the student has met the requirements for a high school diploma; or
- obtained a General Education Development (GED).

IEP teams must distribute the MSDE *Transition Planning Guide: Preparing Children with Disabilities to Move From School to Appropriate Postsecondary Outcomes* booklet at the first annual review where a transition plan is developed and at all subsequent annual reviews. The receipt of the *Transition Planning Guide* serves as the initial linkage between the parent, student, and adult services agencies. The IEP Chairperson must request the parent to sign verifying receipt of the Guide. The receipt should be copied for the parent and the original filed in the transition folder of the IEP. The provision of adult services is dependent upon eligibility and funding and HCPSS personnel cannot make eligibility determinations but should provide parents with sources for additional information on adult services agencies. It is the responsibility of the parent and/or adult student to complete the application process for adult services agencies.

If a participating agency fails to provide agreed upon transition services listed in the student's IEP, HCPSS must, as soon as possible, hold an IEP team meeting to identify alternative strategies needed to address the transition objectives and revise the IEP as appropriate. IDEA does not relieve a participating agency of its responsibility to provide or pay for transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of the agency.

Beginning at age 16, or younger if determined appropriate, a student's IEP must include a statement of interagency responsibilities and any needed linkages. The team must indicate whether:



- (1) the student has been referred to a particular agency,
- (2) an agency representative has been invited to the IEP team meeting, and
- (3) services from any agency are anticipated for transition.

The IEP team is to use the eligibility criteria listed in the “Transition Planning Guide” to determine the appropriate agency.

#### Howard County Process:

A representative from the Division of Rehabilitation Services (DORS) or other agency should be included on the *Notice of IEP Meeting* whenever transition services will be discussed. A *Release/Request of Information* form signed by the parent is required in order to invite any agency other than DORS to the IEP Team Meeting.

#### **Exit Document:**

For a child whose eligibility terminates due to graduation with a Maryland High School Diploma, Certificate of Completion, or exceeding the age of eligibility (21 years of age) for FAPE, the IEP team must provide the child with a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals. This summary is provided via the Maryland Exit Document that is completed for all students with a disability and given to the student as they exit either by graduation or at age 21.

Additional information on transition is available from Work Study/Transition teachers in the high schools. Additional questions regarding transition services may be referred to the Program Head for Work Study and Transition at 410-313-5640.

#### **Services:**

A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, including staffing support to be provided to the student, or on behalf of the student.

All IEP services are determined based upon data and the professional’s recommendation as to what the student needs for the provision of FAPE. Related services are required only when the IEP team determines the student requires the service in order to benefit from special education and has included the service on the IEP. See also the [Definition](#) Section of this handbook.

#### **Least Restrictive Environment (LRE):**

Once the IEP team determines the specialized instruction the student requires, including goals and objectives for instruction, the IEP team decides the type of services that will address the goals and objectives. This decision is referred to as the placement decision. Placement decisions must be made in conformity with the LRE requirements of IDEA. IDEA requires that –

- children with disabilities, including preschool children and children in public or private institutions or other care facilities, must be educated with children who are not disabled to the maximum extent appropriate; and

- special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Placement decisions for all children with disabilities, including preschool children, must be made on an individual basis and may not be based on the child's disability classification or on the need for accommodations or modifications required in the general education curriculum. The educational placement decision of a student with a disability is made by the IEP team, determined at least annually, is based on the student's IEP, and is as close as possible to the student's home.

In selecting the LRE in which the student will receive services, the IEP team must –

- consider any potential harmful effect on the student or the quality of services that he/she needs;
- ensure the child is educated in the school or typical early childhood setting that he/she would attend if nondisabled, unless his/her IEP requires some other arrangement;
- ensure the placement is as close as possible to the student's home; and
- ensure the student is not removed from education in age-appropriate general education classrooms solely because of needed modifications to the general education curriculum.

The IEP chairperson shall ensure that placement decisions are not based on any of the following factors used alone or in combination:

- Category of disability;
- Configuration of the service delivery model;
- Administrative convenience;
- Availability of educational or related services;
- Availability of space or curriculum content; and
- The methods of service delivery needed by the student.

The HCPSS Director of Special Education and Student Services shall ensure that a continuum of alternative placements is available to the extent necessary to implement IEPs; and to meet the needs of students with disabilities for special education and related services; provisions for supplementary services, such as resource room and itinerant instruction, are available in conjunction with general education class placement.

### **Transportation:**

If the IEP team determines a student with a disability cannot ride their neighborhood bus or cannot be educated in the school or typical early childhood setting the student would attend if not disabled, the IEP shall document the specialized transportation needs of the student including consideration of the effect transportation may have upon the student in relation to the:

- Student's age and disability;
- Specialized equipment needs of the student;

- Personnel needed to assist the student during transportation;
- Amount of time involved in transporting the student; and
- Distance the student will be transported.
- 

If the IEP team determines the student requires special transportation; however, the parent declines special transportation and chooses to transport his or her child, the parent's decision to decline special transportation is documented in the IEP discussion box. If at any time in the future the parent decides to use the special transportation recommended by the IEP team, the parent must contact the school and special transportation will be arranged.

### **Continuum of Placement Options:**

As the designated members of the IEP team complete the draft IEP, the team members should consider the services needed that would enable the child to receive FAPE. If the team members suspect that the draft IEP cannot be implemented in the school in which the student is enrolled or the home school, the team members shall contact a representative from the DSE to review the draft IEP. The representative from DSE may advise the IEP chairperson to invite representatives of other possible placements to attend the IEP team meeting.

If at an IEP team meeting in which the decision is made that the IEP cannot be implemented in the home school or current placement and representatives from other placement options are not in attendance, an additional IEP team meeting must be scheduled to allow representatives of other possible placements to attend and participate in placement discussions. The principal/designee of the current school providing service shall be responsible for contacting a representative from the DSE. After reviewing the IEP, the representative will assist in planning the subsequent IEP team meeting participants.

**REFERRAL PROCESS CHECKLIST FOR STUDENTS BEING  
CONSIDERED FOR PLACEMENT AT THE REGIONAL PROGRAM FOR  
STUDENTS WITH EMOTIONAL DISABILITY**

**Special education for all students with disabilities, including those identified as emotionally disabled (ED), must be provided in the least restrictive environment (LRE); therefore, prior to considering a regional program as the LRE, the home school implements an IEP and behavior intervention plan (BIP) that address all of the student's needs. When such a program cannot effectively provide the special education services necessary to assist the student in making progress toward the goals and objectives of the IEP, the following referral process shall be followed:**

<input type="checkbox"/>	1. Determine the student as having an emotional disability or other behaviorally related disability as a primary disability and provide the maximum possible special education services within the home school.
<input type="checkbox"/>	2. Include goals and objectives to address behavior/emotional concerns in the student's IEP.
<input type="checkbox"/>	3. Provide opportunity for the student to receive the benefit of special education services within the home school.
<input type="checkbox"/>	4. Address academic concerns by differentiating instruction based on assessment data and ensuring that the student has been taught at their instructional level.
<input type="checkbox"/>	5. Implement a behavior intervention plan (BIP). Base this intervention on a functional behavior assessment (FBA) including Antecedent-Behavior-Consequence (ABC) data and parent input. Clearly document progress. Review and revise the plan as needed.
<input type="checkbox"/>	6. Involve appropriate school-based resources in planning for this student. Involve countywide services to provide additional support including the Department of Special Education Resource Teacher and/or Behavior Specialist. Revise the student's IEP or BIP as needed to address areas of concern and include objectives and goals related to skills the students needs to learn to demonstrate improved behavioral self-control and emotional functioning.
<input type="checkbox"/>	7. Alert the Department of Special Education staff that the student may need a more restrictive educational environment. DSE staff will collaborate to determine any additional supports necessary, which may include consultation with Regional Program staff.
<input type="checkbox"/>	8. Contact the Instructional Team Leader at the regional program, Department of Special Education Instructional Facilitator, and parent to schedule the IEP team meeting in sufficient time to provide at least <b>10-day notice to the parent and regional program.</b>
<input type="checkbox"/>	9. In preparation for the IEP team meeting, compile data and document the student's performance in the home school setting.
<input type="checkbox"/>	10. Hold IEP team meeting with DSE staff, Regional Program staff, and parent(s) to review IEP, current needs of student and determine LRE.
<input type="checkbox"/>	11. If more restrictive placement of regional program is needed, make decision.
<input type="checkbox"/>	12. Encourage the parent to visit the regional program.

<input type="checkbox"/>	13. Develop transition plan for the student to begin at the regional program placement.
<input type="checkbox"/>	14. Complete transportation form.
<input type="checkbox"/>	15. Forward the student file to the regional program.

For further information and details, refer to the Preferral Process to Regional Programs for Students with Emotional Disabilities and Behaviorally Related Disabilities document.

When the staff at a Regional Program consider a less restrictive placement for a student, representatives of the home school or other possible placements shall be invited to the IEP team meeting.

**Public Separate Day School and Nonpublic School Placements:**

The Central Education Placement Team (CEPT) serves as an IEP team responsible for assuring that students who are referred to restrictive placements are placed as a result of the inability of the referring school to meet the documented needs of a student's IEP. The team is composed of standing team members, representatives from the home school or the program in which the student is enrolled, and others as appropriate. The CEPT can place students within Public Separate Day School programs (Cedar Lane School and Homewood's Bridges program). In addition, the CEPT can refer students whose needs cannot be met within any Howard County continuum options to private separate day school placements.

If a school determines there is a need to consider Gateway Middle or High at the Homewood Center for a student with a disability, the IEP team will work with their Department of Special Education Resource Teacher or Instructional Facilitator and make a referral to the CEPT. The IEP team will follow the procedures outlined in the *Special Educations Procedures and Guidelines* to prepare as they would for any CEPT meeting. This meeting will be a joint Central Admissions Committee/Central Education Placement Team (CAC/CEPT) meeting, including representatives from the CAC standing committee, to consider options for an alternative educational placement, including the Gateway program.

### Required Procedures for a CEPT Referral

1. When an IEP team considers a more restrictive placement, the DSE Resource Teacher and/or Instructional Facilitator should be in attendance at the IEP meeting.
2. The IEP chairperson of the IEP team making the CEPT referral must submit a completed CEPT referral packet to the school's assigned DSE Instructional Facilitator, including the following forms:
  - *Central Education Placement Team (CEPT) Referral*;
  - *CEPT Checklist*;
  - *Summary of Interventions*;
  - *Developmental and School History* (For Central Educational Placement Team)
  - *Developmental, Social, and Medical History* (parent completes); and
  - Documentation that parents have been provided a copy of the *Parental Rights* booklet.
  - Returnee Plan

NOTE: The IEP chairperson should obtain the most recent *CEPT Checklist* form for a complete list of all required documents.

Documentation required for a CEPT referral includes:

1. Parent's name, address, and telephone number;
2. Current *IEP Team Meeting Report(s)*;
3. Recently approved IEP;
4. Assessments;
  - a. *Functional Behavioral Assessment and Behavior Intervention Plan*;
  - b. Current educational assessment (less than one year old);
  - c. Current psychological assessment (less than one year old);
  - d. Psychiatric assessment, if appropriate;
  - e. Other assessment reports (NOTE: For each related service on the IEP, the most recent assessment report is required);
5. Documentation of the most recent reevaluation (or initial evaluation) conducted, either within the *IEP* or other relevant documents such as the *Reevaluation Report* and IEP Supplements (ED, ADHD, SLD, DD, Autism) as appropriate;

6. Standardized and MSA/HSA test results;
7. Developmental history;
8. Teacher reports, including report cards;
9. Medical reports, if appropriate;
10. Summary of interventions tried by the school before referral; and
11. Immunization records.
12. Registration documentation.

### **CEPT Procedures:**

Upon receipt of documents by the DSE Instructional Facilitator, a CEPT meeting will be scheduled. The DSE Nonpublic Services and Special Education Compliance office notifies the parent(s) and referring school of the date/time and location of the CEPT meeting. The CEPT reviews the student's needs and functions as an IEP team to determine if the student's needs can be met within County programs or whether a referral to a nonpublic school is necessary. If the CEPT approves a more restrictive nonpublic placement, the Instructional Facilitator for Nonpublic Services and Special Education Compliance sends the referral to the identified nonpublic provider(s). Once accepted and arrangements for transportation are completed, the student begins attending the nonpublic school.

If the CEPT does not determine the need for a public separate day school or nonpublic placement, recommendations will be offered to the school/program providing the current placement. Recommendations may include the use of additional support services. These functions are the responsibility of the DSE.

Membership of the CEPT includes:

- Parent(s) of the student;
- The student, if appropriate;
- A representative of any other agency that is likely to be responsible for providing or paying for transition services;
- The Instructional Facilitator and/or Resource Teacher for Nonpublic Services and Special Education Compliance who serve as the chairperson and a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities; and is knowledgeable about the general curriculum and the availability of resources of the public agency;
- A pupil personnel worker (PPW);
- A school psychologist who serves as an individual who can interpret the instructional implications of evaluation results;
- A speech-language pathologist or educational diagnostician from the CDC who serves as an individual who can interpret the instructional implications of evaluation results.
- DSE instructional facilitator or resource teacher who serves the student's school of enrollment;
- Principal or designee;
- Special education teacher or special education service provider of the student;

- General education teacher of the student if the student is or may be participating in the general education environment; and
- Other individuals, at the discretion of the parent or public agency, who have knowledge or special expertise regarding the student, including related service personnel, as appropriate.

If a student with a disability attends a nonpublic or private school and is receiving, or may receive, special education and related services from the HCPSS, the Instructional Facilitator for Nonpublic Services and Special Education Compliance shall invite a representative of the nonpublic or private school. If a representative of the nonpublic or private school does not attend the meeting, the Instructional Facilitator shall take other steps to obtain the involvement of the nonpublic or private school.

The Instructional Facilitator or Resource Teacher for Nonpublic Services and Special Education Compliance represents the CEPT in annual reviews and other IEP team meetings for students enrolled in approved nonpublic schools and makes decisions in conjunction with the parent and nonpublic representatives regarding placements for the following school year. The home school for students in grades 1 to 12 who are registered by the HCPSS in a nonpublic school continue to be responsible for ensuring that:

- Appropriate credits are earned; and
- The student is given the opportunity to participate in all aspects of home school activities including extracurricular, senior, and yearbook activities.

Nonpublic placements provide the most restrictive special education programs; therefore, they should not be viewed as long-term placements, except for those relatively few students whose needs are so complex and severe that supplemental aids or modifications would not support the student in a less restrictive setting.

### **Temporary Placement During Assessment:**

The IEP team may effect a temporary or interim placement of an eligible student with disabilities in a program as part of the evaluation process. The purpose of a temporary placement is to aid in determining an appropriate placement for the student. The temporary placement is considered to be the placement before the IEP is finalized.

To ensure that the temporary placement does not become the final placement before the IEP is finalized, the IEP team must implement the following procedures:

1. Determine, through established HCPSS procedures, that the student is eligible for special education and related services. Documentation of eligibility must be present in the student's file;
2. Develop and implement an *Interim Alternative Educational Setting IEP (IAES/IEP)* that includes:
  - Specific conditions for the placement such as days per week and hours per day of service, the educational setting, objectives to be implemented, etc.;
  - Specific conditions and timelines, such as 30 days, for completing the assessments;



- Conditions for making judgments about an appropriate placement for the student;
3. Obtain the agreement of the parents by their signatures on the interim placement; and conduct an IEP team meeting at the end of the trial period in order to finalize the IEP and determine the appropriate placement.

### **Interim Alternative Educational Setting (IAES) IEP For Home and Hospital**

#### **Instruction:**

Upon receipt of an application for home and hospital programming, the IEP team must convene to review the student's IEP and placement. Goals and objectives for an *Interim Alternative Educational Setting (IAES) IEP (IAES/IEP)* should be developed for home and hospital instruction with parental input and approval. Because home and hospital instruction is intensive one-to-one intervention, generally six hours of instruction is sufficient even though a student's regular IEP may call for more service. If the IEP team is considering more than 6 hours of instructional service, the team should consult with the Coordinator of Home and Hospital Instruction prior to finalizing the *IAES/IEP*. Related services must be considered and generally are provided through consultation service. If the nature and severity of the student's disability are such that direct service is required in order for the student to return to a school-based program or to benefit from the *IAES/IEP*, then it should be provided.

Note: In explaining the reduced hours of instruction, the school should inform the parent that related arts, lunch, and homeroom are not included on the *IAES/IEP*; generally only core subjects are addressed.

When developing the *IAES/IEP*, document in the discussion box that consideration was given to the following:

- Goals, objectives, instructional services and related services, service time and duration, the interim alternative setting selected, and interim and final review dates);
- Expected duration of the *IAES/IEP*;
- Methods for school-home communication; and
- Periodic reporting from the home and hospital teacher regarding the student's progress.

The *IAES/IEP* and TIENET Tip sheet are located within the Howard County IEP program.

When possible, the home and hospital teacher should attend the IEP team meetings; if not in attendance, another method of ensuring the teacher's participation should be used. The IEP team should meet with the school, parent, teacher, and any outside therapist or physician within 10 to 20 days before the student is expected to return to school. An IEP team meeting should focus on reviewing and revising the IEP and determining the appropriate placement. Consideration for service may include a shortened day of instruction, the home and hospital teacher accompanying the student during the transition process, intensification of related services during the transition time, and modifications

that might be needed during the transition period to the school environment. Educational placement in the home, for a student with an emotional condition may not exceed 60 consecutive days. A student's home may not be used as an instructional setting for a student with a disability waiting for placement in a nonpublic special school or a change of placement.

If a student without a disability is placed on Home and Hospital instruction due to an emotional crisis, best practice is for the IEP team to meet to determine if there is a need to consider Child Find for the student to determine if the student has a disability that requires special education and related services.

### **HCPSS Procedures for Providing FAPE to Students with IEPs in Local Adult Correctional Facilities (LACF) Located in Howard County:**

The HCPSS implements all Federal and State requirements in providing special education and related services to students with disabilities incarcerated in the local adult correctional facilities (LACF) located within Howard County. The HCPSS in cooperation with the Howard County Detention Center implements local policies to ensure that IEPs are developed, reviewed, and revised in a timely manner and in accordance with all Federal and State requirements. The HCPSS ensures that an IEP is in effect before special education and related services are provided to a student with a disability within its jurisdiction, including students with disabilities incarcerated in an adult correctional facility and in need of special education or related services from the HCPSS.

#### ***Planning/Coordination between HCPSS and the Howard County Detention Center to provide FAPE:***

The DSE Instructional Facilitator of High Schools meets on an annual basis with the Deputy Director of the Howard County Detention Center. This meeting shall take place prior to the beginning of each school year and the following is reviewed:

- All necessary contact information shall be shared to facilitate effective collaboration between the DSE Instructional Facilitator of High Schools, and the Deputy Director of the Howard County Detention Center.
- Policies and procedures regarding the provision of special education and related services to students with Individualized Education Programs (IEPs) in the Howard County Detention Center.
- Timelines for notification of students with IEPs placed in the Howard County Detention Center.
- Data to be maintained to document the provision of special education and related services.
- The DSE Instructional Facilitator of High Schools shall email/call the Deputy Director of the Howard County Detention Center on a bi-monthly basis to monitor admissions and discharge dates of eligible students.

- Documentation to be maintained for the refusal of education services (that includes special education services) for students that have reached the age of majority.
- A copy of an existing memorandum of agreement (as appropriate) for IEP service delivery will be maintained on file in the DSE.
- HCPSS shall provide the *Referral: Request for the Provision of FAPE in a Local Adult Correction Facility (LACF)* form that is completed by the Deputy Director of the Howard County Detention Center requesting special education and or related services when an eligible student with disabilities is detained or incarcerated.
- If appropriate, the Deputy Director of the Howard County Detention Center or the DSE Instructional Facilitator of High Schools shall request a copy of the Court Order that documents who has educational decision making authority for a student with an IEP.
- The Deputy Director of the Howard County Detention Center shall notify the DSE Instructional Facilitator of High Schools prior to the student discharge date to provide a smooth transition to the next appropriate school. HCPSS will provide data and initiate contacts with the appropriate local school system or HCPSS School to support planning and implementation of the student's IEP prior to re-enrollment, if notified.
- Confidentiality requirements in the Family Education Privacy Rights Act (FERPA) shall be reviewed as appropriate with the Deputy Director of the Howard County Detention Center and appropriate personnel to ensure compliance.
- HCPSS shall follow the procedures for the appointment of a parent surrogate, if appropriate, to protect the rights of a student in the Howard County Detention Center in accordance with the laws of the State.<sup>4</sup>
- The DSE Instructional Facilitator of High Schools shall monitor and ensure that the provision of FAPE<sup>5</sup> is reviewed both on a monthly and annual basis. The data shall be summarized on the *Provision of FAPE in the Howard County Detention Center* form for all appropriate students with IEPs attending Howard County Detention Center. The *Provision of FAPE in the Howard County Detention Center* for each student is maintained in the DSE by the Instructional Facilitator of High Schools and includes the following information:
  - Student's name
  - Student's identification number
  - Student's current address

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<sup>4</sup> Decisions regarding special education must involve the student's parent according to State and federal requirements. Education Article §8-412.1, Annotated Code of Maryland does not permit students who reach the age of majority, who are in the custody of a state agency, to assume parent rights afforded under the IDEA.

<sup>5</sup> The requirements of transition services [§A (3) of this regulation] do not apply to a student with a disability incarcerated in an adult correctional facility, whose eligibility for special education and related services will end before the student is eligible for release, based on the consideration of the sentence and eligibility for early release.

- Student's home school name
- Disability SSIS identification code
- Student's special education service hours on the IEP received
- Date of entry into the facility
- Date educational records are received
- Date of initiation of special education services
- Dates of delivery of all IEP services
- Date of release from detention or incarceration
- Summary of services provided

***Identification of Students and Implementation of IEPs:***

The Deputy Director of the Howard County Detention Center shall complete and send a *Referral Request for the Provision of FAPE in a Local Adult Correctional Facility* to the DSE Instructional Facilitator of High Schools within 5 days of being informed that a student with an IEP enrolls in the facility<sup>6</sup>. Within 2 working days of the receipt of the referral, the DSE Instructional Facilitator of High Schools will initiate the following activities:

- Request educational records from the student's last school of attendance by faxing a *Request for Records Release of Records* form to the student's former school or LSS;
- Maintain timelines for receipt of records including any follow-up attempts required;
- Review the student record to ensure that the student is currently a student receiving special education and related services;
- Arrange within 3 working days of identification that the student is a student with a disability for the IEP services to be delivered if the current IEP can be implemented;
- If the current IEP cannot be implemented, schedule an IEP team meeting with the parent and Deputy Director of the Howard County Detention Center which takes place as soon as possible and without undue delay;
- Sends the parent and other IEP members a *Notice of Individualized Education Program (IEP) Team Meeting*; and
- Completes all of the requirements related to IEP procedures.

At the IEP team meeting, the IEP team shall:

1. Review and revise the IEP consistent with State and Federal requirements and the content of the IEP for a student with a disability in the Howard County Detention Center including all of the requirements consistent with COMAR 13.A.05.01.09;
2. Review the student's status and most recent IEP and evaluations;
3. Determine credits the student needs to obtain a Maryland State Diploma, if applicable;

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<sup>6</sup> Students who are not identified prior to incarceration are not entitled to special education services.

4. Develop an *Interim Alternative Educational Setting IEP* within the Howard County IEP program;
5. Determine services, including related services, to ensure the provision of FAPE<sup>7</sup> as defined in 20 U.S.C. §1401(9); and
6. Document and maintain the student record in accordance with the HCPSS policies and procedures if the student refuses educational services.

The HCPSS delivers special education and related services at the Howard County Detention Center as defined in the IEP and provides special education and related services by qualified personnel. The DSE Instructional Facilitator of High Schools shall keep on record the following:

- A copy of the special/general educators' qualifications for the provision of special education and
- A copy of the related service providers' qualification for the provision of related services.

In the State of Maryland, the services for students in adult correctional institutions under the jurisdiction of the Maryland Department of Public Safety and Correctional Services are provided through the MSDE Correctional Education Program.

Upon impending discharge, the Deputy Director of the Howard County Detention Center shall notify the DSE Instructional Facilitator of High Schools prior to the student discharge date. The DSE Instructional Facilitator of High Schools contacts the appropriate HCPSS School and invites them to attend CAC once the student registers in HCPSS.

When developing an IAES/IEP for a student in an adult prison, the DSE Instructional Facilitator for High Schools or designee will work in collaboration with the facility and the student's sending school. When a student returns to school from detention or correctional centers, the student is referred to the CAC after the student registers in the home school. The CAC committee includes representatives from DSE who will complete the required IEP forms reflecting the decision of the CAC/IEP team.

## **IEP Implementation**

### **Initial IEP:**

The IEP must include input from the parent. Parents must provide written informed consent before the initial provision of special education and related services to a student with a disability. Parents have the ultimate choice in deciding whether their child will

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<sup>7</sup> The requirements for State or district-wide assessments do not apply to students with disabilities incarcerated in adult correctional facilities. In addition, the student's placement may be modified by the IEP team if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

receive special education and related services. HCPSS is not permitted to request dispute resolution methods to override a parent's refusal to grant consent to initiate special education services.

The case manager should contact the parent for input in the development of the initial IEP. If the parent fails to participate in the IEP development process, all attempts to contact parents should be documented. Parents may choose to provide their initial IEP input at the initial IEP meeting. The school must make reasonable attempts to obtain the parent's participation in the initial IEP meeting and consent for initial IEP services.

**When IEPs Must be in Effect:**

Written informed consent must be obtained from the parent before the initial provision of special education and related services to a student with a disability. After the initiation of special education services parental consent is not required for the implementation of subsequent IEPs; however, all elements of prior written notice are required for any change in a subsequent IEP. Special education services should be provided without interruption.

Once initial parental consent is obtained, the case manager is responsible for ensuring that:

- Special education and related services are provided consistent with the student's IEP;
- An IEP is in effect at the beginning of each school year; and
- Services are initiated within 5 school days except when the meeting occurs during the summer or a vacation period; or when there are circumstances that require a short delay, such as arranging transportation.

If a child has received early intervention services under an IFSP and is determined to be a child with a disability under an IEP, the IEP chairperson shall ensure that an IEP that has been developed by an IEP team is in effect on the child's third birthday. An invitation to the initial IEP meeting shall, at the request of the parent, be sent to the Part C school-based case manager or other representatives of the Part C system to assist with the smooth transition of services. The IEP team shall consider the student's individual family service plan when developing the child's IEP.

### **IEP Team Requirements for Informed Consent for Special Education Services**

1. Within 30 days of the eligibility determination, the IEP team develops the draft of IEP and holds an IEP team meeting to review the draft.
2. The parent must be provided a copy of the draft IEP at least 5 business days before the meeting.
3. After the IEP team completes the development and review of the initial IEP and approves the IEP, the IEP Chairperson must seek the parent's consent for the initial provision of special education services.
4. Informed consent is obtained on the *Initial Consent* page of the IEP.
5. If the parent refuses consent for implementation of the IEP, the refusal of consent is documented within the parent input section of the IEP. Parents should also be encouraged to indicate their refusal on the *Initial Consent* form.
6. The case manager is responsible for ensuring the IEP is implemented within 5 days of consent; the IEP is accessible to each general education teacher, special education teacher, related service provider, and other service provider(s) who are responsible for its implementation; and providing the student's teacher(s) with information regarding where all documents relating to the student are located, along with a copy of the *IEP* or *IEP in a Flash*.

### ***Parent Refuses Consent or Fails to Respond to a Request to Provide Consent to the Provision of Special Education and Related Services:***

HCPSS staff shall not provide the services listed in the IEP. The student shall not be provided the protections under the IDEA, including the discipline provisions and will not receive accommodations for State and district-wide assessments. HCPSS will not be considered in violation of the requirement to provide FAPE to the student for not providing special education and related services when a parent refuses consent for such services.

### ***IEP Team Meetings During School Breaks:***

The principal is responsible for ensuring that special education timelines are met, even during the summer, and that an approved IEP is in effect for each student with a disability at the start of the school year.

When necessary, IEP team meetings must be held during the summer break to complete the IEP process. It is recommended that school administrators set aside at least three days throughout the summer to complete IEP team responsibilities. A payroll voucher is submitted to the Third Party Billing Manager in the DSE for reimbursement of services by a staff member who is not an 11-month employee or who does not have a specified number of days of extended year employment.

If IEP chairpersons have difficulty obtaining staff to complete the required activities, they should contact the following for assistance:

- DSE Instructional Facilitator or Resource Teacher;
- Program Head for Adapted Physical Education;
- Program Head for Occupational Therapy;
- Program Head for Physical Therapy;
- Communication Facilitator for Speech Pathology and Assistive Technology; or
- Resource Psychologist

### **Review and Revision of IEPs**

The IEP team must meet annually to review and revise the IEP. In addition, the IEP team should meet upon parent or school-based team member request. Periodic or interim reviews of the IEP may be necessary when completing trials, transitioning to another level, or as a student begins a new program.

#### **Annual Review Meetings:**

Prior to the annual review meeting, the case manager is responsible for providing the parents with a draft IEP 5 business days before the meeting (see the Section on the [5 Day Rule](#) for additional information). It is best practice to schedule annual reviews in advance of the due date to allow for any unforeseen cancellations or meetings that must occur over multiple dates. At the annual review meeting, the IEP chairperson welcomes attendees, states the purpose of the meeting, and facilitates introductions and discussion. An annual review IEP team meeting is a meeting in which the team reviews and revises the IEP, as appropriate. The IEP team:

- Reviews the student's IEP to determine whether the annual goals are being achieved;
- Addresses any lack of expected progress in the annual goals or in the general curriculum;
- Reviews the results of any reevaluation conducted since the last IEP team meeting;
- Addresses any information about the student provided to or by the parent;
- Addresses the student's anticipated needs; and
- Discusses any other matters as stated on the notice of the IEP team meeting.

The IEP team first reviews progress toward the goals on the current IEP then the IEP team reviews the draft and makes revisions, as appropriate, based upon data reviewed at the meeting. Depending on the time of the year the IEP meeting is held, the ESY decision may be completed or deferred until later in the school year. The team also discusses transition planning for students who will turn the age of 14 during the course of the IEP and develops a Transition plan for the student. The team will develop a transition plan for any student who will turn the age of 14 or older in the upcoming school year.

#### **Periodic Review and/or IEP Amendments:**

A parent of a student with a disability or an IEP team may request a meeting at any time to review and, as appropriate, revise the student's IEP. HCPSS IEP teams may amend or modify a student's IEP without a meeting **only** when a clerical error was made in the IEP (e.g. IEP decision box reflects one hour of speech/language therapy; however, 1.5 hours



was recorded on the IEP services page). Parents are provided with a copy of the amended page(s) to correct the clerical error, along with a cover letter that explains the correction. All of the student's service providers are informed of the clerical error and the subsequent correction to the IEP document. The case manager shall ensure that the parents receive a copy of the amended IEP even if they do not make such a request. A copy of the cover letter described above is filed in the IEP Forms folder in the student record.

**Restraint or Seclusion:**

In an emergency situation, if restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan (BIP) does not include the use of restraint or seclusion, the IEP team shall meet within 10 business days of the incident to consider:

- The need for a functional behavioral assessment (FBA);
- Developing appropriate behavioral interventions; and
- Implementing a behavior intervention plan (BIP).

If the student's IEP or BIP includes the use of restraint or seclusion, the student's IEP or BIP must specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or BIP.

***Parents Electing to Receive Services Through a Service Plan:***

For parents who elect to place their child in a private school at their expense, HCPSS offers limited special education services to such students. This courtesy is also extended to students who are home schooled. The service plan documents how special education services will be provided to the child with input from the parent. The IEP team identifies the services needed to implement the service plan based upon what was offered in the IEP. Students who attend private or religiously affiliated schools or who are home schooled can receive limited services as determined on a yearly basis. See the section on [Service Plans](#).

**Parent Revokes Consent for Special Education Services:**

When a **written request** from a parent to revoke special education and related services is received, the Special Education ITL must -

- Provide a copy of the parent's letter or email to the DSE Resource Teacher for Nonpublic Services and Special Education Compliance.
- File the request in the student's IEP Documents folder.

The DSE Resource Teacher for Nonpublic Services and Special Education Compliance provides the parent with written notice of termination for special education and related services. The written notice includes a date for which the provision of the child's special education and related services will cease. The Resource Teacher uploads the written notice into the student's online IEP file and forwards a copy of the letter to the principal and special education ITL. The ITL files the written notice in the IEP Documents folder.

The school continues to provide special education and related services until the end date stated in the letter of written notice.

**Parent Revoked Consent and Later Requests Special Education Services:**

If a parent, who revoked consent for special education and related services, later requests that his or her child be reenrolled in special education, the IEP team must treat this request as a request for an **initial evaluation**, rather than a reevaluation. However, depending on the data available, a new formal evaluation may not always be required. An initial evaluation requires a review of existing evaluation data that includes classroom-based, local, or State assessments, and classroom based observations by teachers and related services provides. On the basis of that review, and input from the child's parents, the IEP team and other qualified professionals must identify what additional data, if any, are needed to determine whether the child is a child with a disability and the educational needs of the child.

The IEP team, based upon a review of existing data, may determine:

- Sufficient information (including current assessments) exists to determine initial eligibility for special education and related services;
- Additional assessments are needed to determine if the student is eligible for special education and related services; or
- The student is not eligible for special education and related services.

If the student is found eligible for special education and related services, an IEP is developed. This IEP would be considered an **initial IEP**, requiring signed authorization of the parent. If the student is determined ineligible for special education and related services, the parent must be provided with the written notice of this decision.

If a parent, who revoked consent for special education and related services, requests reenrollment in special education prior to the date noted in the written notice, the Special Education ITL will add the written request to the student's IEP Documents within the online IEP and the IEP records folder. The IEP case manager will schedule an IEP team meeting to review the IEP and address any parent concerns.

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**Legal References:**

34 CFR §300.17 Free appropriate public education  
34 CFR §300.22 Individualized education program  
34 CFR §300.34 Related services  
34 CFR §300.37 Services plan  
34 CFR §300.39 Special education  
34 CFR §300.43 Transition services  
34 CFR §300.45 Ward of the State  
34 CFR §300.101 Free appropriate public education  
34 CFR §300.102 Limitation – exception to FAPE for certain ages  
34 CFR §300.105 Assistive technology

34 CFR §300.113 Routine checking of hearing aids and external components of surgically implanted medical devices  
34 CFR §300.130 Definition of parentally-placed private school children with disabilities  
34 CFR §300.132 Provision of services for parentally-placed private school children with disabilities - - basic requirement  
34 CFR §300.134 Consultation  
34 CFR §300.141 Requirement that funds not benefit a private school  
34 CFR §300.300 Parental consent  
34 CFR §300.320 Definition of individualized education program  
34 CFR §300.322 Parent participation  
34 CFR §300.323 When IEPs must be in effect  
34 CFR §300.324 Development, review, and revision of IEP  
34 CFR §300.325 Private school placements by public agencies  
34 CFR §300.327 Educational placements

## **REEVALUATION**

### **Overview:**

Reevaluation of a student's continued eligibility for special education and related services must occur at least every 3 years. Reevaluation should be a thoughtful, meaningful, functional, and individualized process that includes review of previous testing, current classroom based data, and information from all other relevant sources. The reevaluation process may be completed through the comprehensive review of data/reevaluation planning or through formalized assessments completed after a reevaluation planning meeting. The IEP team must ensure that a reevaluation for each student with a disability is completed:

- If the IEP team determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation;
- If the student's parent or teacher requests a reevaluation; or
- Before determining a student is no longer a student with a disability.

A reevaluation shall not occur more frequently than once a year, unless the parent and public agency agree otherwise and it must occur at least once every 3 years, unless the parent and the IEP team agree that a reevaluation is unnecessary.

### **Reevaluation Procedures**

The reevaluation process begins with a review of existing evaluation data. This review must include –

1. Evaluations and information provided by the parents of the child;
2. Current classroom-based, local, or State assessments, and classroom-based observations; and
3. Observations by teachers and related service providers.

On the basis of this review of existing data and input from team members, the IEP team must determine whether any additional data is needed to determine whether the student continues to be a child with a disability and the educational needs of the student. If no additional data is needed, the review of existing evaluation data completes the reevaluation process.

### **Required IEP Team Actions for Reevaluation**

1. The reevaluation planning meeting should be conducted 90 days prior to the date the reevaluation is due. If assessments are recommended during the reevaluation planning, this provides adequate time for staff to complete assessments and review them at a subsequent IEP team meeting.
2. Reevaluation planning shall identify what additional data, if any, is needed to determine:
  - a. Whether the student continues to be a student with a disability;

- b. The educational needs of the student;
  - c. The present levels of academic achievement and related developmental needs of the student;
  - d. Whether additions or modifications to special education and related services are needed to enable the student to meet the measurable annual goals in the student's IEP and to participate in the general curriculum; and
  - e. Whether the student continues to need special education and related services.
3. The IEP team, including the parent, documents the review of data using the *Reevaluation Report* form.
- a. If additional data are not needed, the process stops and the decisions are also documented on *Section I: Meeting and Identifying Information - Eligibility* in the Howard County IEP.
  - b. If additional data are needed, then assessments or evaluation materials needed must be identified, and the team shall designate the appropriate qualified personnel to conduct the assessments. Parent consent must be obtained prior to any assessments being completed. The IEP team must adhere to the 90-day timeline to:
    - i. Complete the assessments;
    - ii. Reconvene to review the assessments and determine the student's continued eligibility for special education and related services; and
    - iii. Revise the student's IEP, as appropriate.
4. The IEP team documents the reevaluation on the *Reevaluation Report* form and in *Section I: Meeting and Identifying Information - Eligibility* in the Howard County IEP.

**Reevaluation When No Additional Data Are Needed:**

If the IEP team conducts a reevaluation and concludes that no additional data are needed to determine whether the student continues to be a student with a disability and to determine the student's educational needs, the IEP team completes the *Reevaluation Report* form, as well as the appropriate *Evaluation Report Supplement(s)*, if applicable (Specific Learning Disability, Emotional Disability, Attention Deficit Hyperactivity Disorder, Autism, and Developmental Delay). These documents serve as required evaluation documents and the parent's written notice. The results from the completed *Reevaluation Report* are summarized in *Section I: Meeting and Identifying Information - Continued Eligibility Data* in the IEP.

A copy of the following documents shall be provided to the parent at the IEP team meeting, or if parents are not in attendance document in the discussion box when the case manager will provide the documents to the parent (within 5 business days after the IEP team meeting):

- *Reevaluation Report*;
- *Section I: Meeting and Identifying Information – Continued Eligibility Data* in the Howard County IEP; and

- *Evaluation Report Supplement(s)* if applicable (Specific Learning Disability, Emotional Disability, Attention Deficit Hyperactivity Disorder, Autism, and Developmental Delay).

#### **Parent Request for Assessments:**

Parents have the right to request an assessment to determine whether the student continues to be a student with a disability, and to determine the student's educational needs. HCPSS is not required to conduct the assessment described in this section unless requested to do so by the student's parents. With such requests, the IEP team should elicit information from the parents about the concerns that prompted their request for the school to conduct assessment procedures. The IEP team, including the qualified examiner(s), determines the appropriate assessments needed to address the parents' questions regarding their child's educational needs. **These assessments may or may not include formal testing.**

#### **Reevaluation When Additional Data Are Needed:**

If the IEP team determines additional data are needed to complete the reevaluation, the team completes the *Reevaluation Report*, indicating assessments needed and obtains the parent's consent using the *Parental Consent for Evaluation* form. HCPSS best practice is to complete formal assessments every 6 years or 2 reevaluation cycles.

Informed parent consent must be obtained prior to conducting any reevaluation of a student with a disability. If the parent refuses consent to the reevaluation, HCPSS may, but is not required to, pursue consent through dispute resolution mechanisms. Informed consent need not be obtained if documentation demonstrates reasonable efforts were made to obtain such consent and the child's parents failed to respond. The DSE instructional facilitator must review all documentation and approve the completion of assessments in this instance.

Parental consent is **not** required before the review of existing evaluation data/reevaluation planning or administering a test or other evaluation that is administered to all students unless, before administration, consent is required of parents of all students.

A copy of the following documents shall be provided to the parent at the IEP team meeting, or state in the discussion box when the case manager shall provide the documents to the parent (within 5 business days after the IEP team meeting):

- *Reevaluation Report* form; and
- *Parental Consent for Assessments* form.

The recommended assessments are completed by the appropriate staff and reviewed at an IEP team meeting held on or before the date the reevaluation is due (3 years from the last evaluation or reevaluation).

At the next reevaluation meeting:

- The assessments are reviewed by the IEP team;

- Assessment summaries, discussions, and decisions are recorded in section *I. - Meeting and Identifying Information –Continued Eligibility Data* of the IEP; and
- *Evaluation Report Supplement(s)*, if applicable, are completed (Specific Learning Disability, Emotional Disability, Attention Deficit Hyperactivity Disorder, Autism, Developmental Delay).

A copy of the following documents shall be provided to the parent at the IEP team meeting, or state in the discussion box when the case manager shall provide the documents to the parent (within 5 business days subsequent to the IEP team meeting):

- Cover Sheet (*Student and School Information*)
- *Section I: Meeting and Identifying Information – Continued Eligibility Data* in the Howard County IEP;
- All assessment reports; and
- *Evaluation Report Supplement(s)* if applicable (Specific Learning Disability, Emotional Disability, Attention Deficit Hyperactivity Disorder, Autism, Developmental Delay).

### **Timeline Requirements:**

All assessments recommended after the student has an IEP, including those for a reevaluation or as consideration of adding a service (such as a related service), must be completed and reviewed at an IEP team meeting within 90 calendar days of receipt of the informed consent for evaluation. If any changes to the IEP are recommended based upon the review of assessments, these changes must also be completed within the 90-day timeline. Reevaluation must be completed and cannot extend beyond 3 years from the previous date the IEP team determined eligibility and the need for special education and related services. There are no provisions in federal or State law to extend the timeline for reevaluation.

### **Reevaluation Before Change in Eligibility**

An IEP team must reevaluate a student before determining that a student is no longer a student with a disability. This reevaluation is not required before the termination of a student's eligibility under IDEA due to graduation with a Maryland High School Diploma or exceeding the age eligibility (21 years of age) for FAPE. If a student exits the school system prior to age eligibility with a certificate, reevaluation is required. Graduation with a diploma constitutes termination of services (change of placement). Grades and passage of the State's tests to graduate may be used as a form of evaluation. At the last annual review IEP team meeting, in the student's senior year or last year of entitlement (up to 21 years), the parent is given notice as to completion of service because of graduation (termination of eligibility).

For a student whose eligibility terminates due to graduation with a Maryland High School Diploma or who exceeds the age of eligibility (21 years of age) for FAPE, the IEP team shall provide the student with a summary of the student's academic achievement and

functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

### **Reevaluation – Frequently Asked Questions**

*1. If the IEP team is considering dismissal from all services or some service(s), is it mandatory to complete formal assessments?*

No, formal assessments are not mandatory, but data must be specific and clear. Refer to *Preparation for a Reevaluation IEP Meeting* for suggestions.

Scenario #1: If the child is going to be dismissed from all services, the IEP team completes the *Reevaluation Report*, filling in all appropriate areas. If all data supports dismissal, completion of "Part IV. Decision of the IEP Team: Verification of a Disability and Eligibility for Special Education Services" indicates that the child does not continue to be a child with an educational disability and does not continue to need special education and related services. The remainder of the *Reevaluation Report* does not need to be completed. Note: The parent has a right to request a formal assessment be conducted to determine if the student continues to have an educational disability.\*

Scenario #2: If the child is going to be dismissed from one service, the IEP team meets to review the data presented in the area(s) services are recommended to be discontinued. The *Reevaluation Report* is completed if this decision is part of a reevaluation. If not part of a reevaluation, the data is included in the appropriate part of the IEP, e.g. the PLAAFP if it is an annual review or the documentation box on the services page if a meeting is held specifically for the purpose of dismissal. If a written summary report (signed by the service provider) is provided, attach it to the IEP. Note: The parent has a right to request a formal assessment be conducted to verify that the student no longer qualifies for the service.\*

*2. If one team member feels that standardized tests are needed, do all professionals involved need to administer standardized tests in their area of expertise?*

Scenario #1: If the purpose of the additional data relates to questions about disability mismatch, then the appropriate professionals conduct a formal assessments to answer the diagnostic questions.

Scenario #2: If the purpose of the additional data is to consider dismissal from special education services, then each professional may decide how to obtain the needed data.

Scenario #3: If one team member feels standardized tests will answer their questions about goals for the IEP, and there are no questions about eligibility, then formal assessments in one area may be completed. Caution: Carefully consider the assessments you choose and whether they will provide complete information about goals and objectives. The other professionals may decide how to obtain the needed data. A



Woodcock-Johnson-III should not be given in isolation. Refer to the suggestions for gathering data on “Preparation for a Reevaluation IEP Meeting” to be used in conjunction with a WJ-III.

\*Note: For any of the scenarios above, the parent may request formal assessments be conducted. The team should ask the parent what information the parent is seeking about the child. Based on the parent response, diagnostic questions must be determined (if any) and then based on these questions, the team and individual assessors decide how to gather the data to answer the questions.

*3. What should the course of action be if one or more IEP team members does not want to recommend a formal reevaluation for one or both of the following reasons:*

- A change in disability code would not affect the student’s educational programming
- The student may no longer qualify for special education services.

It is the professional and ethical responsibility of the IEP team and its members to complete a formal reevaluation if there are questions about the accuracy of the educational disability and/or the student’s eligibility for special education services.

*4. If, at any time, it is determined that additional data are needed, does the IEP team have until the reevaluation date to compile/complete the additional data?*

The IEP team must meet to review the additional data within 90 days of the meeting to recommend further assessment **or** by the reevaluation date, whichever comes first. This 90-day timeline also includes revisions to the students IEP, as appropriate.

*5. Should the SLD Supplement, ED Supplement, ADHD Supplement, Autism Supplement, and/or Developmental Delay Supplement be used when completing the Reevaluation Report?*

Yes

*6. Does the school have to complete formal assessments if requested by the parents?*

The IEP team, with parent input, must determine if there are diagnostic questions. If so, the team decides how to gather the data to answer the questions. This may include formal assessments.

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### **Legal References:**

34 CFR §300.8 Child with a disability

34 CFR §300.300 Parental consent

34 CFR §300.302 Screening for instructional purposes is not evaluation

34 CFR §300.303 Reevaluations  
34 CFR §300.304 Evaluation procedures  
34 CFR §300.305 Additional requirements for evaluations and reevaluations  
34 CFR §300.306 Determination of eligibility

## DISCIPLINARY PROCEDURES FOR STUDENTS WITH DISABILITIES

### Overview:

The procedural requirements for disciplinary removals of students with disabilities differ depending upon the length and type of removal. School staff have more flexibility when a student is provided with continuing education opportunities within the school building or when the student is removed for less than 10 school days. When a student is removed for more than 10 school days, school staff must follow specific procedural requirements, which may include a manifestation determination IEP team meeting, referral to the Superintendent/designee, and/or designation of an interim alternative educational setting (IAES).

### Types of Disciplinary Removals

**In-School Intervention:** The removal within the school building of a student from his or her current educational program where the student is afforded the opportunity to continue to appropriately progress in the general education curriculum; receive the special education and related services specified on the IEP; receive instruction commensurate with the program afforded to the student in the general education classroom; and participate with peers as he or she would in their current education program to the extent appropriate.

**In-School Suspension:** The removal within the school building of a student from his or her current education program for up to but not more than 10 school days in a school year for disciplinary reasons determined by the school principal/designee.

**Short-term Suspension:** The removal of a student from school for up to, but not more than 10 school days for disciplinary reasons determined by the school principal/designee.

**Extended Suspension for More than 10 Days:** The removal of a student from school for a specified period of time, longer than 10 school days, for disciplinary reasons approved by the Superintendent/designee.

**Suspension:** The application of in-school suspension, short-term suspension, or extended suspension.

**45 Day Removal to an Interim Alternative Education Setting (IAES):** The Superintendent/designee may remove a student with a disability for up to 45 school days to an IAES if, while at school, on school premises, or at a school function, the student carries or possesses a weapon; knowingly possesses or uses an illegal drug; sells or solicits the sale of a controlled substance; or inflicts serious bodily injury on another person.

## **Other Possible Actions**

**Student Reassignment:** Students may be reassigned from the school in their attendance area to another Howard County school for special circumstances when the Superintendent/designee and the parent agree to such reassignment.

**Protections for Students Not Yet Eligible:** Students not yet eligible for special education services may receive the disciplinary protections of eligible students if the school is deemed to have knowledge of the student's disability prior to the behavior that led to the disciplinary action.

**Referral to Law Enforcement:** HCPSS personnel shall report a crime committed by a student with a disability to appropriate law enforcement authorities consistent with State law.

## **Length of Disciplinary Removals**

### **Removals for No More Than 10 Days:**

A principal may remove a student with a disability from his or her current placement for not more than 10 consecutive or cumulative school days for any violation of school rules to the same extent students without disabilities are removed. Services do not have to be provided to students with disabilities during the first 10 days of removal if services are not provided to students without disabilities.

### **Removals for More than 10 Days:**

A student with a disability may be removed for more than 10 consecutive or cumulative school days for a violation of school rules, to the same extent removal is applied to students without disabilities, if the student's IEP team determines the behavior subject to the removal is **not** a manifestation of the student's disability. If the violation of school rules is not a manifestation of the student's disability, the student may be removed, but the student must:

- Continue to receive educational services in another setting so as to enable the student to continue to participate in the general education curriculum and progress toward meeting the goals in the student's IEP;
- Receive as appropriate a functional behavioral assessment (FBA) and behavioral intervention plan (BIP), or modifications to an existing BIP designed to address the behavioral violation and to prevent its recurrence.

Removals that are recommended to exceed 10 school days must be determined by the Superintendent/designee. If, while at school, on school premises, or at a school function, the student carries or possesses a weapon; knowingly possesses or uses an illegal drug; sells or solicits the sale of a controlled substance; or inflicts serious bodily injury on another person, the Superintendent/designee may remove the student for up to 45 school days to an IAES.

## In-School Options

### In-School Intervention

An in-school intervention, meeting the standards set forth below, will **not** count towards the student's days of suspension if **all of the four** criteria are met.

1. A continuance of appropriate progress in the general education curriculum.
2. The provision of special education and related services on the IEP.
3. The provision of instruction commensurate with the program afforded to the student in the general education classroom.
4. Participation with peers as they would in their current education program to the extent appropriate.

School staff must document the in-school intervention in the student records management system but are not required to report this data as part of the annual MSDE disciplinary reporting requirements. Additionally, the *In-School Intervention Data Sheet* form is completed to document how each in-school intervention is provided to the student.

### In-School Suspension

An in-school suspension is a removal of a student from the student's current education program within the school building by the school principal. An in-school suspension counts towards the student's suspension days and must be documented in the student records management system. Students may not be removed for more than 10 school days in a school year for disciplinary reasons without continuing to receive a free and appropriate public education (FAPE).

A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective. The principal shall provide the student's parents with written notification of the in-school suspension action taken by the school in accordance with HCPSS Discipline Policy 9200. The current school of enrollment shall make provision for the student's education during the in-school suspension. After 10 days of cumulative in-school suspension, the student, the student's parents or guardian, and the principal shall confer. When a student has been assigned to in-school suspension, he or she may attend extracurricular activities scheduled after the regular school day.

In-School Suspension vs. In-School Intervention	
In-school Suspension (Includes <b>any</b> of the following):	In-school Intervention (Differs from an in-school suspension if <b>all</b> of the following criteria are met):
Removal of general education instruction for the time removed; therefore, impacting progress in the general education curriculum	A continuance of appropriate progress in the general education curriculum
Not providing special education and related services according to the IEP	The provision of special education and related services on the IEP

<b>In-School Suspension vs. In-School Intervention</b>	
Not providing instruction commensurate with the program afforded to the student in the general education classroom	The provision of instruction commensurate with the program afforded to the student in the general education classroom
Lack of appropriate peer interaction	Participation with peers as they would in their current education program to the extent appropriate

\*Refer to Appendix for a copy of the MSDE letter dated December 17, 2009 to Superintendents of Local School Systems.

## **Out of School Options**

### **Short-Term Suspensions**

When a student is removed from school for up to, but not more than 10 school days for disciplinary reasons by the school principal, the school is required to promptly provide the student or the student's parent or guardian due process in accordance with HCPSS Discipline Policy 9200. When a student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, they may be removed immediately and the due process provided as soon as possible. If the principal finds that an extended suspension or expulsion is warranted, the principal will immediately report the matter in writing to the Superintendent/designee.

There are times when a parent will ask for a manifestation determination meeting as a result of a suspension, even though the suspension does not constitute a change of placement (more than 10 days). In this instance, school personnel are not obligated to hold a manifestation determination IEP team meeting but if school personnel determine the student is exhibiting a pattern of behaviors, which may lead to a possible change of placement, best practice is to hold an interim IEP team meeting to:

- Review the student's behaviors that led to suspension(s);
- Review the student's BIP; or
- Determine the need for a FBA and BIP.

When a student's behavior impedes the learning of the student or others, the IEP team must consider strategies, including positive behavior intervention strategies. If the team determines that a FBA/BIP is warranted, the IEP must be amended to include at least one behavior goal as well as objectives to support the goal.

### **Extended Suspensions**

If a proposed suspension, including the cumulative in-school, short-term, extended, or bus suspension, would cause a student with disabilities to be subject to removal from the current educational setting for more than 10 school days per school year, the IEP team must complete a manifestation determination meeting.

## **Manifestation Determinations**

### **Overview:**

Within **10 school days** of any decision to change the placement of a student with a disability because of a violation of the HCPSS Student Code of Conduct, the HCPSS, the parent, and relevant members of the IEP team (as determined by the parent and the school team) shall review all relevant information in the student's file including the student's IEP, any teachers' observations, and any relevant information provided by the parents to determine:

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

The conduct must be determined to be a manifestation of the student's disability if the IEP team, including the parent, makes the determination that either of the two criteria listed above are applicable for the student.

### **Required IEP Team Actions for Extended Suspensions for More than 10 Days**

1. The principal/designee shall provide the parent with the Notice of Disciplinary Action and a copy of the *Parental Rights* document.
2. School administration will make a referral to the IEP team for a manifestation determination.
3. School staff provide *Notice of IEP Team Meeting* to the parent. The manifestation determination meeting must be held no later than 10 school days after taking the disciplinary action. The 10-day requirement for notice of IEP team meeting does not apply to manifestation determination meetings.
4. IEP team completes the *Manifestation Determination Report* form to document the IEP team's discussion and decisions regarding the relationship between the student's disability and the behavior subject to the disciplinary action.
5. If the team determines the behavior is not a manifestation of the student's disability, the IEP team will develop an *Interim Alternative Educational Setting IEP (IAES/IEP)* indicating the goals and objectives and services to be provided in order for the student to receive FAPE. The FAPE determinations include consideration of what is necessary for the student to appropriately progress in the general education curriculum and advance toward achieving the goals in the IEP.
6. The principal/designee informs the parent in writing that the recommended suspension and manifestation determination will be forwarded to the Superintendent.
7. If after the Superintendent's hearing, the Superintendent enacts the suspension, the Superintendent notifies the parent of the removal and provides the parent with a copy of the *Parental Rights* document. Both documents must be provided to the parent no later than the date on which the decision to take this disciplinary action is made.
8. The special education ITL documents the Superintendent's placement determination within the IAES/IEP and attaches the Superintendent's letter. A copy of this IAES/IEP and the attached letter are sent to the parents and filed in the student's IEP folder.
9. If the team determines the behavior is a manifestation of the student's disability, the student will return to his or her education program unless the IEP team and the parent determine another placement is appropriate. In rare cases, the IEP team and the parent may agree to a change of placement and revise the IEP including the LRE page as appropriate.
10. The parent must be provided with a written copy of the *Manifestation Determination Report* within 5 business days after the meeting.



## **45 Day Removal to an Interim Alternative Educational Setting (IAES) for Drugs, Weapons, or Serious Bodily Injury Offenses**

### **Overview:**

The Superintendent/designee may remove a student to an IAES for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

- Carries or possesses a weapon<sup>8</sup> to or at school, on school premises, or to or at a school function;
- Knowingly possesses or uses illegal drugs<sup>9</sup>, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- Has inflicted serious bodily injury<sup>10</sup> upon another person while at school, on school premises, or at a school function. Serious bodily injury “involves 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.”

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<sup>8</sup> Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code (weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length).

<sup>9</sup> Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

<sup>10</sup> Serious bodily injury has the meaning given under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code (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).

## Required IEP Team Actions for 45-Day Removals

1. The principal makes the recommendation to the Superintendent/designee. The Superintendent/designee holds an expedited hearing and makes a determination as to the 45-day removal. Not later than the date on which the decision to take disciplinary action is made, the Superintendent/designee:
  - Notifies the parent in writing of that decision;
  - Provides the parent with the *Parental Rights* document; and
  - Notifies the Principal of the outcome of the hearing.
2. The IEP team schedules a Manifestation Determination IEP team meeting within 48 hours, or fewer if the student has been subject to suspension days greater than eight (8) days.
3. School staff provide the parent with the *Notification of IEP Team Meeting*.
4. IEP team completes the *Manifestation Determination Report* form, sections **I, II, and IV-B (45-Day Removal to an IAES), and V** only.
  - If the 45-day removal is approved at the Superintendent's hearing, follow the procedures listed in numerals 5 through 7.
  - If the Superintendent's hearing results in an extended suspension, follow the procedures for an extended suspension removal.
5. The IEP team develops an IAES/IEP and determines the interim alternative educational setting that allows the student to:
  - Progress in the general curriculum;
  - Receive the services and modifications included in the student's IEP;
  - Meet the goals of the student's IEP; and
  - Receive services and modification designed to address the behavior to prevent its recurrence.
6. The IEP team determines the placement/location for the IAES considering the recommendations of the Superintendent/designee and the student's IEP. IAES placements include but are not limited to Evening School and Homewood Programs (Gateway or Bridges).
7. The parent must be provided with a written copy of the *Manifestation Determination Report* within 5 business days after the meeting.

### **Sending School Responsibilities:**

The sending school retains responsibility for the educational programming of students referred to an IAES. These responsibilities include:

- Providing copies of all IAES/IEP paperwork;
- Communication of educational programming needs such as the sequence of intervention lessons and current scope and sequence of course work;
- Attending review meetings; and
- Establishing IEP team review of progress meetings during and prior to the student's return from the IAES.

### **Special Education Appeal of IEP Team's Manifestation Determination Decision**

The parent of a student with a disability who disagrees with the manifestation determination can file a complaint, mediation, or request a special education due process hearing. If a special education due process hearing is filed, the State or HCPSS shall

arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing. The student shall remain in the IAES until the Administrative Law Judge (ALJ) makes a decision or until the end of the removal period, whichever comes first, unless the parent and HCPSS or State agrees otherwise.

If the HCPSS believes the behavior of a student with a disability is likely to result in injury to the student or others, HCPSS may request a due process hearing to seek the removal of the student to an interim alternative educational setting. If HCPSS maintains that it is dangerous for the student with a disability to be in the current placement during the pendency of the due process hearing, the HCPSS may request that the due process hearing be expedited. In such cases, an ALJ may order a change in placement to an interim alternative educational setting for not more than 45 school days if the ALJ determines that the HCPSS has demonstrated, beyond a preponderance of the evidence, that maintaining the current placement of the student with a disability is substantially likely to result in injury to the student or others.

In making such a determination, an ALJ shall consider whether:

- The student's current placement is appropriate;
- The HCPSS has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
- The IAES proposed by the HCPSS, in consultation with the student's special education teacher, meets the requirements of the IAES for the student's education.

In such cases, the principal contacts the Administrative Director.

## **Student Reassignment**

### **Overview:**

Students may be reassigned from the school in their attendance area to another Howard County school for special circumstances when the Superintendent/designee and the parent agree to such reassignment.

### **Required IEP Team Actions for Student Reassignment**

1. Upon notification from the Superintendent/designee, the IEP team of the current school of enrollment will coordinate with the school of reassignment and schedule an IEP team meeting.
2. The current school of enrollment will provide the parent with the *Notification of IEP Team Meeting* documenting the purpose of Review IEP and Placement listing the attendees of both schools.
3. Hold the IEP team meeting documenting the review of the IEP, any changes agreed to by the team, the new service school, and the start date. The IEP team should consider any transition services that may be appropriate for the student such as visiting the new school, social stories, staff trainings, etc.

## **Student Suspected of Being a Student with a Disability**

### **Overview:**

A student who has not been determined to be eligible for special education and who has engaged in behavior that violated any rule or code of conduct of HCPSS may assert any of the IDEA disciplinary protections if the HCPSS had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred or there was a reason to believe that the student may be disabled.

HCPSS is **deemed to have knowledge** that a student is a “student with a disability” if the following conditions exist:

- The parent of the student has expressed concern in writing to HCPSS supervisory or administrative personnel or a teacher of the student, that the student is in need of special education and related services;
- The parent of the student has requested an evaluation of the student; or
- The teacher of the student or other personnel of the HCPSS has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the Director of Special Education and Student Services of HCPSS or to other supervisory personnel of HCPSS.

The HCPSS would **not be deemed to have knowledge** that the student is a “student with a disability” if any of the following conditions exist:

- The parent of the student has not allowed an evaluation of the student;
- The parent has refused or revoked consent for special education and related services;
- The student has been evaluated and it was determined that the student was not a student with a disability;
- The IEP team determined that an evaluation was not necessary and the parent was provided written notice of the IEP team’s decision.

If the school system had no knowledge that the student was a student with a disability prior to the disciplinary infraction, then the student may be treated as a general education student who engaged in comparable behavior.

### **Parental request for evaluation for general education student who has received disciplinary consequences for his/her behavior:**

- If a written referral or request for assessment is received during the time period in which the student is subject to disciplinary action, the assessment(s) and evaluation must be conducted in an expedited manner.
- Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If, as a result of the evaluation, the IEP team determines that the student is a student with a disability, the IEP team shall develop and approve an IEP. The student will be provided

special education and related services as outlined in the student's IEP. In addition, the student is entitled to all of the applicable discipline procedures for students with disabilities discussed above.

#### **Required IEP Team Actions For A Student For Whom HCPSS is Deemed to Have Knowledge of a Disability**

1. Provide *Notice of IEP Team Meeting* to the parent. The manifestation determination meeting must be held no later than 10 calendar days after taking the disciplinary action. The 10-day requirement for notice of IEP team meeting does not apply to manifestation determination meetings.
2. Complete the *Manifestation Determination Report* form documenting the IEP team's discussion and decisions regarding the relationship between the student's **suspected** disability and the behavior subject to the disciplinary action.
3. If the team determines the behavior is not a manifestation of the student's suspected disability, the disciplinary actions can be taken as for a student without disabilities.
4. If the team determines the behavior is a manifestation of the student's suspected disability, the student will return to his or her education program.
5. Provide the parent with a written copy of the *Manifestation Determination Report* within 5 calendar days of the meeting.
6. Schedule an Initial Eligibility IEP team meeting and complete the eligibility process.
7. Provide written notice of the IEP team's determination using the *IEP Team Meeting Report* within 5 calendar days of the meeting.

#### **Referral to Law Enforcement and Judicial Authorities**

##### **Overview:**

The HCPSS is not prevented from reporting a crime committed by a student with a disability to appropriate authorities, or to prevent 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 with a disability.

- If school personnel report a crime committed by a student with a disability, they shall supply copies of the special education and disciplinary records of the student to the appropriate authorities to whom they report the crime, to the extent allowed by COMAR 13A.08.02 (Student Records).

- If school personnel report a crime under this section, copies of the student's special education and disciplinary records may be transmitted only to the extent that the FERPA permits.

If a crime is reported, a school administrator should notify the HCPSS Coordinator of School Security, Coordinator of Special Education, and the appropriate Administrative Director.

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### **Legal References:**

34 CFR §300.518 Child's status during proceedings  
34 CFR §300.530 Authority of school personnel  
34 CFR §300.531 Determination of setting  
34 CFR §300.532 Appeal  
34 CFR §300.533 Placement during appeals  
34 CFR §300.534 Protections for children not determined eligible for special education and related services  
34 CFR §300.535 Referral to and action by law enforcement and judicial authorities  
34 CFR §300.536 Change of placement because of disciplinary removals

## **GUIDELINES FOR TRANSFER STUDENTS REQUIRING SPECIAL EDUCATION AND RELATED SERVICES**

### **Overview:**

When students with an IEP transfer into HCPSS from another school within the State or from another State, the receiving school must immediately request records from the sending school and determine the next steps based upon where the student's last IEP was implemented. The required procedures vary depending upon where the student's last IEP was implemented. In any case comparable services should be provided until the required procedures are implemented.

### **Implementing IEPs From Another Public School District Within the State of Maryland**

When a student enrolls with an IEP previously implemented in another public school system within the state of Maryland, the HCPSS must provide FAPE, **including comparable services** to those described in the child's IEP from the previous Maryland school system until HCPSS:

- 1) Adopts the student's IEP from the previous school system; **or**
- 2) Develops, adopts, and implements a new IEP.

The IEP team determines the comparable services that will be provided. Parental authorization is **not** required to implement an IEP from another public school system within the state of Maryland. A parent's signed authorization is required only for the initial IEP implemented in the state of Maryland.

### **Implementing IEPs from Another Public School District Outside of the State of Maryland**

### **Overview:**

If a student with a disability who had an IEP that was in effect in a previous public school district in another State transfers to HCPSS and enrolls within the same school year, the HCPSS (in consultation with the parents) must provide the child with FAPE including services **comparable** to those described in the child's IEP from the previous school district, until the HCPSS:

- 1) Conducts an evaluation if determined to be necessary by the IEP team; or
- 2) Develops, adopts, and implements a new IEP, if appropriate.

The purpose of an evaluation conducted by HCPSS is to determine if the student is a student with a disability and to determine the educational needs of the student. Therefore, the evaluation would not be a reevaluation, but would be an **initial evaluation** by the new HCPSS school; therefore, requiring parental consent. The IEP team determines the comparable services that will be provided. The IEP team will generate an *IEP Team Meeting Report*, complete the *Student Record Review Worksheet for Newly*

*Enrolled Students* form, and develop or begin to develop the *Howard County IEP*. The receiving school must contact the DSE Instructional Facilitator for guidance that is specific to the individual student whenever a student enrolls in HCPSS with an out-of-state IEP.

The school must provide FAPE to the child with a disability when the child enrolls and may not deny special education and related services to the child pending the development of a new IEP.

#### **IEP Team Determines No Additional Data Needed**

After completing the *Student Record Review Worksheet for Newly Enrolled Students* form, if the IEP team determines that no additional or new data/assessments are needed and that existing data from the previous State meets the criteria for eligibility for services as a student with a disability in Maryland (including adequately addressing the student's educational needs):

- The IEP team is to consider this an initial evaluation, **not** a reevaluation. The eligibility information in *Section I. – Meeting and Identifying Information* of the *IEP*, along with any supplements (if appropriate), are completed to document initial eligibility in the state of Maryland.
- The IEP team develops and approves the *Howard County IEP*.
- **The parent's signed authorization for the initiation of services in Maryland is required.**

#### **IEP Team Determines Additional Data Are Needed**

After completing the *Student Record Review Worksheet for Newly Enrolled Students* form, if the IEP team determines that additional or new data/assessments are needed to determine if the student is a student with a disability in Maryland and to determine the educational needs of the student, the *Parental Consent for Evaluation* form is completed.

- The required assessments are conducted, following the 60/90-day timeline for an initial evaluation.
- The IEP team reviews the assessments. The student's eligibility determination is documented in *Section I. – Meeting and Identifying Information* of the *Howard County IEP* (initial eligibility). Disability supplements are completed, if appropriate.
- If the student is found eligible for special education and related services in Maryland, the IEP team develops and approves a *Howard County IEP*.
- **The parent's signed authorization for the initiation of services in Maryland is required.**

### **General Guidelines and Examples for Transfer Students**

#### **Other Types of Transfer Students:**

Students placed in Howard County under the provisions of the out-of-county living arrangement shall receive an appropriate education from the county in which the student lives. Tuition reimbursement shall be sought from their parent's County of residence, as applicable.



Non-resident students may be enrolled in the HCPSS under the special circumstances outlined in Board of Education Policy 9000, *Enrollment, Residency, Student Assignment and Admission to Pre-K and Kindergarten*. In some cases, payment of tuition may be required.

Some students may register in the HCPSS but attend nonpublic special education programs as a result of a placement made by other local education agencies or public school districts in another state. As soon as such information is made known to school personnel, the Instructional Facilitator for Nonpublic Services and Special Education Compliance must be contacted. A Central Educational Placement Team (CEPT) meeting will be scheduled as soon as possible. Until the CEPT meeting can be held, the student should remain in his or her current education placement or, with parental agreement, the school in which the student is registered should provide some interim special education and related services.

For students currently attending the Maryland School for the Blind or the Maryland School for the Deaf, school personnel should register the student in order for the student to become a student in Howard County and should contact the Instructional Facilitator for Nonpublic Services and Special Education Compliance along with the Instructional Facilitator for Countywide Services.

#### **Educational Records:**

To facilitate the transition for a student who transfers to the HCPSS, the new school of enrollment 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 system in which the student was enrolled. **The attempts to obtain records must be documented.** A student cannot be denied FAPE while waiting for records from the previous public agency. The previous public agency in which the student was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

#### **Timelines:**

When the current IEP is available, an IEP team meeting should be held as soon as possible and no later than 30 calendar days after registering in HCPSS. The *Notice of Individualized Education Program (IEP) Team Meeting* form shall be sent to the parent at least 10 days before the meeting (unless the parent waives the 10-day notice requirement). Upon registration and while awaiting the IEP team meeting, a student with a disability should receive services comparable to the previous district's IEP. A parent may request to delay the implementation of special education and related services if the delay is not untimely and does not impact on a student's ability to benefit from education. The parent's request must be made in writing. For example, a student has registered in a Howard County public school and has a current IEP that may need to be implemented in a regional program. Until the IEP team meeting can be held, the student should begin educational services in the school in which the student is registered.

If the IEP can be implemented in the school in which the student is registered, then the student should be enrolled as soon as possible. If the student has an IEP that may require consideration of placement in a regional program, appropriate personnel from the regional program, along with appropriate DSE personnel, are invited to the IEP team meeting held by the school in which the student is registered. This procedure will ensure that the IEP is implemented upon completion of the IEP team meeting. For students who may need to attend the Gateway, Bridges, or Cedar Lane programs, the DSE Instructional Facilitator assigned to the school of enrollment should be contacted prior to scheduling the IEP team meeting.

Once a student is registered/enrolled in the HCPSS, there may be a need for reevaluation (at parent or school request). The IEP team should review all available documents and determine the need for assessments. If data regarding a student is missing or has not been sent from the sending public agency, the sending public agency should be contacted by telephone to verify the availability of the information until such time that the information can be sent to the school. If the records cannot be obtained, assessments should be recommended and school staff shall complete an appropriate evaluation.

### **Possible Scenarios:**

The following procedures should be followed when a student transfers from another public agency into the Howard County Public School System:

1. When a student with a disability and a valid Howard County IEP transfers from one Howard County public school to another, these steps should be taken:
  - The *IEP* is to be implemented as written; and
  - A review of the student's *IEP* should be conducted as necessary.
2. When a student with a disability and with a valid IEP from another school system within the state of Maryland is newly enrolled in a school and the **IEP can be implemented** in the home school:
  - The IEP is implemented; and
  - A review of the student's IEP should be conducted within 30 school days (best practice).
3. When a student with a disability and with a valid IEP from out-of-county is newly enrolled in a school and the **IEP cannot be implemented** in the home school:
  - The student may be "registered" but not necessarily enrolled in the home school; and
  - An IEP team meeting with representatives from appropriate regional programs, along with appropriate DSE personnel, should be held as soon as possible (as comparable services must be provided), and an interim special education program should be offered until the IEP team renders a decision regarding appropriate placement.
4. When a student with a current Maryland IEP implemented at a nonpublic school is newly enrolled in a Howard County school, these steps should be taken:

- The parent should register the student in the home school;
  - School personnel should contact the Instructional Facilitator for Nonpublic Services and Special Education Compliance;
  - The IEP team meeting is held by the CEPT; and
  - The placement will continue to be in the nonpublic school, or if the parent agrees, in an interim Howard County public school until the CEPT renders its decision.
5. When a student whose parent has no documentation but states that the student previously had an IEP is newly enrolled in a school, these steps should be taken:
- The general education teacher(s) and special education teacher(s) are alerted to the student's previous history, the student's progress is monitored, and data is collected;
  - The IEP team should obtain parental permission to request necessary information from the sending agency.
  - Once parental permission has been received, the sending agency may be contacted by telephone to verify IEP information and to expedite placement until records are received; and
  - If the sending agency reports that the student was not receiving special education and the parent suspects a disability, the special education referral procedures should be followed.
6. When a student with a disability and with assessments completed within the last 3 years and an expired IEP is newly enrolled in a school, these steps should be taken:
- The last approved IEP remains the IEP;
  - An IEP team meeting should be held to review previous records, evaluations, and last IEP, and to develop and implement an interim IEP, with parent approval;
  - The student's current IEP is entered into the Howard County Online IEP; and
  - The student is provided services comparable to those identified in the former public agency's IEP, until the IEP team:
    - Conducts an evaluation; or
    - Develops a new IEP.
7. When a student with a disability and with outdated assessments and an expired IEP is newly enrolled in a school, these steps should be taken:
- The general education teacher(s) and special education teacher(s) are alerted to the student's previous history, the student's progress is monitored, and data is collected;
  - An IEP team meeting is held to review previous records, evaluations, and the previous IEP. Recommendations are made for updated assessments. **The last approved IEP is implemented.** When appropriate, an interim IEP is written and implemented until the evaluation is complete; and

8. When a student with recently administered test protocols in the file that have not yet been interpreted or written into a report is newly enrolled in a school, these steps should be taken:
- If the tests were administered as part of an initial or reevaluation, the appropriate school-based professionals should interpret the results and write assessment reports;
  - If necessary, additional assessments should be recommended by the IEP team and completed within prescribed timelines; and
  - An IEP team meeting is held to review the assessments, complete the evaluation report, and determine if the student is eligible for special education and related services. The relevant timeline for determining eligibility will not apply only if the HCPSS is making sufficient progress to ensure a prompt completion of the evaluation, **and** the parent and HCPSS agree to a specific time when the evaluation will be completed.
9. When a student who has not previously been identified as having a disability and who has evaluations that were completed by outside agencies is newly enrolled in a school, these steps should be taken:
- In all cases, the *Request for Records and Release of Records* form should be completed. It should be forwarded to the outside agency (if the parent has not provided the school with a copy of the assessment), and a copy of the completed form should be placed in the student's folder;
  - The IEP team completes the *Review of Independent Assessments* form to determine if school-based assessment(s) should be waived, or to recommend additional assessment procedures; and
  - The IEP team completes Section I – *Meeting Identify Information* of the IEP and determines the need for special education services, if appropriate. The relevant timeline for determining eligibility will not apply only if the HCPSS is making sufficient progress to ensure a prompt completion of the evaluation, **and** the parent and HCPSS agree to a specific time when the evaluation will be completed.

## **STUDENTS PARENTALLY-PLACED IN PRIVATE/RELIGIOUS SCHOOLS OR ON HOME INSTRUCTION**

### **Overview:**

HCPSS is required to find and evaluate parentally-placed private school students with disabilities. **School districts where private schools are located** are responsible for providing Child Find and evaluation services to these students, while **school districts where the parents reside** are responsible for providing FAPE. Parentally-placed private school students with disabilities are enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary or secondary school in IDEA 2004 and in the Annotated Code of Maryland. Elementary and secondary education is defined as *“education and programs of education from and including preschool through the end of high school and their equivalent. Private elementary schools include all state-approved or church-exempt educational programs for students, including preschool students.”* Home schooling in Maryland is a *“home instruction program,”* in which a child is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. Private child care programs including home childcare programs, family day care, and home instruction, are not included in the definition of private schools.

### **Consultation Responsibilities**

IDEA 2004 requires HCPSS to solicit timely and meaningful consultation from private school representatives and representatives of parents of parentally-placed private school children with disabilities regarding Child Find, the proportionate share of federal funds, and the provision of services to private/religious school students located in the county, as well as about the consultation process. In HCPSS this process is coordinated by the County Diagnostic Center. HCPSS decisions regarding these matters, made after the consultation process, are in a document titled *Services for Students Parentally Enrolled in Private and Religious Schools and for Home Schooled Students*. This document is available on the HCPSS DSE intranet website.

### **Consideration of Special Education Services:**

Parents of students who attend private/religious schools located in Howard County or whose children are being home schooled should contact the CDC (410-313-7046) to begin the referral process. Additional information related to referral procedures can be found in the [Child Find](#) section of these guidelines. After the initial referral is made, the procedures described in the [Assessment, Evaluation](#) portions of the [Initial Referral](#) section of these guidelines are followed.

### **IEP Team Responsibilities:**

If the student attends a private/religious school, a representative from the student’s school must be invited to all IEP team meetings. If a representative of the private school cannot

attend, the IEP team must use other methods to ensure participation by the private/religious school, such as conference calls.

**Resident Preschool Student Who Attends a Private/Religious School in Howard County:**

Identification of an educational disability or developmental delay for resident preschool students who attend a private/religious school in Howard County follows the same procedures as described in the *Child Find* section of these guidelines. An IEP is developed for eligible resident preschoolers.

**Resident School-Aged Student Who Attends a Private/Religious School or is Home Schooled in Howard County:**

If a resident school-aged student who attends a private/religious school located in Howard County or is home-schooled is found eligible for special education, and the parents are interested in seeing what IEP services would be available for the student should he/she enroll in the HCPSS, the team develops a complete initial IEP that offers FAPE to the student. The IEP team informs the parents that, should they choose to enroll the student in the HCPSS, the recommended IEP will be implemented.

If the parents make clear their intention to continue to enroll the student in a private school or remain on home schooling and are not interested in a public program or placement for the student, the HCPSS need not develop an IEP for the student. If the parents decline services, this should be documented on the Service Plan form.

**Resident Student Who Attends a Private/Religious School in Another Jurisdiction:**

A student who resides in Howard County but attends a private/religious school in another jurisdiction is not eligible under IDEA to be evaluated by the HCPSS, **unless they are seeking a FAPE from HCPSS, i.e., an offer of all services needed through an IEP.** For a Howard County resident student who attends a private/religious school located in another jurisdiction, there are four possible evaluation scenarios:

- 1) If the parent is seeking services while intending the student remain enrolled in the private/religious school, the student must be evaluated by the public school system where his/her private/religious school is located. If the student is found eligible, the jurisdiction where the school is located develops a Service Plan for the student.
- 2) If the parent is seeking an evaluation and FAPE from HCPSS if the student is found eligible and enrolls in the HCPSS, the home school conducts the initial evaluation. It is important to note that the HCPSS cannot refuse to conduct the evaluation and determine the student's eligibility for FAPE because the student attends a private school in another LEA. If the IEP team decides the student has a disability that requires special education and related services, the IEP team develops an initial IEP for the student. The student does not have to withdraw from the private/religious school or enroll in HCPSS to participate in Child Find identification procedures. The parent then would have the option of enrolling the student in HCPSS and receiving the IEP services or continuing enrollment in the

- private/religious school and requesting services based on the Service Plan from the jurisdiction in which the private/religious school is located.
- 3) If the parent provides HCPSS with assessments conducted by the jurisdiction in which the private school is located, **and requests HCPSS to develop an IEP for his/her child**, the student's home school reviews the evaluation and eligibility data provided from the parent and develops an initial IEP. The student does not have to withdraw from the private/religious school or enroll in HCPSS to participate in Child Find identification procedures. The parent then would have the option of enrolling the student in HCPSS and receiving the IEP services or remaining at the private/religious school and receiving services based on the Service Plan from the jurisdiction in which the private/religious school is located. Note: IDEA requires a school district to obtain parental consent before releasing information about a parentally-placed private school child to the school district where the child's parents reside.
  - 4) If the parent provides HCPSS with private assessments **and requests HCPSS to develop an IEP for his/her child**, the student's home school follows the process to review independent assessments. If the student is found eligible for special education and related services, the IEP team develops an initial IEP. The student does not have to withdraw from the private/religious school or enroll in HCPSS to participate in Child Find identification procedures. The parent then would have the option of enrolling the student in HCPSS and receiving the IEP services or remaining at the private/religious school and receiving services based on the Service Plan from the jurisdiction in which the private/religious school is located.

#### **Nonresident Preschool or School-Aged Student Who Attends School in Howard County:**

If a nonresident preschool or school-aged student who attends an MSDE-approved school in Howard County is found eligible for special education, the IEP team develops a Service Plan, unless the parents decline all services. If the parents decline services, this should be documented.

#### **Development of a Service Plan**

If a preschool nonresident or a school-aged resident or nonresident elects to have the child continue to attend the private or religious school or if a resident elects to remain on home schooling but wishes to have the child receive services from HCPSS, the IEP team develops a Service Plan for the student by completing the Service Plan form, which is available as a document in the Howard County IEP Program. The plan includes only those services that HCPSS, after consultation with representatives of private and religious schools and with representatives of parents of parentally-placed private school children with disabilities and in accordance with IDEA has determined it will provide to private/religious students, and for which the student has been found eligible by the evaluation IEP team. Services provided must be secular, neutral, and non-ideological.

Historically, HCPSS has provided limited special education service in academic areas (reading, math, written language), speech-language services, and occupational therapy services for eligible students. See the HCPSS DSE intranet website for a copy of the current decisions.

Written, informed parental consent must be obtained before the provision of services under an initial Service Plan.

Services will be provided at the student's HCPSS home school, if the parent is a Howard County resident, or at a HCPSS school located in the vicinity of the student's private/religious school, determined by the CDC, if the parent is a nonresident.

**Transportation:**

Parents are requested to provide transportation to receive services. If parents request transportation, the HCPSS must provide it, but with a reduction of the number of therapy/instructional sessions provided to the student. The cost of transportation is calculated as part of the proportionate share of federal funds provided to school systems to be used for services to these students. If a parent is unable to provide transportation for their child and requests transportation be provided, the Instructional Facilitator at the CDC (410-313-7046) must be contacted for information about the reduced number of therapy/instructional sessions the student may receive.

**Follow-up Responsibilities:**

The HCPSS school site that provides services to a student under a Service Plan is responsible for conducting an annual review of the plan at the end of each school year. The parent must be provided with written notice of the IEP team meeting. Copies of all documents must be placed in the student's confidential file. The school must send a written notice of the IEP team's decisions to the parent.

At least once every 3 years, the school site IEP team conducts reevaluation planning and makes reevaluation determinations for the student. If the student continues to be eligible for special education services, a new Service Plan is developed.

**Responsibilities of the DSE:**

The DSE must maintain in its records and provide MSDE with the number of parentally-placed students evaluated, the number of children determined to be children with disabilities, and the number of children who receive special education services. In addition, documentation must be maintained concerning private/religious school students who are found eligible but whose parents decline any services.

**Parental Right to Due Process:**

A parent of a student who is enrolled in a private or religious school or is being home schooled may request mediation or a due process hearing only for issues related to HCPSS' Child Find responsibilities, i.e., screening, evaluation, and eligibility determination. The request for mediation or hearing must be filed with HCPSS, and a copy forwarded to the OAH. Parents of such students are not entitled to mediation or due



process concerning the services that HCPSS has determined it will provide to eligible students who do not enroll in HCPSS; however, a complaint may be filed with MSDE.

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### **Legal References**

- 34 CFR §300.130 Definition of parentally-placed private school children with disabilities
- 34 CFR §300.131 Child find for parentally-placed private school children with disabilities
- 34 CFR §300.132 Provision of services for parentally-placed private school children with disabilities – basic requirement
- 34 CFR §300.140 Due process complaints and State complaints
- 34 CFR §300.141 Requirement that Funds not benefit a private school
- 34 CFR §300.142 Use of personnel
- 34 CFR §300.143 Separate classes prohibited
- 34 CFR §300.144 Property, equipment, and supplies
- 34 CFR §300.148 Placement of children by parents when FAPE is at issue

## **PROCEDURAL SAFEGUARDS: WRITTEN COMPLAINTS, MEDIATION, AND DUE PROCESS**

### **Overview:**

Students with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free and appropriate public education (FAPE). HCPSS staff strive to resolve disagreements with families but families and the HCPSS may at times need to access informal dispute resolution measures or the formal procedural safeguards of complaint, mediation, and due process to resolve disagreements. These safeguards are outlined in the document *Parental Rights, Maryland Procedural Safeguards Notice*. In addition, parents who allege HCPSS has discriminated against his/her child on the basis of a disability may file a complaint with the Office of Civil Rights (OCR). Other rights of parents include an opportunity to examine records pertaining to their child. Refer to the Educational Records Section for additional information.

### **Informal Dispute Resolution Measures**

When working with parents, each staff member should make every effort to resolve issues regarding the education of the student. If disputes arise, staff members should strive to keep the lines of communication open and inform the parents that the school wants to work with them to reach an agreement. If assistance is needed, the DSE instructional facilitator or DSE resource teacher should be contacted.

Parents should also be informed of the option of accessing the state sponsored IEP Meeting Facilitation project which provides highly trained facilitators to assist IEP team members to communicate and collaborate on a mutually agreed upon IEP. IEP Facilitation can minimize the need for more formal means of resolving disagreements such as mediation and due process hearings. IEP Meeting Facilitation may be requested by contacting the Family Support and Resource Center at (410) 313-7150.

Parents may wish to discuss their issue with a disinterested (unbiased) third party such as the Family Support and Resource Center, the Parents' Place of Maryland, Inc., Families Involved Together, Inc., or an appropriate alternative dispute resolution entity that would explain the benefits of the mediation process and encourage parents to use the process.

### **Formal Dispute Resolution Measures**

#### **State Complaints:**

An organization or individual may file a signed written complaint with MSDE regarding an alleged violation of IDEA or State law, regarding the education of students with disabilities by HCPSS. The HCPSS DSE provides parents and other interested parties with information regarding the procedures for filing a complaint. The complaint shall allege a violation that occurred not more than 1 year prior to the date that the complaint is

received by MSDE. Either party to the complaint shall be given the opportunity to submit additional information and documentation about the allegations in the complaint, which will be considered in making the final decision. Following the receipt of the complaint, MSDE conducts an investigation of any complaint that meets the requirements. The MSDE issues a written decision called a letter of findings to the complainant that addresses each allegation and contains:

- Findings of facts and conclusions;
- The reasons for the final decision; and
- Procedures for effective implementation of the final decision including, as appropriate, technical assistance, negotiations, and corrective actions required to achieve compliance.

The letter of findings is issued within 60 days unless exceptional circumstances exist with respect to the State complaint that requires an extension of the time limit; or the complainant and the public agency agree to extend the time line in order to engage in mediation or other alternative means of dispute resolution set forth in IDEA. MSDE sets aside any part of a State complaint that is being addressed in a due process hearing until the conclusion of the hearing, when the MSDE receives a State complaint that is also the subject of a due process hearing; or contains multiple issues of which one or more are part of a due process hearing. Any issue in a State complaint that is not part of a due process hearing will be resolved by MSDE in the complaint process within the required time lines. MSDE will inform the complainant that a due process hearing decision is binding when a complainant raises an issue in a State complaint that was the subject of a previous due process hearing decision involving the same parties.

### **OCR Complaint:**

A complaint can be filed with the OCR under Section 504 of the Rehabilitation Act of 1973, alleging discrimination against a student on the basis of a disability. Upon notification from OCR of a complaint filing, the student's school is notified by the DSE Office of Nonpublic Services and Special Education Compliance. The DSE works with school staff to timely respond to the complaint with the requested documentation and a response to the allegations. Additional investigatory methods may include an onsite visit or phone interviews with staff.

OCR staff may utilize a variety of approaches to resolve the complaint including early complaint resolution. If OCR determines that violations of Section 504 (and the Americans with Disabilities Act) occurred, they prescribe corrective actions that must be taken by HCPSS in regard to the student and/or the school system as a whole. If corrective actions are required, the DSE will work collaboratively with the school to complete and report back the required actions.

### **Mediation:**

Mediation is an informal dispute resolution process required by IDEA. It is a voluntary process where parents and HCPSS attempt to resolve differences with the assistance of an impartial mediator from the [Office of Administrative Hearings \(OAH\)](#).

A parent or the HCPSS may request mediation when there is a dispute about any matter related to the identification, evaluation, educational placement, or the provision of FAPE to a student with a disability. Parents may request mediation forms from the DSE or through contacting the OAH. If a parent or guardian requests mediation from the IEP team, the parent should be directed to the DSE Instructional Facilitator for Nonpublic Services and Special Education Compliance, who will provide the parent with forms to file with the OAH. There may be times when HCPSS requests mediation to resolve differences with families. HCPSS may not request mediation if the parent refuses to authorize implementation of an initial IEP. A party to the mediation has the right to be accompanied or advised by counsel.

Mediations are closed proceedings and all discussion that occurs during the mediation are confidential and cannot be used in any subsequent due process hearing or other civil proceeding. The mediation session must be held within 20 days of the date the request is received by HCPSS, unless the party filing the request agrees to a longer time period. If the parties reach a complete or partial agreement, the agreement is put into writing and signed by both parties. The mediation agreement is legally enforceable in any state court of competent jurisdiction or in a district court of the United States. Following mediation, the DSE Office of Nonpublic Services and Special Education Compliance works with the school to complete any agreed upon actions. The school administrator is responsible for ensuring implementation of a mediation decision in consultation with the Instructional Facilitator for Nonpublic Services and Special Education Compliance. Documentation regarding mediation agreements is maintained in the Office of Nonpublic Services and Special Education Compliance.

The Instructional Facilitator will attempt to resolve any dispute prior to the request for mediation. In addition, the Instructional Facilitator may contact the Family Support and Resource Center to assist in resolving the parental concern. Mediation may not be used to deny or delay a parent's right to a hearing on the parent's due process complaint or to deny any other rights afforded to parents.

### **Due Process Hearings:**

A due process hearing is a legally binding administrative proceeding in which a final decision is rendered by the administrative law judge (ALJ). A parent or HCPSS may file a due process complaint on any matter related to the identification, evaluation, or educational placement, or the provision of FAPE to a student with a disability. The procedures are governed by the Rules of Procedure of the OAH and special education law. The OAH staff schedule all due process hearings. HCPSS is represented by counsel at all due process hearings. Parents may be represented by counsel or represent themselves.

A written request for a due process hearing must be filed no later than 2 years after the violation is alleged to have occurred. IDEA provides an exception to this limit if the parent was prevented from requesting the hearing due to specific misrepresentations by the HCPSS that it had resolved the problem forming the basis of the complaint; or the

HCPSS withheld information from the parent that was required under IDEA to be provided to the parent.

The HCPSS must convene a resolution session (see description below) with the parent within 15 days of receipt of the parent's due process request, unless both parties agree, in writing, not to conduct the session, or agree to use mediation through the OAH. If, through the resolution session, the HCPSS is not able to resolve the issues to the parent's satisfaction within 30 days of the receipt of the due process hearing request, a hearing may then be held and the timeline for issuing a decision commences (within 45 days). If the parties agree in writing to waive the use of a resolution session and go directly to a due process hearing without attempting mediation, the hearing must be held and a decision issued within 45 days of the date of the agreement not to mediate. If the parties agree to attempt to resolve the issues subject to the hearing request through mediation and waive the resolution session, but are unsuccessful, a hearing may be held and a decision issued within 45 days of the date the parties agreed to waive the resolution session.

The ALJ issues a written decision, which is final for the purposes of judicial review. Copies of the decision are sent directly to the parents and the HCPSS. The Instructional Facilitator for Nonpublic Services and Special Education Compliance shall inform appropriate HCPSS personnel or agency personnel of due process hearing decisions. The school-based administrator is responsible for ensuring implementation of hearing decisions, in consultation with the DSE Instructional Facilitator for Nonpublic Services and Special Education Compliance. The parties have the right to appeal within 120 days of the ALJ's decision.

Documentation may be maintained in the student's educational record at the school where service is provided, and at the Office of the Instructional Facilitator for Nonpublic Services and Special Education Compliance.

### **Child's Status During Proceedings**

Unless the parent and the HCPSS agree on an alternative placement, the student shall remain in the current educational placement during the pendency of the hearing.

### **Resolution Session:**

HCPSS is required under IDEA to convene a resolution meeting when a parent requests only a due process hearing; however, the resolution meeting may be waived if both the parents and the HCPSS agree in writing to waive such meeting or agree to use the mediation process described above. The resolution session is intended to provide an opportunity to resolve issues in the parent's due process request in an efficient and effective manner, so that parents and public agencies can avoid a due process hearing.

The HCPSS must convene the resolution session with the parents and the relevant member or members of the IEP team (determined by the parents and HCPSS) who have specific knowledge of the facts identified in the complaint. A HCPSS representative with decision-making authority on behalf of HCPSS must attend the meeting. A HCPSS attorney may not attend the resolution meeting unless the parent is represented by

counsel. This meeting must occur within 15 days of receiving notice of the parent's request for due process hearing unless both parties agree, in writing, to waive the resolution session or agree to use mediation to try to resolve the dispute.

At the resolution session, the parents discuss their complaint and the facts that form the basis for the complaint. HCPSS is provided an opportunity to resolve the complaint. If the case is not resolved within 30 days of the receipt of the parent's request for a due process hearing, a due process hearing is scheduled.

In the case that a resolution is reached at a resolution session, the parties shall execute a legally binding agreement that is signed by both the parent and a representative of the agency who has the authority to bind HCPSS. This agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

If the parties execute such an agreement, a party may void such an agreement within 3 business days of the agreement's execution. If HCPSS is unable to obtain the participation of the parent in the resolution session after reasonable efforts have been made and documented, HCPSS may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint. A due process hearing may occur by the end of the resolution period, if the parties have not resolved the dispute that formed the basis of the due process complaint.

### **Expedited Due Process Hearings**

A parent may request an expedited due process hearing when –

- A student is subject to a change of placement due to a violation of a student code of conduct;
- The parents disagree with the manifestation determination; or
- When the student is placed in an interim alternative educational setting.

In addition, an expedited due process hearing shall occur if, at the time of the hearing request, the student is not enrolled and attending an approved educational program.

HCPSS may pursue an expedited due process hearing when staff believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others.

An expedited due process hearing must occur within 20 school days of the date the complaint is filed. In an expedited due process hearing, the ALJ must make a determination within 10 school days after the hearing. Unless the HCPSS and the parent agree in writing to waive the resolution session, or agree to mediate, a resolution session must occur within 7 days of receiving notice of the due process complaint and the due process hearing may proceed unless the matter has been resolved to the satisfaction of the parent and the HCPSS within 15 days of the receipt of the due process complaint.

The ALJ has the authority to return the student with a disability to the placement from which he or she was removed if the hearing officer determines that the removal was in violation school officials authority as stated in 34 CFR §300.530 or if the ALJ determines the behavior was a manifestation of the child's disability. Additionally, the ALJ may order a change of placement to an appropriate IAES for not more than 45 school days if it is determined that maintaining the current placement is substantially likely to result in injury to the child or others. If HCPSS school staff in conjunction with the DSE believe that returning the child to the original placement is substantially likely to result in injury to the student or to others, an additional 45 day removal by the OAH may be pursued.

Decisions from expedited due process hearings are appealable consistent with 34 CFR §300.514.

### **School Observations**

HCPSS parents are welcome to visit their children's schools. For safety and security reasons, all visitors, including parents, are asked to report to the front office upon arrival. Parents must obtain advance approval from the school administrator to visit an individual classroom or to sit in on a class. Teachers may request that a visit be rescheduled based on the instructional needs and the best interests of the students. If parents wish for others to visit a school or classroom, this may be scheduled by calling the school office. If parents request an individual observe their child in class, the parents will complete a *Release of Education Records* form. The school administrator will arrange for a co-observer for all observations by staff other than the student's parents. The co-observer may be a school staff member or a representative from the DSE.

### **Educational Records**

The parent of a student with a disability must be given the opportunity to inspect and review all the student's educational records with respect to the identification, evaluation, and educational placement, and the provision of FAPE. The principal is responsible for implementing the Howard County Public School Policy 9050 and corresponding implementation procedures for *Student Records and Confidentiality*, which address inspection and review of a student's records by parents. The policy and procedures may be found in the *Howard County Public School System Student Record Manual*, available from the Department of Student Services.

Parents must also be afforded access to educational records before any meeting regarding the student's IEP or due process hearing related to identification, evaluation, FAPE, or educational placement of the student.

Parents are notified of confidentiality policies and procedures, and directory information in the *Calendar & Handbook for the Howard County Public School System* that is distributed annually to each parent by the HCPSS Public Information Office.

### **Parents' Rights to Access Their Child's Education Records**

Educational records are those which contain personally identifiable information. Personally identifiable information includes:

- The name of the student, the student's parent, or other family member;
- The address of the student;
- A personal identifier such as the student's Social Security number or student number; and
- A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

HCPSS must comply with parent's request to inspect and review educational records without unnecessary delay and before any meeting regarding an IEP, a hearing, a resolution session, and in no case more than 45 days after the request has been made. The right to inspect and review education records includes:



- The right to a response to reasonable requests for explanations and interpretation of the records;
- The right to request copies of the records if failure to provide those copies would effectively prevent the parent from exercising the right to inspect or review the records; and
- The right to have a representative of the parent inspect and review the records.

### **Parents' Request for Explanation and Interpretation of Records**

The principal or Instructional Facilitator for Nonpublic Services and Special Education Compliance shall respond promptly to reasonable requests from the parent or eligible student for explanations and interpretations of records.

### **Parents' Request for Copies of Student Records**

The parent has the right to request HCPSS provide copies of the records **if failure to provide those copies would effectively prevent the parent from exercising the right to inspect or review the records**. *HCPSS Policy 9050-PR Implementation Procedures for Student Records and Confidentiality* Section 5D (effective March 13, 2008) states: *If, for any valid reason such as working hours, distance between record location sites, or health, a parent cannot personally inspect and review a student's education record, the school will arrange for the parent or eligible student to obtain copies of the record.* A fee may be charged by the school if the parent requests copies of any or all of the student's records **if the fee does not effectively prevent the parents from exercising their right to inspect and review those records**. When a fee is charged for copying, HCPSS has established a fee of \$.20 per page, only if the cost is over \$1.00. For large volume copying, HCPSS' best practice is to estimate the number of pages requested by the parent, obtain payment from the parent, and then copy the student record pages requested. If the actual fee exceeds the estimate, the difference will be refunded.

### **Storage of Student Records**

Each student has one educational record including cumulative records, special education records, 504 records, discipline records, and health records.

- Student records are kept in a file that can be locked in the administrative or counseling suite.
- Health records are maintained in the Health suite.
- Discipline and child abuse records are maintained in a separate secure confidential file in the principal's office.

### **Transfer of Student Records**

When a student leaves Howard County, the educational records stay at the last school of enrollment. Records should not be sent to the next level, e.g. from elementary to middle. The student's record continues to be maintained at the last school of enrollment for 6 years or until the student reaches the age of 21.

- **Transfer from school-to-school within Howard County** – Originals of all records should be sent including health, discipline, special education, and 504 records. Keep

copies of attendance card, test card, annual school performance card, immunization and residency documents.

- **Transfer from Howard County school to a Maryland public school** – Originals of all records should be sent including health, discipline, special education, and 504 records. Keep copies of attendance card, test cards, annual school performance card, immunization and residency documents, and most recent IEP (listed below\*) and 504 information.
- **Transfer from Howard County school to outside Maryland or to any private school** – Copies of records should be sent. Attendance card, test cards, annual school performance card, immunizations, discipline records, 504 information, and most recent IEP information (listed below\*)

\*Upon receipt of a written request from a school, or with written parent or eligible student request, the following special education information in the student's file should be sent:

- Current IEP and IEP implemented during the previous school year
- Pertinent data related to the goals and objectives on the current IEP
- IEP team meeting minutes on the *IEP Team Report* and/or the *Reevaluation Report* since the last evaluation or reevaluation (Note: If last reevaluation did not include formal assessments with written reports, send the most recent assessment report for each area assessment.)
- Most recent assessment reports (all reports except psychological and psychiatric (These reports must be requested separately from the Department of Psychological Services or the CDC)
- Medical Assistance information

### **Student Record When HCPSS Places a Student in a Nonpublic School**

When HCPSS' CEPT places a student in a nonpublic school to receive FAPE, the student remains a HCPSS student. The student's record is maintained at the home school until the student changes levels. For example, if a fifth grade student remains placed at the nonpublic school for sixth grade, the student record is sent to the districted middle school based upon the student's residency. If a student attended Homewood or a regional program when placed by CEPT at the nonpublic school, the student record is returned to the student's home school.

### **Maintenance Procedures for Student Records**

Each student has one educational record, including cumulative records, special education records, 504 records, and health records. Health records are maintained in the health suite. All others are maintained together in one location, either an administrative area or counseling suite. Records are accessible only to authorized individuals.

The special education ITL or special education teacher shall review student records before a student's records are transferred from the Regional Early Childhood Center (RECC) to first grade, fifth grade to sixth grade, from eighth grade to ninth grade, and after a student graduates from secondary school, completes a program adopted by the Board of Education, leaves school, or reaches the age of 21. Student records shall be reviewed annually during May and June, and prior to transfer to another school to

determine that -

- Student records are up-to-date and in usable condition.
- Obsolete information is not included.

The special education ITL or special education teacher shall re-file or remove from the student records outdated and obsolete data and information as outlined in the “Special Education” section below.

If the student leaves HCPSS, the student records should be maintained at the last school of enrollment. The records should not be sent on to the next level, i.e. elementary, middle, high. If the last school of attendance at graduation or when moving from Howard County is Homewood, the records would be sent back to the home school for maintenance.

The special education ITL or special education teacher shall remove and shred the following information/data that is more than six (6) years old:

- Samples of student work

The special education ITL or special education teacher shall remove the following documents that are more than **six (6)** years old and store them in a folder within the student records titled “Outdated Information.”

- Assessment reports other than the psychological and psychiatric reports
- Test protocols and informal information
- IEPs
- Summaries of IEP team meeting discussions and decisions
- Documentation of services provided (logs, etc.)
- Observation logs
- ESY data collection
- Secondary Student Progress Report
- Performance information documenting progress toward IEP goals and objectives

If the student has been assessed through Alternative Maryland State Assessment Program, the special education ITL or special education teacher shall place the student’s score report within the student folder titled “Assessments and Evaluations.”

### **Retention of Student Records:**

Parents of students who have received special education services or students who have received special education services and who have reached the age of majority will be notified with a letter titled *Parent Notice of Student Record Disposal* of intent to destroy the student records 6 years from when the student:

- Graduates from secondary school;
- Completes a program adopted by the Board of Education;
- Leaves school;
- Is dismissed from special education services; or
- Reaches the age of 21.

The parents, or students who have reached the age of majority, can at any time before the

destruction date, request to review and/or pick up copies of the records after the file is no longer active. Test protocols should not be copied for the parent or student.

IEPs, summaries of IEP team meeting discussions and decisions, assessment reports, and medical assistance information shall be maintained in the student folder at the school the student attends/last attended according to the state minimum standards for the retention of student records.

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### **Legal References:**

- 34 CFR §300.501 Opportunity to examine records; parent participation in meetings
- 34 CFR §300.503 Prior notice by the public agency; content of notice
- 34 CFR §300.504 Procedural safeguard notice
- 34 CFR §300.506 Mediation
- 34 CFR §300.507 Filing a due process complaint
- 34 CFR §300.508 Due process complaint
- 34 CFR §300.510 Resolution process
- 34 CFR §300.511 Impartial due process hearing
- 34 CFR §300.512 Hearing rights
- 34 CFR §300.513 Hearing decisions
- 34 CFR §300.514 Finality of decision; appeal; impartial review
- 34 CFR §300.515 Timelines and convenience of hearings and reviews
- 34 CFR §300.516 Civil action
- 34 CFR §300.517 Attorneys fees
- 34 CFR §300.611 Definitions