

Washington State Center for Childhood Deafness & Hearing Loss

PROCEDURE: **2161P**

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SUBJECT: **Special Education and Special Services for Eligible Students**

Approved by:



Rick Hauan, Executive Director

Special Education and Related Services for Eligible Students

The purpose of these special education program procedures for Washington School for the Deaf (WSD) under the auspices of the Washington State Center for Childhood Deafness and Hearing Loss (CDHL) is to address program areas where state and federal regulations require specific agency procedures or permit agency discretionary choices.

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

Free Appropriate Public Education (FAPE)

CDHL will apply annually for Federal Part B and state special education funding to assist in the provision of special education and any necessary related services provided at WSD. This funding is in addition to general fund - state allocation.

WSD offers services to eligible deaf/hard of hearing students age three to 21 who are residents of the state of Washington without charge to the student or his/her family. This does not include incidental fees that are normally charged to all students. Special education services will be provided at the preschool, elementary and secondary level and are provided in conformance with the student's Individual Education Program (IEP).

WSD provides a continuum of services for students. Where WSD is unable to provide all or part of the special education or necessary related services, it will make

arrangements through contracts with other public or non-public sources, interagency agreements or interagency coordination.

Early Intervention

WSD participates in the provision of early intervention services to eligible children with a disability, birth to three, consistent with the state lead educational agency's policies and procedures and the regulations implementing Part C of the IDEA, to the extent funding and resources are available.

Students Covered by Public or Private Insurance

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

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

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

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

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

1. A statement of the parental consent provisions;
2. A statement of the "no cost" provisions;
3. A statement that the parents may withdraw their consent to disclose personally identifiable information to the agency responsible for administering the state's public benefits or insurance, and

4. A statement that a parent's withdrawal or refusal to consent does not relieve WSD of its responsibility to ensure that all required services are provided at no cost to the parents.

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

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

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

The superintendent or designee is responsible for providing the required notices and requests for consent to parents under this section.

Parent Participation in Meetings

Washington School for the Deaf (WSD) encourages parental involvement and sharing of information between WSD and parents to support the provision of appropriate services to its students. As used in these procedures, the term "parent" includes biological and adoptive parents, legal guardians, persons with legal authority to act in the place of a parent, such as relatives and stepparents, foster parents, persons appointed as surrogate parents and adult students.

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

When a meeting is scheduled, parents will be:

1. Notified of the meeting early enough that they will have an opportunity to attend/participate; and
2. Notified of the purpose, time, and location of the meeting and who will be in attendance.

When the meeting is to address the IEP or placement, the parent will be:

1. Notified that WSD or the parent may invite others who have knowledge or special expertise of the student; and
2. Consulted in order to schedule at the meeting at a mutually agreeable time and place.

WSD shall take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents whose native language is other than ASL or English.

The special education secretary is responsible for inviting the parents to meetings and will keep documentation of the information provided and the methods used to notify the parents of the meeting. WSD may proceed with the IEP or placement meeting if WSD is not able to convince the parent to attend. In this case, WSD will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent and/or other means used to contact the parent. This documentation will be kept in the student's special education file.

If the parent cannot attend the IEP or placement meeting but wishes to participate, WSD will arrange for other means to participate. This can include individual or conference phone calls, videophone, K-20 conferencing or other means of conferencing.

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

Identification and Referral (Child Find)

The purpose of child find is to locate, evaluate and identify children with suspected disabilities in need of special education services including those who are not currently receiving special education and related services and who may be eligible for those services. WSD does not have responsibility for Child Find for students admitted for a 45 school day diagnostic evaluation. WSD does have responsibility for Child Find for students who are fully enrolled at WSD.

Evaluation of Students

A student who is enrolled at WSD as a 504 student or a special education student for whom additional disability areas are suspected may be referred for a special education evaluation by parents, school staff or other persons knowledgeable about the student. Referral will be made by notice to the special education secretary. The superintendent is responsible for ensuring staff understands the referral process. Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked to either make the referral in writing or go to the administrative offices for assistance in making the referral.

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person will notify the special education secretary.

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

The special education secretary (a) records the referral; (b) provides written notice of the referral to the parents; and (c) advised the school psychologist to collect and review school data and information provided by the parent to determine whether evaluation is warranted. During the referral period, the evaluation team will collect and review existing information from all sources, including parents. Examples may include:

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

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

Recommendations regarding evaluation are forwarded to the evaluation team. After the evaluation team reviews the request for evaluation and supporting data and does not suspect that the child has a disability or an additional disability, WSD may deny the request. In this case written notice, including the reason for the denial and the information used as the basis for the denial, must be given to the parent.

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

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

1. The student is a ward of the state and does not reside with a parent;
2. The parent cannot be located, or their rights have been terminated;
3. Consent for an evaluation is given by an individual appointed to represent the student; or
4. The student is 18 years or older, in which case the student gives consent.

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

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

If the student withdraws from WSD after the evaluation is begun but before completion, the new school district will be responsible for completion of the evaluation. In this case, WSD will provide information to the new school district regarding the evaluation activities completed at the time of withdrawal.

If a parent does not provide written, informed consent for the evaluation, the special education secretary will notify the evaluation team. The superintendent will make a determination as to whether to use mediation to seek agreement to evaluate or file a due process hearing to override the parent's refusal to consent.

Evaluation Requirements

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

The evaluation must be an individual assessment designed to determine:

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

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

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

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

1. Review of existing data, including corresponding response to intervention (RTI) documentation;
2. Relevant functional and developmental information;
3. Information from parents;
4. Information from other providers;
5. Information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;
6. Current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records and observations;
7. Teacher and related service providers' observations;
8. Testing and other evaluation materials, which may include medical or other evaluations when necessary.

All current evaluation data as well as data previously reviewed by the team must be considered. Professional members of the evaluation team need to be familiar with qualifying disability definitions and criteria in federal and state rules. This review of existing data may be in the form of a meeting of IEP team members, or may be conducted without a meeting. It includes data provided by parents, data gathered in the general education classroom or from state and district level assessments. The data may provide information about the student's physical condition, social or cultural background and adaptive behavior.

When additional assessments are necessary, the evaluation team has the responsibility of selecting, administering, interpreting and making judgments about evaluation methods and results, and ensuring the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The gathering of additional data in combination with existing data must be sufficiently comprehensive to address all areas of the suspected disability and any special education needs, whether linked to the disability category or not. If the IEP team

determines that no additional data are needed, the special education secretary will notify the student's parent of that determination and the reasons for it, and inform them of their right to request additional assessments. WSD will complete the evaluation using existing data.

Parents and school staff are encouraged to work toward consensus, but the school has the ultimate responsibility to determine whether the student has a disability or not. The special education secretary will provide the parent with prior written notice of the eligibility decision, as well as a copy of the evaluation report. If the parent disagrees with the eligibility decision, the evaluation team will inform them of their dispute resolution options described in the procedural safeguards.

Evaluation of Transfer Students

If a student is accepted into a 45 school day diagnostic placement while an evaluation process is pending from the sending district, the sending district is responsible for completing the evaluation according to established timelines and criteria. WSD is not responsible for evaluation for eligibility of special education for students during the 45 day diagnostic placement.

Eligibility

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

1. A student is not eligible if the determinant factor is lack of appropriate instruction in reading or math, based upon the state's grade level expectations or limited English proficiency.
2. Eligibility may be determined by documented professional judgment when:
 - a) Properly validated tests are unavailable; or
 - b) Corroborating evidence indicates that results were influenced due to measuring a disability.

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

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

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

1. The student is determined through a reevaluation to no longer be eligible for special education;
2. The student has met WSD's high school graduation requirements; or
3. The student has reached age 21. A special education student, whose 21st birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year.
4. The parent or adult student submits a written revocation to consent pursuant to WAC 392-172A-03000(2)(e).

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

Evaluation Report

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

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

1. Identify the disability which requires special education and related services, if a disability exists;
2. Discuss assessments and review data supporting conclusions regarding eligibility;
3. Include the additional information required for the specific learning disability eligibility category;
4. Describe how the disability or disabilities affect the student's involvement and progress in the general curriculum;
5. Make recommendations to the IEP team with respect to special education and related services needed, materials or equipment, instructional and curricular practices, student management strategies, the need for Extended School Year (ESY) services and location of services;
6. Include other information, as determined through the evaluation process and parent input;
7. Include the additional information required for the specific learning disability eligibility category;
8. Provide any necessary professional judgments and the facts or reasons in support of the judgments; and
9. Be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions shall prepare a statement presenting the conclusion.

The special education secretary is responsible for notifying parents of the date, time and location of evaluation meetings by following the procedures in the parent participation section for inviting parents to meetings.

Reevaluations

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

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

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

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

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

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

1. Whether the student continues to be eligible for special education and any necessary related services;
2. The present levels of performance and educational needs; and
3. Whether any additions or modifications to the student's program are needed.

This review can occur with or without a meeting or through individual review. If the IEP team members and any other persons reviewing the data determine that no further testing is necessary, WSD will notify the parents of this determination, using written prior notice and will inform parents that they have the right to request assessments if they disagree with the determination that additional testing is not necessary. Parent consent is not required if the reevaluation does not require additional testing.

- a) If additional testing is needed, the school psychologist will request written parental consent for reevaluation and provide prior written notice identifying the areas of assessment.
- b) If the parents do not return the signed consent form, WSD shall send another letter explaining the need for reevaluation and parent consent and will enclose another consent form and a copy of the prior written notice. In addition, WSD will document its reasonable attempts to obtain consent such

- as telephone calls, emails, personal contact and other efforts to obtain consent;
- c) If the parents do not respond to the request for consent, and WSD has documented its reasonable attempts to obtain consent, WSD can proceed with the reevaluation; and
 - d) If the parents refuse to consent to the reevaluation, the evaluation group will notify the superintendent so that WSD can determine whether it will seek mediation in order to obtain consent or request a due process hearing to ask an administrative judge to override the parents' refusal to consent.

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

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

This notice will occur within ten school days of the eligibility decision. The special education secretary is responsible for sending the notice.

Reevaluation and Graduation

No reevaluation is required when special education eligibility terminates due to graduation from high school with a regular diploma or due to reaching the end of the school year during which the student turned 21. Instead, WSD will provide prior written notice to the student and/or the parent (one month before the student's anticipated last day of school) and the IEP team will provide the student with a summary of academic achievement and functional performance including recommendations on how to assist the student in meeting post-secondary goals. This summary will be provided to the student at the time of the final year's IEP meeting. The transition services coordinator is responsible for assuring that the IEP team completes the summary of academic achievement and functional performance.

Independent Educational Evaluations (IEE)

Parents of students eligible for special education, students referred for special education and determined to not be eligible or students determined not to need an evaluation have a right to obtain an IEE at public expense, without unnecessary delay, each time WSD conducts an evaluation of the student.

When parents request an IEE, WSD must decide within 15 calendar days whether or not it agrees to provide it. Any parent request for an independent evaluation should be immediately referred to the principal. The principal and evaluation team shall review the request and determine whether the request is warranted. If WSD agrees to provide an IEE, arrangements will be made promptly. If WSD denies the request to pay for an IEE,

it must file for a due process hearing within 15 calendar days of the parent's request. WSD may request mediation as an option after filing the due process hearing. If the parents withdraw their request for an IEE, the due process hearing can be dismissed.

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

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

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

1. Licensed, credentialed or otherwise qualified within the state of Washington or state of residence/practice to perform an evaluation in the specific professional discipline for which an independent evaluation is sought;
2. Knowledgeable and experienced in evaluating children with similar disabilities;
3. Geographically located within the state of Washington; and
4. Available to WSD at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington.

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

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

Individualized Education Programs (IEP) Transitions of Birth-to-Three Students to Preschool

CDHL/WSD will participate in transition planning conferences, arranged by the designated Part C lead agency and the home school district, for each student to whom Part C services have been provided by CDHL/WSD, and who may be eligible for preschool services. Transition plans will be designed to promote uninterrupted provision of appropriate services to the child.

The regional Family Resource Coordinator (FRC) and the child's home school district are responsible for the timely execution of transition planning conferences, that are

arranged at least 90 days before the student's third birthday, and the CDHL/WSD Early Childhood Specialist will participate in the meeting.

1. Participants will review the child's program options for the period from the child's third birthday through the remainder of the school year;
2. If a student is determined eligible for special education services, the CDHL/WSD Early Intervention Specialist will provide input, upon the request of the home school district, for the development and implementation of the IEP by the student's third birthday. If the third birthday is not during the school year, the home school district may set the IEP start date for the beginning of the school year.

IEP Development

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

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

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

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

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

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

WSD will provide parents/guardians with a copy of WSD's *"Isolation and Restraint of Students with IEPs and Section 504 Plans"* policy 3247) when the student's IEP is created.

The IEP team includes:

1. The parent(s) of the student;
2. Not less than one special education teacher, or if appropriate, not less than one special education provider of the student;
3. A representative of WSD, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of WSD resources;
4. An individual who can interpret the instructional implications of the evaluation results;
5. Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both WSD and the parents, at the discretion of the person making the invitation;
6. The student, when appropriate, or when required; students must be invited when the purpose of the meeting includes discussion of transition needs or services;
7. An agency representative may be invited. If the agency representative can not attend the meeting, WSD shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision;
8. Students must be invited when the purpose of the meeting includes discussion of transition needs or services.

The parents and WSD must agree in writing before any of the above team members are excused from all or part of a meeting. If a team member's area of the IEP is being discussed or modified, the parent and WSD must consent to their excusal. The specific team member must provide advance written input for their part of the IEP prior to the meeting. Permission for excusal will be obtained at the start of the IEP meeting. Existing team members may fill more than one of these roles if they meet the criteria for the role.

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

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

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

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

IEP Preparation and Content:

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

1. The strengths of the student including the academic, developmental and functional needs of the student and the concerns of the parents for enhancing the education of their child;
2. Whether positive behavioral interventions and supports, including a behavioral intervention plan, as defined by WAC 392-172A-01031, are needed to address the student's behavior;
3. Whether the student with limited English proficiency has language needs;
4. Whether Braille instruction is appropriate for a student who is blind or visually impaired;
5. Whether a student has other language and communication needs; and
6. Whether assistive technology devices or services are needed.

IEP content includes:

1. The student's present levels of academic and functional performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or preschool activities;
2. Measurable academic and functional annual goals for the student (including benchmarks or short term objectives if the student is participating in alternate assessments) that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs;
3. A statement of special education services, any necessary related services, and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the student and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other special education students and non-disabled students and participate in extracurricular and other nonacademic activities;

4. A statement of the extent, if any, that the student will not participate with non-disabled students in general classroom, extra-curricular and non-academic activities;
5. A statement of any individual appropriate accommodations in the administration of state or other approved assessments of student achievement that are needed to measure academic achievement and functional performance of the child on state assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why the student cannot participate in the regular assessment(s) and why the particular alternative assessment is appropriate for the child;
6. The date for the beginning of services and the anticipated frequency, location and duration of services and modifications;
7. A statement of how the student's progress towards goals will be measured, how the student's parents will be regularly informed of their child's progress towards the annual goals and whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Measurement of the student's progress will be based on the data collected as designated on the IEP. The individual responsible for implementing the goal is responsible for maintaining the data used to measure progress. Information to the parents can be provided at the same time the WSD issues progress reports or report cards, or other agreed times as identified in the IEP>
8. The projected beginning date for the special education and related services;
9. With an IEP that is in effect when the child turns 16, or sooner if the IEP team determines it is appropriate, a statement of needed transition services and any interagency responsibilities or needed linkages. The transition component must include appropriate measurable postsecondary goals based on age appropriate transition and assessments related to training, education, employment, and independent living skills where appropriate; and the transition services (including course of study) needed to assist the child in reaching those goals;
10. Emergency response protocols, if determined necessary by the IEP team for the student to receive FAPE and parents provide consent. Emergency response protocols must meet the requirements stated in WAC 293-172A-02105;
11. A behavioral intervention plan (BIP), if determined necessary by the IEP team for a student to receive FAPE. The BIP must meet the requirements stated in WAC 31-172A-01031;
12. The procedures by which parents/guardians will be notified of the use of isolation or restraint or a restraint device on their student (*Procedure 3247P: Use of Reasonable Force*);
13. A statement regarding transfer of rights at the age of majority. The special education facilitator will provide prior written notice to the student one year prior to student turning 18 years of age; and
14. Extended school year (ESY) services. The consideration for ESY services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. ESY services are not limited by categories of disability, or limited by type amount or duration of the services. If the need for

ESY services is not addressed in the IEP and ESY services may be appropriate for the student, the IEP team will meet by May 15th to address the need for ESY. Factors for the team to consider when determining the need for ESY may include, but are not limited to: 1) Evidence of regression or recoupment time based on documented evidence; or 2) A documented determination based on the professional judgment of the IEP team including consideration of the nature and severity of the student's disability, the rate of progress and emerging skills.

Use of isolation, restraint and restraint devices:

A. Definitions

1. Imminent: The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

2. Isolation: Restricting a student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

3. Likelihood of serious harm: A substantial risk that physical harm will be inflicted by a student:

- a. upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
- b. upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm;
- c. upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
- d. after the student has threatened the physical safety of another and has a history of one or more violent acts.

4. Positive behavioral intervention: Strategies and instruction that can be implemented in a strategic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.

5. Restraint: Physical intervention or force used to control a student, including the use of a restraint device. It does not include appropriate use of a prescribed medical, orthopedic or therapeutic device when used as intended, such as to achieve proper body position, balance or alignment or to permit a student to safely participate in activities.

6. Restraint device: A device used to assist in controlling a student, including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. Restraint device does not mean a seat harness used to safely transport students. This definition is consistent with RCW 28A.600.485(1)©, and is not intended to endorse or encourage the use of such devices or techniques with WSD students.

B. Practices presumed to be unreasonable when correcting or restraining any student under the age of 18.

Under RCW 9A.16.100, the following is a non-exclusive list of acts that are presumed unreasonable when correcting or restraining a child:

1. Throwing, kicking, burning, or cutting a child;
2. Striking a child with a closed fist;
3. Shaking a child under the age of three;
4. Interfering with a child's breathing;
5. Threatening a child with a deadly weapon; or
6. Doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

This non-exclusive list should not be read so as to imply that another, unlisted form of correction or restraint is permissible. Whether or not an unlisted use of force or restraint is presumptively permissible depends upon a balanced consideration of all relevant state laws and regulations, and whether the use is reasonable under the totality of the circumstances.

C. Conditions specific to use of isolation:

1. The isolation must be discontinued as soon as the likelihood of serious harm dissipated;
2. The enclosure will be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.
3. The isolation enclosure will permit continuous visual monitoring of the student from outside the enclosure.
4. An adult responsible for supervising the student will remain in visual or auditory range of the student at all times.
5. Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
6. Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.

D. Conditions specific to use of restraint and restraint devices:

1. The use of restraint or a restraint device must be discontinued as soon as the likelihood of serious harm has dissipated;
2. The restraint or restraint device will not interfere with the student's breathing;
3. Any staff member or other adults using restraint or restraint devices must be trained and certified by a qualified provider in the use of such restraint or restraint devices, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.
4. In the case of a restraint device, either the student will be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.

E. Prohibited practices involving restraint, use of force, and discipline:

The following practices are prohibited with students eligible for special education services

1. District personnel are prohibited from using aversive interventions;

2. District personnel are prohibited from physically restraining or isolating a student, except when the student's behavior poses an imminent likelihood of serious harm as defined above;
3. No student may be stimulated by contact with electric current, including, but not limited to, tasers;
4. A student may not be denied or subjected to an unreasonable delay in the provision of food or liquid as a form of punishment;
5. A student may not be the recipient of force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law (see above, for example, for a list of practices presumed to be unreasonable when used in correcting or restraining a child);
6. A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care;
7. A student must not be denied or subjected to an unreasonable delay in the provision of medication;
8. A student may not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110;
9. A student must not be forced to listen to noise or sound that the student finds painful;
10. A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance;
11. A student must not be forced to taste or ingest a substance which is not commonly consumed in its existing form or concentration;
12. A student's head must not be partially or wholly submerged in water or any other liquid;
13. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object except under the conditions set forth in WAC 392-172A.02110.

F. Documentation and Reporting Requirements

Districts must follow the documentation and reporting requirements for any use of isolation, restraint, or a restraint device consistent with RCW 28A.600.485 and the parental notification requirement of RCW 28A.155.210. See Policy and Procedure 3246. The principal or superintendent is responsible for ensuring proper documentation and reporting on any use of restraint or isolation is completed appropriately and accurately.

Transfer Students

Students who transfer from one district to another within the state continue to be eligible for special education and any necessary related services. When a special education student in a school district in Washington applies to WSD, the admissions team will review the student's records, including the IEP evaluation and supporting documents and any other records relating to the provision of special education or related services

to the student, from the school district in which the student was previously enrolled, pursuant to RCW 28A.225.330 and consistent with applicable Family Education Rights and Privacy Act (FERPA) requirements, and determine appropriate placement options in accordance with the *Admissions for new and former students* (policy 3000). The admissions team and principal in consultation with parents will review the student's IEP to ensure WSD provides appropriate educational services to those listed on the previous IEP until WSD adopts the previous IEP or develops, adopts and implements a new IEP.

Students who transfer from out of state to a local school district within the state of Washington and are eligible for services at WSD may apply for admission as outlined in policy 3000. The student's local school district is responsible for conducting the evaluation for Washington State eligibility and developing the initial Washington IEP. The admissions team will review the application for admission along with the evaluation, eligibility documentation and IEP to determine whether or not the student meets WSD's admissions criteria. If the student meets WSD's admissions criteria, follow the procedures described in the previous paragraph.

Placement

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes the determination of a special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes. The actual program is considered within the context of least restrictive environment (LRE) and the continuum of placement alternatives (reviewed below). When program decisions are addressed by the IEP team, proper consideration must be given to the LRE. Within the educational setting, if the student's academic, social, emotional and behavioral needs can be met, the student should be placed, whenever possible:

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

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

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

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

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

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

Within the nonacademic setting, students may be provided nonacademic and extracurricular activities with non-disabled students, if appropriate these may include participation on sports teams, classes or activities in the community. Limits on nonparticipation or conditions of participation must be designated in the IEP.

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

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

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

Procedural Safeguards

Consent

WSD will obtain informed, written parental consent before:

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

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

Informed consent means the parent or adult student:

1. Has been fully informed of all information that is relevant to the activity for which WSD is asking consent, and that the information is provided in his or her native language or other mode of communication;
2. Understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and

3. Understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

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

If WSD is unable to obtain a parent's consent, WSD may use mediation procedures to obtain a parent's consent or request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. WSD may not request a due process hearing to override a parent's refusal to consent to initial special education services.

Revocation of Consent to Provision of Special Education Services

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

Upon receipt of the parent's written notice of revocation, the special education secretary, with the knowledge of the principal and special education facilitator:

1. Will provide prior written notice for a reasonable time before the WSD stops providing services. The notice will include information about the effect of revocation and will inform the parent of the date the WSD will stop providing special education and related services.

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

Notice of Procedural Safeguards

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

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

The procedural safeguard notice used by WSD includes a full explanation of all the procedural safeguards relating to independent educational evaluation, prior written notice, parental consent, access to educational records, discipline procedures for students who are subject to placement in an interim alternative educational setting, state complaint procedures, mediation, the child's placement during pendency of due process proceedings including requirements for disclosure of evidence, due process hearings, civil actions and attorney's fees. Copies of WSD's special education procedural safeguards are available at the Office of the Superintendent, Washington School for the Deaf, 611 Grand Blvd, Vancouver, WA 98661, or on WSD's website at www.wsd.wa.gov

Prior Written Notice

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

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

The prior written notice will include:

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

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

1. Arranging for an interpreter if English or ASL is not the native language of the parent; or
2. Providing notice orally/visually if the native language is not a written language.

WSD will document in writing how this information was provided and that the parent understands the content of the notice. The principal/designee is responsible for notification.

Transfer of Educational Rights to an Adult Student

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

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

Appointment of an Educational Representative

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

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

Confidentiality and Records Management

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

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

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

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

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

Records management is also governed by *Preservation and Production of Electronic Records* (policy 4040 and procedure 4040P).

Surrogate Parents

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

The principal is responsible for determining the need for appointment of a surrogate parent.

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

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

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

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

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

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

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

The person selected as a surrogate:

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

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

Mediation

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

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

The superintendent of WSD is responsible for coordinating requests for mediation. If a parent requests mediation, notify the principal and the superintendent. The superintendent will respond to the parent and coordinate with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process are confidential.

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

Due Process Hearing

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

If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to the superintendent. If the parent has not filed the request for hearing with OSPI, WSD will forward the parent request to OSPI Administrative Resources Section. WSD may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing in a school year. The superintendent at WSD is

responsible for providing the parents a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

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

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

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

Discipline

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

Removal Up to Ten Days

The superintendent or principal may order the removal of a special education student from a current placement. WSD need not provide services to a special education student removed from the current placement for ten school days or less in any school year.

Removal for More than Ten Days

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

Change in Placement

A change of placement occurs when an eligible student is:

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

Whether a pattern of removal constitutes a change in placement is determined on a case-by-case basis by the principal and superintendent and is subject to review through due process and judicial proceedings.

Manifestation Determination

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

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

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

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student's disability. WSD will take immediate action to remedy the deficiencies, and will:

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

Special Circumstances

The Executive Director, Superintendent, Principal or Director of Residential Services may order a change in placement to an appropriate interim alternative educational setting for not more than 45 school days, if a WSD student:

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

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

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

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

1. WSD believes that maintaining the student’s current placement is substantially likely to result in injury to the student or others. If the student’s IEP team believes the student may not be maintained in his or her current placement, the IEP team should work with the principal or superintendent.

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

Basis of Knowledge

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

WSD is deemed to have knowledge if:

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

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

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

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

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

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

Staff Qualifications

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

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

There may be occasions when, despite efforts to hire or retain highly qualified teachers, CDHL/WSD is unable to do so. Under WAC 392-172-A-02090(2), the following options are available in these situations:

1. Teachers who meet state board criteria pursuant to WAC 18-82-110(3) as now or hereafter amended, are eligible for a pre-endorsement waiver. Application for the special education pre-endorsement waiver shall be made to the special education section at the Office of the Superintendent of Public Instruction.

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

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

If CDHL/WSD must temporarily assign a classroom teacher without a special education endorsement to a special education position, the Human Resources Manager will document in writing that:

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

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

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

Personnel Development

In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed:

1. Special education concerns will be identified through a staff needs assessment completed by administrators, teachers, educational staff associates, program assistants, parents and volunteers;
2. All personnel who use restraint, restraint devices, and/or isolation must be certified and annually trained in the use of such restraint, restraint devices and/or isolation;
3. In-service training schedules will be developed based upon the results of WSD assessment and in support of needs identified;
4. Training activities may be conducted for deaf education and special education staff, staff of other agencies and organizations and private school staff providing services for special education student; and
5. Training for classified staff in the state recommended core competencies will occur through education reform training opportunities.

Public Participation

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through the principal's office and the office of the superintendent. A notice regarding the availability of such documents will be placed on the WSD website www.wsd.wa.gov .