

Saucon Valley School District

Academic and Personnel Committee

September 28, 2022 – 5 pm
District Office Conference Room

Welcome to the meeting of the Academic and Personnel Committee. Our objective is to serve the students, parents, and residents of our community. You are an important part of this meeting and we look forward to your questions and comments.

We are all here for the same reason. All opinions are welcomed and equally valuable. Our only request is that we address each other with civility and respect. Our courtesy toward each other is the best way to show our students how much we respect them as well.

Committee Members - Susan Baxter, Cedric Dettmar, Tracy Magnotta, Shamim Pakzad

Committee Agenda

- I. Call to the Order – Tracy Magnotta, Committee Chair**
- II. Pledge of Allegiance**
- III. Recording of Attendance – Tracy Magnotta, Committee Chair**
- IV. Motion to Approve Agenda**
- V. Approval of Minutes – August 24, 2022**
- VI. Courtesy of the Floor to Visitors – Agenda Items Only – Visitors should state their name and address**
- VII. Discussion & Action:**
 - Policy 113 – Special Education
 - Policy 113.1 – Discipline of Students with Disabilities
 - Policy 113.2 – Behavioral Support Program
 - Policy 113.2 AR – Behavioral Management Program
 - Policy 113.3 – Screening and evaluations for students with Disabilities
 - Policy 113.4 – Confidentiality of Special Education Student's Information
 - Policy 113.5 – Parental Status and Appointment of Surrogate Parents for Children with Disabilities
- VIII. New Business**
- IX. Old Business**
- X. Citizens' Inquiries and Comments – Visitors should state their name and address.**

XI. Announcements

Future Meetings ~

Wednesday, October 26, 2022 – 5:00 PM

XII. Motion to Adjourn Meeting

The Saucon Valley School District does not discriminate on the basis of race, color, national origin, age, sex, or handicap.

Saucon Valley School District
Academic and Personnel Committee
Minutes of August 23, 2022

Present were Academic and Personnel Committee Board Members: Dr. Shamim Pakzad, Cedric Dettmar, and Susan Baxter, Tracy Magnotta. Also present were: Superintendent Jaime Vlasaty, Business Manager David Bonenberger

Meeting began at 5:00 pm

Approve agenda motion by Dr. Shamim Pakzad second by Susan Baxter.

Vote: 4-yes, 0-no

Approve minutes motion by Dr. Shamim Pakzad second by Susan Baxter.

Vote: 4-yes, 0-no

Courtesy of the floor: None

1. Robert Frey – Athletic Director, had a presentation on Jr. High and Middle school sports
2. Policies -
 - Policy 251 - Homeless Students
 - Policy 251 AR-0 – Homeless Students
 - Policy 251 AR-1 – Homeless Intake Form
 - Policy 251 AR-2 – Procedural Safeguards Notice of Denial of Enrollment Form
 - Policy 251 AR-3 – Enrollment Complaint to PDE Form

Dr. Shamim Pakzad, second by Susan Baxter moved to send this item to the Board for approval. Vote: 4-yes, 0-no

3. Summer School Update: 25 participants
4. SBIRT – Screening Brief Intervention Referral Tool

New Business- None

Old Business- None

Citizen Inquiries and Comments: None

Future Meetings: September 21, 2022

Dr. Shamim Pakzad, second Susan Baxter moved to adjourn the meeting.

Meeting adjourned at 6:17 pm

Book Policy Manual

Section 100 Programs

Title Special Education

Code 113

Status Active

Adopted

Purpose

The district shall offer each student with a disability ~~who is a resident of the district shall be provided quality education programs and services that~~ **appropriately** meet the student's needs for educational, instructional, transitional and related services. ~~The special education program shall be designed to comply with the law; conform to district goals; and integrate programs of special education with the regular instructional program of the schools, consistent with the interests of the student with a disability and other students.~~ **A student who requires special education shall receive programs and services according to an individualized education program (IEP). The IEP shall provide access to the district's general curriculum and participation in state and local assessments, including supplemental aids and services that permit the student to be educated, to the maximum extent appropriate, with nondisabled peers. The district shall provide a continuum of placement options to appropriately meet the needs of students with disabilities.**[\[1\]\[2\]\[3\]\[4\]\[5\]\[6\]](#)

Definitions

Students with disabilities ~~who are provided special education programs by the district shall include all resident children who meet the criteria defined by law.~~ **school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services. School-aged children who have identified disabilities but do not require special education may be entitled to accommodations or services or to enroll in courses of study in the district which serve students with disabilities pursuant to other law or Board policy.**[\[7\]\[8\]\[9\]\[10\]](#)^[11]

Individualized Education Program (IEP) - the written educational statement for each student with a disability that is developed, reviewed and revised in accordance with federal and state laws and regulations.[\[12\]\[13\]](#)

Parent/Guardian - for purposes of this policy and Board policies related to special education, parent/guardian shall have the definition of parent in IDEA statute and regulations, which includes a biological or adoptive parent of a child; a foster parent, unless prohibited by state law or regulations; a guardian authorized to act as the child's parent, in accordance with law or regulations; an individual acting in the place of a parent, including a grandparent or other relative, with whom the child lives or an individual legally responsible for the child's welfare; or an appointed surrogate parent, in accordance with law and regulations.[\[9\]\[14\]](#)

Authority

The Board directs that all ~~resident~~ students with disabilities shall be identified, evaluated, and provided with appropriate educational **programs** and services, in accordance with federal and state laws and regulations. The district shall establish and implement a system of procedural safeguards and ~~parental~~ **parent/guardian** notification **as part of its special education plan.**[\[1\]\[2\]\[15\]\[16\]\[17\]\[18\]\[19\]\[20\]\[21\]](#)

The district shall develop and submit a special education plan to the Department of Education for approval every three (3) years, and shall implement such plan as required by law and regulations. The district's special education plan shall include procedures for identifying and educating students with disabilities and ~~shall be aligned the Strategic Plan adopted by the Board~~ **describe the elements required by law, regulations and Board policy. Prior to approval by the Board and submission to the Department of Education, the special education plan shall be made available for public inspection and comment in the district's administrative offices and the nearest public library for a minimum of twenty-eight (28) days.**[\[5\]\[22\]\[23\]](#)

The district's special education plan shall comply with the requirements of state and federal laws and regulations, and shall be submitted in accordance with the guidelines and in the form established by the Department of Education. The district shall establish procedures to ensure the plan is updated and implemented as necessary.[\[5\]\[22\]\[24\]](#)

The Board shall determine the facilities, programs, services and staff that shall be provided by the district for the instruction of students with disabilities, **based upon the identified needs of the district's special education population.**[\[5\]\[15\]](#)

In order to maintain an effective special education plan, the Board may participate in special education programs ~~of the Colonial Intermediate Unit No. 20~~ with other agencies and/or intermediate units.[\[5\]](#)

Delegation of Responsibility

The Superintendent or designee is directed to annually recommend to the Board the employment and retention of necessary, qualified staff and provision of required facilities, programs and services to provide for the needs of students with disabilities.

The Superintendent or designee shall develop procedures for evaluating the effectiveness of the district's special education plan and shall periodically report to the Board the criteria and results of such evaluation.

Guidelines

~~The program to which~~ **Each student with a disability is assigned shall be one that educated pursuant to an IEP which shall** provides an appropriate education,~~seeks to assure success in learning, and offers in~~ the least restrictive environment, in accordance with federal and state laws and regulations.[\[1\]\[25\]\[26\]\[27\]](#)

~~The Board directs that all procedures for implementing an individualized education program be designed to guard the privacy of the student and the family.~~

~~No student with a disability shall be denied, because of handicap/disability, participation in activities, programs or services offered or recognitions rendered to district students, unless participation is not possible because of the handicap/disability.~~

The district prohibits discrimination based on disability. Students with disabilities are entitled to receive services and accommodations which will permit them to participate in district programs, services and activities as required by law.[\[11\]\[28\]](#)

If the district is identified with significant disproportionality, the special education plan shall include prevention measures for inappropriate overidentification and disproportionate representation by race or ethnicity of children with disabilities.[\[5\]](#)

Fiscal and Program Compliance

The district shall maintain **Superintendent or designee shall establish** procedures and processes that implement special education programs and services to ensure that the district complies in accordance with all federal and state laws and regulations and program requirements for special education-related funding and reimbursement. ~~In the following areas:~~

- ~~1. Educational plans.~~
- ~~2. Child find.~~
- ~~3. Assessments.~~
- ~~4. Screening.~~
- ~~5. Evaluations.~~
- ~~6. Reevaluations.~~
- ~~7. Individualized Education Program (IEP).~~
- ~~8. Extended School Year Services (ESY).~~
- ~~9. Behavior Support.~~
- ~~10. Educational placement.~~
- ~~11. Disciplinary placements.~~
- ~~12. Facilities.~~
- ~~13. Early interventions.~~
- ~~14. Procedural safeguards.~~
- ~~15. Confidentiality of information.~~

The district may coordinate with Colonial Intermediate Unit No. 20 to establish procedures, fulfill reporting requirements and participate in applicable programs.

Child Find/Outreach

The Superintendent or designee shall ensure that the district annually conducts awareness and outreach programs and activities designed to reach district residents including parents/guardians of students with disabilities who are enrolled in the district, preschool-aged children, students who attend private schools, homeless children and children who are wards of the state. [\[29\]](#)[\[30\]](#)

The district's public awareness activities shall include annual publication of a written notice in newspapers and other media notifying residents about child identification activities; available special education services and programs and how to request them; and procedures used to ensure confidentiality of student information. Written information shall be published in district handbooks and on the district website. Public awareness activities must include information regarding potential signs of developmental delays and other risk factors that could indicate disabilities.

The Intermediate Unit shall be responsible for conducting child find activities necessary to provide equitable participation services to students with disabilities who are enrolled by their parents/guardians in private schools.

Screening

The district shall establish a system of screening, including hearing and vision screenings. Screenings shall be conducted at reasonable intervals to determine whether all students are performing based on grade-appropriate standards in core academic subjects. [\[31\]](#)[\[32\]](#)

Confidentiality

The district shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, storing, disclosing and destroying student records. [\[33\]](#)[\[34\]](#)[\[35\]](#)

District staff shall maintain the confidentiality of student records and personally identifiable information, as required by law, regulations and Board policy.

Recording of Meetings

Except as specifically provided for within this policy, the district prohibits audio, video and electronic recording of meetings between parents/guardians and district teachers, paraprofessionals, program specialists, consultants or administrators.

An attempt to record a meeting by a parent/guardian after a verbal prohibition by district staff shall result in immediate termination of the meeting and may result in ejection from district property and possible prosecution.

The district shall permit audio recording of a meeting when a participant submits, at least five (5) days prior to the meeting, documentation that substantiates:

1. Participant has a disability or limited English proficiency that significantly limits his/her ability to meaningfully understand or participate in the meeting's intended decision-making and recording is the only feasible means of accommodating the limitation.
2. Individual has a legitimate interest in attending the meeting but for good cause is unable to do so, and recording is the only feasible means by which s/he can meaningfully understand and participate in the decision-making.

Legal

[1. 22 PA Code 4.28](#)

[2. 22 PA Code 12.1](#)

[3. 22 PA Code 12.4](#)

[4. 22 PA Code 14.102](#)

[5. 22 PA Code 14.104](#)

[6. 34 CFR 300.1](#)

[7. 24 P.S. 502](#)

[8. 22 PA Code 14.101](#)

[9. 20 U.S.C. 1401](#)

[10. 34 CFR 300.8](#)

[11. Pol. 103.1](#)

[12. 22 PA Code 14.131](#)

[13. 34 CFR 300.320-300.324](#)

[14. 34 CFR 300.30](#)

[15. 24 P.S. 1372](#)

[16. 22 PA Code 12.41](#)

[17. 22 PA Code 14.101 et seq](#)

[18. 20 U.S.C. 1400 et seq](#)

19. 29 U.S.C. 794

20. 42 U.S.C. 12101 et seq

21. 34 CFR Part 300

22. 22 PA Code 4.13

23. Pol. 100

24. 34 CFR 300.201 et seq

25. 22 PA Code 14.145

26. 20 U.S.C. 1414

27. 34 CFR 300.320-300.327

28. Pol. 103

29. 22 PA Code 14.121

30. 34 CFR 300.111

31. 22 PA Code 14.122

32. Pol. 209

33. 22 PA Code 15.9

34. 34 CFR 300.611-300.627

35. Pol. 113.4

24 P.S. 1371

Pennsylvania Training and Technical Assistance Network (PaTTAN)

Pol. 113.1

Pol. 113.2

Pol. 113.3

Pol. 202

Pol. 216

Pol. 914

Last Modified by Policy Staff on December 18, 2018

Book Policy Manual

Section 100 Programs

Title Discipline of Students with Disabilities

Code 113.1 Vol VI 2020

Status Active

Purpose

~~When necessary~~ **The district shall develop and implement Positive Behavior Support Plans and programs shall be developed and maintained for students with disabilities in order to promote and strengthen desirable behaviors and reduce identified inappropriate behaviors who require specific interventions to address behaviors that interfere with learning.** [\[1\]](#)[\[2\]](#)[\[3\]](#)

Students with disabilities who ~~engage in inappropriate behavior~~ **engage in inappropriate behavior**, disruptive or prohibited activities and/or actions injurious to themselves or others, **which would typically result in corrective action or discipline of students without disabilities**, shall be disciplined in accordance with **state and federal laws and regulations and Board policy and, if applicable**, their Individualized Education Program (IEP) and **Positive Behavior Support Plan, and Board policy.** [\[1\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)

Definitions

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[\[2\]](#)

Suspensions from school - disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days.[\[7\]](#)[\[9\]](#)

Expulsions from school - disciplinary exclusions from school by the Board for a period exceeding ten (10) consecutive school days and may include permanent exclusion from school.[\[7\]](#)[\[9\]](#)

Interim alternative educational settings - removal of a student with a disability from the student's current placement. Interim alternative educational settings may be used by school personnel for up to forty-five (45) school days for certain infractions committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability.[\[5\]](#)[\[10\]](#)

Authority

The Board directs that the district shall comply with provisions **and procedural safeguards** of the Individuals With Disabilities Education Act (IDEA) and federal and state regulations when disciplining students with disabilities for violations of Board district policy or **district school rules or** and regulations. No student with a disability shall be **expelled** **subjected to a disciplinary change in placement** if the student's particular misconduct is a manifestation of his/her the student's disability. **However, under certain circumstances a student with a disability may be placed in an interim alternative**

educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred. [\[4\]\[5\]\[10\]](#)

Provision of Education During Disciplinary Exclusions

During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate public education (FAPE), in accordance with law. [\[5\]\[9\]\[11\]](#)

Suspension From School

A student with a disability may be suspended for ten (10) consecutive and fifteen (15) cumulative days of school per school year, ~~regardless of whether the student's behavior is a manifestation of his/her disability~~ **for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement.** [\[4\]\[5\]\[9\]\[10\]\[12\]](#)

Changes in Educational Placement/Manifestation Determinations

~~Any removal from school is a change of placement for a student identifies with mental retardation. For~~ disciplinary exclusions which constitute a change in educational placement, the district shall first determine whether the student's behavior is a manifestation of **the student's** disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspensions for substantially identical behaviors, constitute changes in educational placements requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement. [\[4\]\[5\]](#)

A student with a disability whose behavior is not a manifestation of ~~his/her~~ **the student's** disability may be ~~expelled pursuant to~~ **disciplined in accordance with district Board policy and procedures, district rules and regulations in the same manner and to the same extent as students without disabilities.** [\[4\]\[5\]\[6\]\[7\]](#)

Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by District for Students Who Are a Danger to Themselves or Others

A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by the district if the district believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the district requests a due process hearing, the hearing officer may **return the student to the placement from which the student was removed or order the student's removal of a student with a disability to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that where the district demonstrates by substantial evidence that maintaining the student's current placement is substantially likely to result in an injury to the student or others.** [\[10\]\[13\]](#)

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the district and the parent/guardian agree otherwise. [\[10\]\[14\]](#)

Students Not Identified as Disabled/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the district did not have knowledge of the disability. If a request

for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited.[\[10\]\[15\]](#)
~~Weapons Violations~~

~~A student with a disability who carries a weapon to school or a school function may be removed from his/her current placement. The Student shall be placed in an appropriate interim alternative educational setting for no more than forty-five (45) days.~~

~~Drugs/Controlled Substances Violations~~

~~A student with a disability who knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school function may be removed from his/her current placement. The student shall be placed in an appropriate interim alternative educational setting for no more than forty-five (45) days.~~

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel may remove a student with a disability, including intellectual disability, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:[\[5\]\[10\]](#)

1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, weapon is defined as a 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 two and one-half (2 ½) inches in length.[\[5\]\[10\]\[16\]\[17\]](#)
2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions under the jurisdiction of the district.[\[5\]\[10\]\[18\]\[19\]](#)
3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, serious bodily injury means bodily injury which 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.[\[5\]\[10\]\[20\]](#)

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.[\[21\]\[22\]\[23\]](#)

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The Superintendent or designee shall respond to such incidents in accordance with the district's Special Education Plan and, if applicable, the

procedures, methods and techniques defined in the student's Positive Behavior Support Plan.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[6\]](#)[\[10\]](#)[\[17\]](#)[\[19\]](#)[\[22\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[27\]](#)[\[28\]](#)[\[29\]](#)[\[30\]](#)[\[31\]](#)[\[32\]](#)[\[33\]](#)[\[34\]](#)[\[35\]](#)

For a student with a disability who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student's IEP team to consider whether a Positive Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and Board policies.[\[1\]](#)[\[3\]](#)[\[27\]](#)[\[32\]](#)

When reporting an incident committed by a student with a disability to the appropriate authorities, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.[\[10\]](#)[\[22\]](#)[\[25\]](#)[\[26\]](#)[\[27\]](#)[\[30\]](#)[\[35\]](#)[\[36\]](#)[\[37\]](#)[\[38\]](#)[\[39\]](#)

In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity.[\[21\]](#)[\[35\]](#)

PSBA Revised 9/20 © 2020 PSBA

Legal References

1. 22 PA Code 14.133
2. Pol. 113
3. Pol. 113.2
4. 22 PA Code 14.143
5. 34 CFR 300.530
6. Pol. 218
7. Pol. 233
9. 22 PA Code 12.6
10. 20 U.S.C. 1415
11. 20 U.S.C. 1412
12. 34 CFR 300.536
13. 34 CFR 300.532
14. 34 CFR 300.533
15. 34 CFR 300.534
16. 18 U.S.C. 930
17. Pol. 218.1
18. 21 U.S.C. 812
19. Pol. 227
20. 18 U.S.C. 1365
21. 24 P.S. 1303-A
22. 22 PA Code 10.2
23. 35 P.S. 780-102
24. 24 P.S. 1302.1-A

25. 22 PA Code 10.21
26. 22 PA Code 10.22
27. 22 PA Code 10.23
28. 22 PA Code 10.25
29. 22 PA Code 14.104
30. 34 CFR 300.535
31. Pol. 103.1
32. Pol. 113.3
33. Pol. 218.2
34. Pol. 222
36. 20 U.S.C. 1232g
37. 34 CFR Part 99
38. Pol. 113.4
39. Pol. 216
24 P.S. 510
20 U.S.C. 1400 et seq
34 CFR Part 300
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Book Policy Manual

Section 100 Programs

Title Behavior Support

Code 113.2 Vol VI 2020

Status Active

Purpose

Students with disabilities shall be educated in the least restrictive environment **(LRE) in accordance with their Individualized Education Program (IEP)**, and shall only be placed in settings other than the regular education class when the nature or severity of the student's disability is such that education in the regular education class with the use of appropriate supplementary aids and services cannot be achieved satisfactorily **and cannot meet the needs of the student**. The IEP team for a student with a disability shall develop a Positive Behavior Support Plan if the student requires specific intervention to address behavior that interferes with learning. The identification, evaluation, and plan or program shall be conducted and implemented in accordance with state and federal laws and regulations. [\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)

Authority

~~The Saucon Valley School District will use the Behavior Management Program in accordance with PA. State Board of Education Title 22, PA. Code Special Education Services and Program, Regulations Chapter 14, Section 14.36 and Standard Chapter 342, Section 342.36. The standards and regulations indicate that positive measures shall form the basis of behavior management programs. The dignity of an individual is to be a primary consideration in the development of effective programming designed to assist those students whose behavior problems interfere with learning.~~

The Board directs that the district's behavior support programs shall be based on positive rather than negative behavior techniques to ensure that students shall be free from demeaning treatment and unreasonable use of restraints or other aversive techniques. The use of restraints shall be considered a measure of last resort and shall only be used after other less restrictive measures, including de-escalation techniques. Behavior support programs and plans shall be based on a functional behavioral assessment and shall include a variety of research-based techniques to develop and maintain skills that will enhance students' opportunity for learning and self-fulfillment. [\[1\]](#)[\[3\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)[\[11\]](#)

Definitions

~~The following terms, when used in this section, shall have the following~~ **these** meanings, unless the context clearly indicates otherwise. [\[1\]](#)

Aversive techniques - deliberate activities designed to establish a negative association with a specific behavior.

Behavior support - development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive Behavior Support Plan or Behavior Intervention Plan - plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A Positive Behavior Support Plan shall be developed by the IEP team, be based on a functional behavioral assessment, and become part of the individual student's IEP. These plans must include methods that use positive reinforcements, other positive techniques and related services required to assist a student with a disability to benefit from special education.

Positive techniques - methods that utilizing positive reinforcement to shape a student's behavior, ranging from the use of positive verbal statements as a reward for good behaviors to specific tangible rewards.

Restraints – ~~devices and technique designed and used to control acute or episodic aggressive behaviors or to control involuntary movements or lack of muscular control due to organic causes or conditions. The term includes physical and mechanical restraints.~~ **application of physical force, with or without the use of any device, designed to restrain free movement of a student's body, excluding the following:**

1. Briefly holding a student, without force, to calm or comfort the student.
2. Guiding a student to an appropriate activity.
3. Holding a student's hand to escort the student safely from one area to another.
4. Hand-over-hand assistance with feeding or task completion.
5. Techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents/guardians and specified in the IEP.
6. Mechanical restraints governed by this policy, such as devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices.

Seclusion - confinement of a student in a room, with or without staff supervision in the same room at all times, in order to provide a safe environment to allow the student to regain self-control.

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[9]

Delegation of Responsibility

The Superintendent or designee shall ensure that this Board policy is implemented in accordance with federal and state laws and regulations.

The Superintendent or designee shall develop administrative regulations to implement this policy.

The Superintendent or designee shall provide regular training and retraining of staff in the use of specific procedures, methods and techniques, including de-escalation techniques, emergency responses, restraints and seclusions, that will be used to implement positive behavior supports or interventions in accordance with students' IEPs, Positive Behavior Support Plans and Board policy.[1]

The Superintendent or designee shall maintain and report data on the use of restraints, as required. Such report shall be readily available for review during the state's cyclical compliance monitoring. Procedures shall be established requiring reports to be made to the district by entities

educating students with disabilities who attend programs or classes outside the district, including private schools, agencies, intermediate units and career and technical schools.[\[1\]](#)

Guidelines

Development of a separate Positive Behavior Support Plan is not required when appropriate positive behavioral interventions, strategies and supports can be incorporated into a student's IEP.[\[1\]](#)[\[5\]](#)

When an intervention is necessary to address problem behavior, the positive techniques and types of intervention chosen for a student shall be the least intrusive necessary.

Physical Restraints

Restraints to control acute or episodic aggressive behavior may be used only when the student is acting in a manner that presents a clear and present danger to ~~him/herself~~ **the student**, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.[\[1\]](#)

The Director of Special Education or designee shall notify the parent/guardian as soon as practicable of the use of restraints to control the aggressive behavior of the student and ~~The use of restraints to control the aggressive behavior of an individual student shall cause~~ **convene** a meeting of the IEP team ~~to review the current IEP for appropriateness and effectiveness~~ **within ten (10) school days of the use of restraints, unless the parent/guardian, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, re-evaluation, a new or revised Positive Behavior Support Plan, or a change of placement to address the inappropriate behavior.**[\[1\]](#)

The use of restraints shall not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment. **Restraints may be included in an IEP with parental consent only if:**[\[1\]](#)

- 1. The restraint is used with specific component elements of a Positive Behavior Support Plan.**
- 2. The restraint is used in conjunction with teaching socially appropriate alternative skills or behaviors.**
- 3. Staff are authorized to use the restraint and have received appropriate training.**
- 4. Positive Behavior Support Plan includes efforts to eliminate the use of restraints.**

Mechanical Restraints

Mechanical restraints, which are used to control involuntary movement or lack of muscular control of a student when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents/guardians.[\[1\]](#)

Mechanical restraints shall prevent a student from injuring ~~him/herself~~ **the student** or others, or promote normative body positioning and physical functioning.

Seclusion

The district permits involuntary seclusion of a student for a limited period of time in accordance with the student's IEP or in an emergency to prevent immediate or imminent injury to the student or others, but the seclusion must be the least restrictive alternative. District staff shall provide continuous supervision of students in seclusion, which need not always involve presence of staff within the same room.

The district prohibits the seclusion of students in locked rooms, locked boxes and other structures or spaces from which the student cannot readily exit.[\[1\]](#)

Aversive Techniques

The following aversive techniques of handling behavior are considered inappropriate and shall not be used in educational programs:[\[1\]](#)

1. Corporal punishment.
2. Punishment for a manifestation of a student's disability.
3. Locked rooms, locked boxes, or other locked structures or spaces from which the student cannot readily exit.
4. Noxious substances.
5. Deprivation of basic human rights, such as withholding meals, water or fresh air.
6. Suspensions constituting a pattern as defined in state regulations.[\[12\]](#)
7. Treatment of a demeaning nature.
8. Electric shock.
9. **Methods implemented by untrained personnel.**
10. **Prone restraints, which are restraints by which a student is held face down on the floor.**

~~The behavior support program shall include the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy on the use of behavior management techniques and obtaining parental consent prior to the use of highly restraining or intrusive procedures. In accordance with their plans, agencies may convene human rights committees to oversee the use of restraining or intrusive procedures and restraints.~~

~~Parental consent shall be obtained prior to the use of highly restraining or intrusive procedures.~~

Referral to Law Enforcement

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The Superintendent or designee shall respond to such incidents in accordance with the district's Special Education Plan and, if applicable, the procedures, methods and techniques defined in the student's Positive Behavior Support Plan.[\[1\]\[6\]\[9\]\[10\]\[13\]\[14\]\[15\]\[16\]\[17\]\[18\]\[19\]\[20\]\[21\]\[22\]\[23\]\[24\]\[25\]\[26\]\[27\]](#)

For a student with a disability who has a Positive Behavior Support Plan at the time of referral, subsequent to notification to law enforcement, the district shall convene the student's IEP team and an updated functional behavioral assessment and Positive Behavior Support Plan shall be required.[\[1\]](#)[\[11\]](#)[\[17\]](#)

If, as a result of such referral, the student is detained or otherwise placed in a residential setting located outside the district, the Director of Special Education or designee shall ensure that the responsible school district or intermediate unit is informed of the need to update the student's functional behavioral assessment and Positive Behavior Support Plan.[\[1\]](#)

For a student with a disability who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student's IEP team to consider whether a Positive Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and Board policy.[\[1\]](#)[\[17\]](#)

Relations With Law Enforcement

The district shall provide a copy of its administrative regulations and procedures for behavior support, developed in accordance with the Special Education Plan, to each local police department that has jurisdiction over school property. Updated copies shall be provided each time the administrative regulations and procedures for behavior support are revised by the district.[\[9\]](#)[\[17\]](#)[\[19\]](#)[\[27\]](#)

The district shall invite representatives of each local police department that has jurisdiction over school property to participate in district training on the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require intervention, as included in the district's Special Education Plan and positive behavior support program.[\[1\]](#)[\[9\]](#)[\[17\]](#)[\[19\]](#)[\[27\]](#)

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Legal References

1. 22 PA Code 14.133
2. 22 PA Code 14.145
3. 20 U.S.C. 1414
4. 34 CFR 300.114
5. 34 CFR 300.324
6. 20 U.S.C. 1415
7. 34 CFR 300.34
8. 34 CFR 300.530
9. Pol. 113
10. Pol. 113.1
11. Pol. 113.3
12. 22 PA Code 14.143
13. 24 P.S. 1302.1-A
14. 22 PA Code 10.2
15. 22 PA Code 10.21
16. 22 PA Code 10.22
17. 22 PA Code 10.23

18. 22 PA Code 10.25

19. 22 PA Code 14.104

20. 34 CFR 300.535

21. Pol. 103.1

22. Pol. 218

23. Pol. 218.1

24. Pol. 218.2

25. Pol. 222

26. Pol. 227

27. Pol. 805.1

24 P.S. 1303-A

20 U.S.C. 1400 et seq

34 CFR Part 300

Pennsylvania Training and Technical Assistance Network, Question and Answer Compendium, January 2020

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SAUCON VALLEY SCHOOL DISTRICT

ADMINISTRATIVE REGULATION

ADOPTED April 8, 2008

113.2-AR-1. BEHAVIORAL MANAGEMENT PROGRAM

Any special education student who exhibits behavior problems which interfere with ~~his/her~~ the student's ability to learn must have a program of behavior management. This behavior management plan will be included in the Individualized Education Plan (IEP) and shall:

1. Primarily focus on positive rather than negative measures.
2. Use interventions that are the least intrusive necessary.
3. Not substitute aversion techniques, restraints or discipline for the systematic application of behavior change techniques.
4. Only use techniques for which the staff has been adequately trained.

The Behavior Management Program represents three (3) levels of interventions based upon the best practices cited in the current professional literature. These intervention levels include the following:

- | | |
|-----------|--|
| Level I | Good classroom management strategies. No Behavior Management Program is required as part of the IEP nor parental consent. |
| Level II | Moderately Intrusive Management. A Behavior Management Program is required as part of the IEP as is parental consent. |
| Level III | Restrictive interventions which are to be considered after Level II interventions are determined Ineffective. A Behavior Management Program is required as part of the IEP as is parental consent. |

All interventions are predicated upon clear, direct, specific, concrete communications. The communication pattern is based upon interaction among school, student, and family. Data is to be collected regarding the effectiveness of the individual Behavior Management Plan, and parents are to be involved in the process of developing the plan via the IEP. Specific aversion procedures, restraints, or techniques designed and used

to control acute episodic aggressive behavior, or to control involuntary movement may never be used as a substitute for a Behavior Management Program. Only when a student is acting in a manner as to be a clear and present danger to ~~him/herself~~ the student, to other students or to employees, can an emergency physical restraint be utilized. Some more intrusive techniques may be utilized, but only when it has been documented that less restrictive measures have proven to be less effective.

INTERVENTION LEVELS

Level I

Classroom management traditionally has been associated with discipline, control, or other terms that connote reducing unacceptable student behavior. Management is commonly reviewed as a prerequisite to instruction, something that must be accomplished so that teaching can occur. Successful classroom management involves not merely responding effectively when problems occur, but also preventing problems from occurring by creating environments that encourage learning and appropriate behavior. Thus, comprehensive classroom management incorporates both proactive planning for and encouragement of productive behavior as well as reactive responding to unproductive student behavior. Proactive classroom management activities involve the establishment and maintenance of a productive learning environment that fosters high levels of engagement and prevention of student disruptions. The effectiveness of behavior control strategies will be maximized when used in conjunction with preventive methods. Without proactive management methods, behavior-change interventions will have limited long-term effectiveness.

Level II

Interventions at this level consist of the twin goals of behavioral intervention: 1) to increase appropriate or adaptive behavior and 2) decrease inappropriate or maladaptive behavior.

The underlying assumption of any behavioral intervention is that the student's behavioral problems represent either deficits in adaptive behavior, or excesses in behavior that prove maladaptive in the student's environment. If a student is unable to carry out a required task or behavior because of deficits in prerequisite skills, the task of instruction may be to develop the lacking skills. In contrast, a student may be capable of performing a target skill or behavior but may for some reason lack the motivation to perform at a level commensurate with ability. In addition to basic acquisition or performance deficits, consideration must be given to other potential interfering behaviors.

Level III

These interventions are formal programs which are restrictive in nature and may modify the student's rights during implementation. They specifically focus on restraining strategies and are considered more intrusive to personal freedom than either Level I or II interventions.

EMERGENCY INTERVENTION

Emergency procedures for behavior that presents a clear and present danger to the student or others may be delineated on the IEP. These emergency procedures may include:

1. Parent contact to immediately remove student from school.
2. Notifying police.
3. Notifying Mental Health/~~Mental Retardation~~**Developmental Disabilities**, Children and Youth, Probation, etc.
4. Calling emergency services and ambulance.
5. Nonviolent therapeutic physical crisis intervention by trained staff.
6. Suspensions or expulsions, in accordance with applicable law and regulations.

Book Policy Manual

Section 100 Programs

Title Screening and Evaluations for Students With Disabilities

Code 113.3

Status Active

Adopted

Purpose

The Board adopts this policy to define the minimum requirements for screening; educational evaluations conducted to determine eligibility for special education services, instructional levels and programming requirements for students with disabilities, including functional behavioral assessments; and requirements for independent educational evaluations. [\[1\]\[2\]\[3\]\[4\]\[5\]\[6\]\[7\]\[8\]\[9\]\[10\]\[11\]\[12\]](#)

Authority

The Board shall adopt a system of screening that may include early intervention services and must be designed to accomplish identification and initial screening for students prior to district referral for a special education evaluation. The system shall provide support to staff to improve working effectively with students in the general education curriculum, identify students who may require special education services and programs, and must include hearing and vision screening and screening at reasonable intervals to determine whether students are performing at grade appropriate levels in core academic subjects. [\[1\]\[7\]\[13\]](#)

Early intervention services shall comply with the requirements of state and federal law and regulations in order to address academic concerns or behaviors that may be impeding success, but which can be resolved through research-based intervention programs in the regular education setting. [\[7\]](#)

Rights Preserved and Waiver of Pre-Evaluation Screening

The district's screening activities shall not serve as a bar to the right of a parent/guardian to request an evaluation as described in this policy, at any time. When the completion of screening activities prior to referral for an evaluation will result in serious mental or physical harm or significant educational regression to the student with a disability or others, the district may initiate an evaluation or re-evaluation without completion of the screening process. Whenever an evaluation is conducted without a pre-evaluation screening, the screening activities included in Board policy and administrative regulations shall be completed as part of that evaluation whenever possible.

The Board authorizes the use of functional behavioral assessments (FBAs) as an evaluation to gather information to understand the purpose of the student's behaviors and to assist with developing a positive Behavior Support Plan. FBAs must be conducted when: [\[5\]\[10\]\[11\]\[12\]\[14\]](#)

1. A student's behavior interferes with his/her learning or the learning of others and information is necessary to provide appropriate educational programming.

2. A student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability.
3. A student is placed in an interim alternative educational placement for a qualifying reason permitting such placement for up to forty-five (45) school days for certain offenses.
4. The school contacts law enforcement regarding a student who already has a positive Behavior Support Plan.

FBA's may also constitute part of the initial evaluation to determine eligibility for special education.

The district shall comply with requirements of state and federal laws and regulations when conducting evaluations. [\[2\]\[6\]\[15\]\[9\]\[16\]](#)

An appropriate evaluation of a student, whether conducted by district staff or individuals not employed by the district, shall consist of the administration of all testing and the use of all assessment procedures required to determine the existence of all legally defined disabilities reasonably suspected by district staff, parents/guardians, or the evaluator. An appropriate evaluation shall assist in determining the content of the IEP to enable a student with a disability to be involved in and progress in the general curriculum.

A student shall be assessed in all areas related to the suspected disability including, as appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.

A re-evaluation of a student who currently has an IEP shall be conducted as required by state and federal law and regulations. [\[3\]\[6\]\[16\]\[17\]](#)

Guidelines

Parent/Guardian Requests

Parents/Guardians may request an evaluation at any time. The parent/guardian request must be in writing. If a request is made orally to any professional employee or administrator, the district shall provide a copy of the permission to evaluate form to the parents/guardians within ten (10) calendar days of the oral request. [\[1\]\[2\]](#)

The evaluation shall be completed and a copy of the evaluation report presented to parents/guardians no later than sixty (60) calendar days after receipt of written parent/guardian consent for an evaluation, exclusive of the period following the last day of the spring school term to the first day of the subsequent fall term.

Appropriate Evaluations

An appropriate evaluation shall use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about a student. [\[2\]\[6\]\[8\]\[9\]](#)

The evaluations should be designed and intended to avoid the duplication of information already available from recent evaluations.

An appropriate evaluation shall include:

1. Testing and assessment techniques required in light of information currently available from previous evaluations.

2. Information from parents/guardians and school staff familiar with the performance of the student.
3. The student's education records.

The evaluator shall review all such sources of information prior to conducting testing and assessment. The evaluator shall review assessments conducted by others that indicate how the student is responding to early intervention services and scientific research-based instruction and/or include such assessments as part of the evaluation.

To the extent that the results of such instructional assessments are inconsistent with the results of norm or criterion-referenced testing and assessments that the evaluator has administered, the evaluator shall explain the reason for the inconsistency in the evaluation report, if possible.

When assessing the presence of a specific learning disability, the evaluation shall be consistent with procedures adopted by the district and comply with state and federal law and regulations. [\[4\]\[18\]](#)

Testing and assessment procedures shall be selected and administered to yield valid measurement or assessment of the construct or quality they purport to measure or assess. The evaluator shall administer any testing or assessment procedures in a manner consistent with the requirements and recommendations of the publisher of the test or procedure and in compliance with applicable and authoritatively recognized professional principles and ethical tenets. The evaluator shall report any factor that might affect the validity of any results obtained.

All assessments and evaluation materials shall be selected and administered so as not to be discriminatory on a racial or cultural basis. Where feasible, assessments and evaluations shall be administered in a language and form most likely to provide accurate information about the student.

The evaluation shall include an observation of the student in an educational setting, unless the student is not currently in such a setting. The evaluator shall obtain information concerning the performance of the student directly from at least one (1) current teacher of the student, unless the student does not have a current teacher. If the evaluator is unable to conduct an observation of the student in an educational setting, the evaluator shall consult with a district employee who has had the opportunity to conduct such observation.

The evaluator shall hold an active certification that qualifies the evaluator to conduct that type of evaluation. If certification is not issued for the particular area of professional practice in which the evaluator is lawfully engaged, the evaluator shall hold such license or other credentials as required for the area of professional practice under state law.

The evaluator shall prepare and sign a full report of the evaluation containing:

1. Clear explanation of the testing and assessment results.
2. Complete summary of all test scores, including, for all standardized testing administered, all applicable full scale or battery scores; domain or composite scores; and subtest scores reported in standard, scaled, or T-score format.
3. Complete summary of all information obtained or reviewed from sources other than testing conducted by the evaluator.
4. Identification of all special education and related services needs and relevant information that directly assists persons in determining the educational needs of the student.
5. Specific, individualized recommendations for consideration by the IEP team for educational programming and placement to enable the student to participate as appropriate in the general

education curriculum in the least restrictive environment, as defined by federal and state law and regulations.

Re-Evaluations

Re-evaluations shall be conducted within the timeframes required by state and federal laws and regulations unless the parent/guardian and the district agree in writing that a re-evaluation is unnecessary. For students with intellectual disability, the re-evaluation cannot be waived. The group of qualified professionals that reviews the evaluation materials to determine whether the child is a student with a disability shall include a certified school psychologist when evaluating a student for autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.[\[3\]](#)[\[19\]](#)[\[20\]](#)

Copies of the re-evaluation report shall be disseminated to parents/guardians at least ten (10) days prior to the meeting of the IEP team unless this requirement is waived in writing.

Independent Educational Evaluations

A parent/guardian who disagrees with the results or content of an evaluation performed or obtained by the district may request an independent educational evaluation at district expense. A parent/guardian is entitled to only one (1) independent educational evaluation at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. The independent educational evaluation must arise from parents'/guardians' disagreement with the district's most recent evaluations or re-evaluations of the student. The district shall be entitled to a copy of all results of independent educational evaluations conducted at public expense. If an oral request for an independent educational evaluation is made to a professional employee or administrator, that person shall inform the parent/guardian that the request must be in writing. If the native language of the parent/guardian is other than English, the requirement that the parent/guardian make his/her request in writing shall be conveyed by whatever means practicable and in the native language of the parent/guardian.[\[9\]](#)[\[21\]](#)

A written request for an independent educational evaluation at district expense shall be immediately forwarded to the Director of Special Education and Student Services, who may, upon receipt of the written parent/guardian request, ask that the parent/guardian state his/her reasons for disagreement with the evaluation conducted or proposed by the district. The district cannot require the parent/guardian to do so, and the refusal of the parent/guardian shall not delay the process required by this policy.

The criteria under which the independent educational evaluation at public expense is obtained must be the same as the criteria used by the district in conducting an appropriate evaluation, including the location of the evaluation and the qualifications of the examiner, to the extent those criteria are consistent with the parent's/guardian's right to an independent educational evaluation at public expense. The qualified examiners who conduct the independent educational evaluation may not be employed by the public agency responsible for the education of the student.

Within ten (10) school days of receipt of a request for an independent educational evaluation in writing from a parent/guardian, the Director of Special Education and Student Services shall either initiate a due process hearing to show that the district's evaluation is appropriate and notify the parent/guardian in writing that s/he has done so or issue to the parent/guardian correspondence containing:

1. Assurance that the district will pay for an independent educational evaluation as long as the evaluation meets all of the requirements of an appropriate evaluation and is in compliance with this policy.
2. Statement that the district will not pay for the evaluation until it receives directly from the evaluator a complete copy of a report of that evaluation and determines that the evaluation is in compliance

with this policy.

3. Request that the parents/guardians consider accessing reimbursement for all or part of the evaluation from public or private sources of insurance or reimbursement, together with a clear assurance that the parent/guardian is not required to do so and that the district will pay any cost not covered by such sources.
4. Directions that the parent/guardian is responsible for arranging for the evaluation and ensuring that the evaluator contacts the Director of Special Education and Student Services to arrange for payment of the evaluation.

Upon request, the district shall provide to parents/guardians information about where an independent educational evaluation may be obtained.

If the evaluation has already been conducted and paid for, the district shall issue correspondence advising the parent/guardian that the district will not reimburse the parent/guardian for the evaluation until it receives a complete and unredacted copy of the report of the evaluation and determines that the evaluation is in compliance with this policy. The district shall require documentation substantiating that the parents/guardians paid for or incurred the obligation to pay for the evaluation without reimbursement from a public or private source of insurance or reimbursement.

The Director of Special Education and Student Services shall send the correspondence to the parent/guardian by certified mail or by other independently verifiable means of conveyance and enclose a copy of this policy.

The Director of Special Education and Student Services shall maintain a list of qualified independent evaluators in each of the various disciplines commonly relied upon to provide education-related evaluations and assessments and shall promptly make that list available to any parent/guardian who requests it.

In accordance with federal law, if the parents/guardians of a student with a disability, or suspected of having a disability, obtain an independent educational evaluation on their own, without requesting payment by the school district, the results of the evaluation shall be considered by the district/IEP team with respect to decisions regarding the provision of a free appropriate education for the student. [\[6\]\[9\]](#)

Legal

[1. 22 PA Code 14.122](#)

[2. 22 PA Code 14.123](#)

[3. 22 PA Code 14.124](#)

[4. 22 PA Code 14.125](#)

[5. 22 PA Code 14.133](#)

[6. 20 U.S.C. 1414](#)

[7. 34 CFR 300.226](#)

[8. 34 CFR 300.301-300.311](#)

[9. 34 CFR 300.502](#)

[10. 34 CFR 300.530](#)

11. Pol. 113

12. Pol. 113.2

13. Pol. 209

14. Pol. 113.1

15. 34 CFR 300.300-300.311

16. 34 CFR 300.503

17. 34 CFR 300.303-300.306

18. 34 CFR 300.307-300.311

19. 34 CFR 300.303

20. PA Ass'n for Retarded Children (PARC) v. Com. of Pa., 343 F. Supp. 279 (E.D. Pa. 1975)

21. Pol. 138

20 U.S.C. 1400 et seq

34 CFR Part 300

Pennsylvania Training and Technical Assistance Network (PaTTAN)

Last Modified by Policy Staff on December 18, 2018

Book Policy Manual

Section 100 Programs

Title Confidentiality of Special Education Student Information

Code 113.4 Vol VI 2020

Status Active

Authority

The Board recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities.[1][2]

The district shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.[2][3]

The rights provided by this policy apply to parents/guardians of students who receive special education programming and services from the district or an outside program provided through the district.[4][5]

Definitions

Destruction shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.[6]

Disclosure shall mean to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.[7]

Education records, for purposes of this policy, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.[2][7][8]

Personally identifiable information includes, but is not limited to:[7][9]

1. The name of a student, the student's parents/guardians or other family members.
2. The address of the student or student's family.
3. A personal identifier, such as the student's social security number, student number, or biometric record.
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
6. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

Guidelines

Parental Access Rights

The district shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the district in connection with providing special education services to the student.[\[10\]](#)[\[11\]](#)

The district shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting.

The district shall presume a parent/guardian has authority to inspect and review records relating to **their** child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.[\[10\]](#)[\[12\]](#)

The district shall comply with a parental request for review within forty-five (45) days following receipt of the request.[\[10\]](#)[\[11\]](#)

A parent's/guardian's right to inspect and review education records includes the right to:

1. A response from the district to reasonable requests for explanations and interpretations of the records;

2. Request that the district provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and
3. Have a representative inspect and review the records.

If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be informed of the information in the record.[\[13\]](#)[\[14\]](#)

The district shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by the district.[\[15\]](#)

Fees

The district may charge a fee for copies of records that are made for parents/guardians so long as the fee does not effectively prevent parents/guardians from exercising their right to inspect and review those records.[\[16\]](#)[\[17\]](#)

The district shall not charge a fee to search for or to retrieve information in response to a parental request.

Record of Access

The district shall keep a record of parties obtaining access to education records collected, maintained, or used in providing special education **and related services** to students with disabilities, except access by parents/guardians and authorized district employees.[\[18\]](#)

The district's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Amendment of Records Upon Parental Request

If a parent/guardian believes that information in the student's education records is inaccurate, misleading or violates the privacy or other rights of the student, the parent/guardian may request that the district amend the information.[\[19\]](#)[\[20\]](#)

The district shall decide whether to amend the information within a reasonable period of time from receipt of the request.

If the district declines to amend the information in accordance with a parental request, the district shall inform the parent/guardian of the refusal and advise the parent/guardian of the right to a hearing.

Records Hearing

The district shall, on request, provide parents/guardians with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. The district recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.[\[21\]\[22\]\[23\]](#)

Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:[\[24\]\[25\]](#)

1. The district shall hold the hearing within a reasonable time after receiving the request for a hearing.
2. The district shall give the parent/guardian reasonable advanced written notice of the date, time, and place of the hearing.
3. The hearing may be conducted by any individual, including a district official, who does not have a direct interest in the outcome of the hearing.
4. The district shall give the parent/guardian a full and fair opportunity to present relevant evidence. The parent/guardian may, at **their** own expense, be assisted or represented by one (1) or more individuals of **their** choice, including an attorney.
5. The district shall inform parents/guardians of its decision in writing within a reasonable period of time after the hearing.
6. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Result of Hearing

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall amend the information accordingly and inform the parent/guardian in writing.[\[23\]\[26\]](#)

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall inform the parent/guardian of the parent's/guardian's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with the district's decision.

Any explanation placed in the student's records shall be:

1. Maintained by the district as part of the student's records as long as the record or contested portion is maintained by the district; and
2. Included with the record or contested portion if the record or contested portion are disclosed to any party.

Storage, Retention and Destruction of Information

The district shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.[\[27\]](#)

The district shall maintain, for public inspection, a current listing of the names and positions of those district employees who have access to personally identifiable information.[\[27\]](#)

In order to comply with state compliance monitoring requirements, the district shall maintain education records for students receiving special education services for at least six (6) years.[\[2\]](#)

The district shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon parental request.[\[28\]](#)

No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists.[\[11\]](#)

The district

-
{ } shall

-
{ } may¹¹

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maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.[\[28\]](#)

The district shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and **the student's** family.[\[27\]](#)

Disclosure to Third Parties

The district shall obtain parental consent before disclosing personally identifiable information to parties other than school district officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the disclosure is permitted without parental consent under law and regulations.[2][29][30][31][32][33][34]

Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.[32]

If a student is enrolled, or is going to enroll in a private school that is not located in the district of the parent's/guardian's residence, parental consent must be obtained before any personally identifiable information about the student is released between officials in the district where the private school is located and officials in the district of the parent's/guardian's residence.[32]

Disclosure to Law Enforcement

When reporting an incident committed by a student with a disability to the appropriate authorities, in accordance with applicable law, regulations and Board policy, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.[2][8][33][35][36][37][38][39][40][41][42]

Delegation of Responsibility

In order to maintain the confidentiality of the educational records and personally identifiable information of students with disabilities, the Board designates the

{ } Superintendent or Designee

{ } Director of Special Education

{ } _____
[2]

to coordinate the district's efforts to comply with this policy and applicable laws and regulations.[27]

All district employees collecting or using personally identifiable information shall receive training or instruction regarding Board policy, administrative regulations, and state and federal law and regulations regarding confidentiality of education records and personally identifiable information.[27]

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Legal References

1. Pol. 113
2. Pol. 216
3. 34 CFR 300.611-300.627
4. 34 CFR 300.520
5. 34 CFR 300.625
6. 34 CFR 300.611
7. 34 CFR 99.3
8. 20 U.S.C. 1232g
9. 34 CFR 300.32
10. 34 CFR 300.613
11. 34 CFR 99.10
12. 34 CFR 99.4
13. 34 CFR 300.615
14. 34 CFR 99.12
15. 34 CFR 300.616
16. 34 CFR 300.617
17. 34 CFR 99.11
18. 34 CFR 300.614
19. 34 CFR 300.618
20. 34 CFR 99.20
21. 34 CFR 300.510-300.516
22. 34 CFR 300.619
23. 34 CFR 99.21
24. 34 CFR 300.621
25. 34 CFR 99.22
26. 34 CFR 300.620
27. 34 CFR 300.623
28. 34 CFR 300.624
29. 34 CFR 99.30
30. 34 CFR 99.31
31. 34 CFR 300.154
32. 34 CFR 300.622
33. Pol. 113.1
34. Pol. 113.2

35. 22 PA Code 10.2

36. 22 PA Code 10.21

37. 22 PA Code 10.22

38. 22 PA Code 10.23

39. 20 U.S.C. 1415

40. 34 CFR 300.535

41. 34 CFR Part 99

42. Pol. 805.1

20 U.S.C. 1400 et seq

34 CFR Part 300

Bureau of Special Education Letter to School Entities on Retention of Records, Dated November 9, 2009

Pennsylvania Department of Education Individuals With Disabilities Education Act Part B LEA Policies and Procedures under 34 CFR §§300.101 - 300.176 (2018)

Pol. 113.3

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Book Policy Manual

Section 100 Programs

Title Parental Status and Appointment of Surrogate Parents for Children With Disabilities

Code 113.5

Status Active

Adopted

Authority

The Board adopts this policy on the use and training of surrogate parents in order to comply with the Individuals with Disabilities Education Act (IDEA) and other applicable federal and state law and regulations. The Board recognizes that in the process of a child's education, parents play an important role in safeguarding the rights of a student with a disability. In order to ensure those rights where children are wards of the state or where parents are unknown or unavailable, the Board may identify those children and appoint an individual to represent the child in matters of education.[\[1\]\[2\]](#)

Definition

Parent - the term parent, for purposes of this policy and in accordance with state and federal law and regulations, means:[\[3\]\[4\]](#)

1. A biological or adoptive parent of a child;
2. A 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. A 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. An 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. A surrogate parent who has been appointed in accordance with law.

Except as provided below, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one (1) party is qualified under this definition to act as a parent, must be presumed to be the parent for purposes of this policy, unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this policy.

Guidelines

Parental Status Not Determined by Residency

A person who satisfies the criteria established in the definition above shall have all the rights, protections, and obligations of a parent under the IDEA and Chapter 14 of the State Board of Education regulations regardless of whether s/he resides with the child for whom s/he is a parent.

Legal Notices and Other Papers

District staff may presume that legal notices and other papers required by law to be given to the parent of a child with a disability have been effectively delivered to all persons qualified to act as a parent of that child when such notices or papers are mailed or sent by other reliable means of conveyance to the address identified through the registration process as the residence of the child for school attendance purposes. If district staff have actual knowledge that a person qualified to act as a parent of the child is not receiving such notices when mailed or delivered in accordance with this subsection, copies of notices or papers shall be sent or delivered separately to the residence of that parent.[5]

Surrogate Parents

Criteria for Appointment –

The district shall appoint a qualified surrogate parent to perform the functions and exercise the rights of a parent/guardian in accordance with applicable law and regulations if a staff member responsible for contacting or providing notice to the parent of a child with a disability, or a child thought to have a disability, determines after reasonable investigation of the circumstances that:[2]

1. No parent, as defined in this policy can be identified;
2. Neither the district nor any other social services or law enforcement agency involved with the child or the family of the child can discover the whereabouts of a parent as defined in this policy;
3. The child is a ward of the state as determined by the Secretary of Education; or
4. The child is an unaccompanied homeless youth as defined in applicable law.[6][7]

As used in this policy, reasonable investigation shall mean attempted telephone and mail contact with the parent/guardian of the child at the last known address and telephone number available, if such information is available; consultation with all social services or law enforcement agencies known to be involved with the child or the family of the child; and interview of the child, when appropriate.

Qualifications of Surrogate Parents –

The district shall recruit and maintain a list of names and contact information for persons who are willing to serve as surrogate parents and who meet the following criteria for selection:[2]

1. Is not an employee of the Pennsylvania Department of Education, the Colonial Intermediate Unit, the Saucon Valley School District, or any other agency that is involved in the education or care of the child; provided, however, that the reimbursement of expenses by the district shall not designate such person as an “employee” of the district solely because of such reimbursement of expenses;
2. Has no personal or professional interest that conflicts with the interest of the child s/he represents;

3. Has obtained all criminal and child abuse background clearances required by law; and [\[8\]\[9\]](#)
4. Has knowledge and skills that ensure adequate representation of the child, including training provided by the district or by another source recognized as credible by the district concerning parent and child rights and responsibilities under the IDEA and Chapter 14 of the State Board of Education regulations regarding available programs and services for children with disabilities.

Appointment –

As soon as practicable after establishing that any one (1) of the criteria for appointment in this policy has been satisfied, the responsible staff member shall notify the responsible program administrator, who shall contact and appoint a surrogate parent who meets the qualifications enumerated in this policy. As soon as practicable after the surrogate parent has accepted the assignment, the responsible administrator shall forward to the surrogate parent copies of all current educational records concerning the child and shall arrange a meeting or other appropriate interaction between the surrogate parent and the child. [\[10\]\[11\]](#)

Unaccompanied Homeless Youth -

In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all of the requirements of law and this policy. [\[2\]](#)

Surrogate Parent Responsibilities -

The surrogate parent may represent the assigned child in all matters relating to: [\[2\]\[10\]\[11\]\[12\]\[13\]\[14\]](#)

1. The identification, evaluation and educational placement of the child.
2. The provision of a Free Appropriate Public Education (FAPE) to the child.

Legal

1. [20 U.S.C. 1400 et seq](#)
2. [34 CFR 300.519](#)
3. [22 PA Code 14.101](#)
4. [34 CFR 300.30](#)
5. Pol. 200
6. [42 U.S.C. 11434a](#)
7. Pol. 251
8. [23 Pa. C.S.A. 6344](#)
9. [24 P.S. 111](#)
10. Pol. 113
11. Pol. 113.4
12. Pol. 113.1
13. Pol. 113.2
14. Pol. 113.3