

Upper Cape Cod Regional Technical High School
Special Education Procedural Manual

Updated 2023

Table of Contents

1. Introduction & Contact Information
2. Massachusetts Tiered System of Support (MTSS)
3. District Curriculum Accommodation Plan (DCAP)
4. Pre-Referral Process
5. Referral Process and Evaluation
6. Eligibility
7. Individualized Education Program (IEP)
8. Placement
9. Parents Rights/Involvement
10. Transition Planning
11. Student Discipline
12. Section 504

1. Introduction

Our vision is that Upper Cape Cod Regional Technical School graduates will be personal and professional role models in the workplace, post-secondary schools, and in their communities. The mission of Upper Cape Cod Regional Technical School is to foster a lifelong commitment to learning, community, personal responsibility and career growth within a diverse student population of 21st century learners through the integration of academic and technical proficiency, while preparing students to be effective members of a global society.

Special Education support and services are part of a continuum of educational services designed to ensure that the general education environment is responsive to the diverse learning needs of all students.

Both general education and special education staff work collaboratively through an inclusion model to ensure equal opportunity and full participation for all students including students with disabilities.

This manual has been developed as a resource for Upper Cape Tech staff and the community. The following policies and procedures are aligned with:

- The Massachusetts Department of Elementary and Secondary Education, Massachusetts General Laws (MGL) ch. 71 B et seq., and Special Education Regulations 603 CMR 28.00 et. seq. [Laws](#)
- Individuals with Disabilities Education Act 2004 [IDEA](#)
- Section 504 The Rehabilitation Act of 1973 [504](#)

Contact Information:

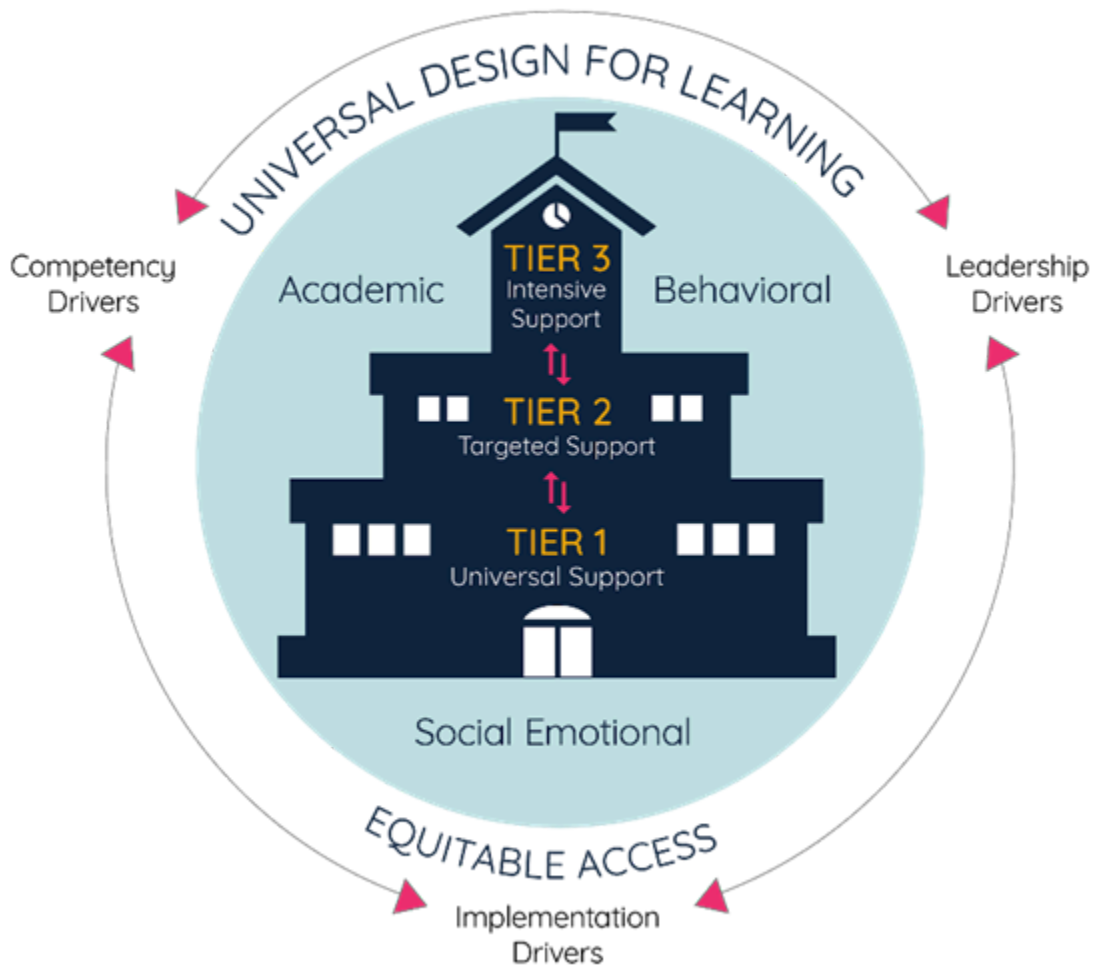
Special Education Office, Upper Cape Cod Regional Technical School
220 Sandwich Road
Bourne, MA 02532
508.759.7711 ext 311

Leslie Sullivan, Special Education Director
lsullivan@uppercapetech.org

Erin Johnson, Administrative Assistant
ejohnson@uppercapetech.org

2. Multi Tiered Systems of Support [MTSS](#)

A Multi-Tiered Systems of Support (MTSS) is a framework for how school districts can build the necessary systems to ensure that each and every student receives a high quality educational experience. It is designed to support schools with proactively identifying and addressing the strengths and needs of all students by optimizing data-driven decision-making, progress monitoring, and the use of evidence-based supports and strategies with increasing intensity to sustain student growth. In 2018, Massachusetts updated its MTSS Blueprint to reflect the most current research and enhance the user experience. For example, the current blueprint more explicitly focuses on equitable access and universal design for learning (UDL) and fully integrates social-emotional, behavioral, and academic learning.



Tier 1 are supports available to all students through a general education program. Inclusive practice, which is linguistically responsive and culturally sustaining, is a cornerstone of tier 1. Inclusive practice is defined as “instructional and behavioral strategies that improve academic and social emotional outcomes for all students, with and without disabilities, in general education settings” (Educator Effectiveness Guidebook for Inclusive Practice, 2017). For example, providing students with a high-quality, coherent curriculum that provides options and choices for how they learn (i.e, access to books, videos, or direct teacher instruction), what materials, scaffolds and supports they need to learn (i.e., visuals, exemplars, graphic organizers, rubrics, etc.), and how they can express what they have learned will allow more students to access rigorous, standards-based instruction.

Tier 2 supports occur in addition to the supports that are provided in tier 1 settings. These supports are generally done in small groups and include additional opportunities to practice the skills necessary for core instruction or strategies for enrichment

Tier 3 provides more intensive support. These are often explicit, focused interventions that occur individually or in very small groups. It is important to note that tier 3 is not synonymous with special education. Students with disabilities may not need tier 3 support and students not identified with a disability may in fact need tier 3 supports.

3. District Curriculum Accommodation Plan [DCAP](#)

Massachusetts General Laws require the adoption and implementation of a District Curriculum Accommodation Plan (DCAP). This plan is intended to guide educators in ensuring that all efforts are made to meet student needs in general education classrooms and to support teachers in accommodating the wide range of student learning styles and needs.

4. Pre-Referral Process

As part of a Pre Referral Process, the district has developed an Accountability Intervention Plan (AIP). This plan is designed to holistically remove challenges to attendance and lack of progress and support the growth of our students. The team consists of an Administrative team member, counselors, and designated teachers who meet to discuss teacher concerns, student progress, and potential barriers to success. Following the meeting, a designated team member follows up with identified students/caregivers for feedback and to develop a success plan. Following a trial period for interventions, should the student continue to demonstrate a lack of progress, a referral is made to the Special Education Office for evaluation.

5. Referral Process and Evaluation

Students are provided with a variety of supports, strategies and interventions in the general education setting. However, at times, a student may not demonstrate effective progress, even after general education interventions have been implemented. For this reason, a student may be referred for an initial evaluation to determine eligibility for special education. Parents/Caregivers, students eighteen years of age or older, or any individual in a professional or caregiving position may refer a student for an evaluation regarding the student's development.

28.04: Referral and Evaluation

(1) Referral for Initial Evaluation. A student may be referred for an evaluation by a parent or any person in a caregiving or professional position concerned with the student's development.

(a) When a student is referred for an evaluation to determine eligibility for special education, the school district shall send written notice to the student's parent(s) within five school days of receipt of the referral.

(b) The notice required by 603 CMR 28.04(1)(a) shall meet all of the content requirements set forth in M.G.L. c. 71B, § 3, and in federal law and shall seek the consent of a parent for the evaluation to occur, and provide the parents with the opportunity to express any concerns or provide information on the student's skills or abilities.

(c) School districts shall provide the student's parents with an opportunity to consult with the Special Education Administrator or his/her designee to discuss the reasons for the referral, the content of the proposed evaluation, and the evaluators used.

(d) Upon referral, school districts shall evaluate children who are two and a half years of age and who may be receiving services through an early intervention program. An initial evaluation shall be conducted in order to ensure that if such child is found eligible, special education services begin promptly at age three.

(2) Initial Evaluation. Upon consent of a parent, the school district shall provide or arrange for the evaluation of the student by a multidisciplinary team within 30 school days. The assessments used shall be adapted to the age of the student and all testing shall meet the evaluation requirements set out in state and federal law. The school district shall ensure that appropriately credentialed and trained specialists administer all assessments.

(a) Required assessments.

1. An assessment in all areas related to the suspected disability.

2. An educational assessment by a representative of the school district, including
 1. a history of the student's educational progress in the general curriculum. Such assessment shall include information provided by a teacher(s) with current knowledge regarding the student's specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district curriculum; and
 2. an assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults.
 3. The school district shall also thoroughly evaluate and provide a narrative description of the student's educational and developmental potential.
 4. When a child is being assessed to determine eligibility for services at age three, an observation of the child's interactions in the child's natural environment or early intervention program is strongly encouraged.
 5. For children who are receiving early intervention services, school districts are encouraged to use current and appropriate assessments from early intervention teams, whenever possible, to avoid duplicate testing.

(b) Optional assessments. The Administrator of Special Education may recommend or a parent may request one or more of the following:

1. A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records.
2. A psychological assessment by a licensed school psychologist, licensed psychologist, or licensed educational psychologist, including an individual psychological examination.
3. A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of a parent.

(c) Reports of assessment results. Each person conducting an assessment shall summarize in writing the procedures employed, the results, and the diagnostic impression, and shall define in detail and in educationally relevant and common terms, the student's needs, offering explicit means of meeting them. The assessor may recommend appropriate types of placements, but shall not recommend specific classrooms or schools. Summaries of assessments shall be

completed prior to discussion by the Team and, upon request, shall be made available to the parents at least two days in advance of the Team discussion at the meeting occurring pursuant to 603 CMR 28.05(1).

(3) Annual reviews and three-year reevaluations. The school district shall review the IEPs and the progress of each eligible student at least annually. Additionally, every three years, or sooner if necessary, the school district shall, with parental consent, conduct a full three-year reevaluation consistent with the requirements of federal law.

(4) Unscheduled evaluations for medical reasons. If, in the opinion of the student's physician, an eligible student is likely to remain at home, in a hospital, or in a pediatric nursing home for medical reasons and for more than 60 school days in any school year, the Administrator of Special Education shall, without undue delay, convene a Team to consider evaluation needs and, if appropriate, to amend the existing IEP or develop a new IEP suited to the student's unique circumstances.

(5) Independent education evaluations. Upon receipt of evaluation results, if a parent disagrees with an initial evaluation or reevaluation completed by the school district, then the parent may request an independent education evaluation.

(a) All independent education evaluations shall be conducted by qualified persons who are registered, certified, licensed or otherwise approved and who abide by the rates set by the state agency responsible for setting such rates. Unique circumstances of the student may justify an individual assessment rate that is higher than that normally allowed.

(b) The parent may obtain an independent education evaluation at private expense at any time.

(c) Public funding of independent education evaluations - When the parent requests public funding for an independent education evaluation, the district shall abide by the following provisions for a sliding fee scale:

1. If the student is eligible for free or reduced cost lunch or is in the custody of a state agency with an Educational Surrogate Parent appointed in accordance with federal law, then the school district shall provide, at full public expense, an independent education evaluation that is equivalent to the types of assessments done by the school district. No additional documentation of family financial status is required from the parent.
2. If the family financial status is not known, the district shall offer the parent information about the sliding fee scale and the opportunity to provide family income information to determine if the family may be eligible for public funding of all or part of the costs of an independent education evaluation. Provision of financial information by the family is completely

voluntary on the part of the family. The lack of financial information provided by the family will disqualify the family from such additional public funding of all or part of the costs of an independent education evaluation under 603 CMR 28.04(5)(c) but shall not limit the rights of parents to request public funding under 603 CMR 28.04(5)(d).

3. If the family agrees to provide financial information, such information shall include anticipated annual income of the family, including all sources of income and verifying documents. Financial information shall be reviewed by the district, shall be kept confidential during review by the district, shall not be copied or maintained in any form at the district except to note that information was provided and reviewed and met or did not meet sliding fee scale standards. Financial documents shall be promptly returned to the parent upon the district's determination of financial income status.
4. The district shall consider family size and family income information in relation to Federal Poverty Guidelines and shall contribute public funds to the costs of the independent education evaluation according to the following standards:
 1. If the family income is equal to or less than 400% of the federal poverty guidelines, the district shall pay 100% of the costs of an independent education evaluation.
 2. If the family income is between 400% and 500% of the federal poverty guidelines, the district shall pay 75% of the costs of an independent education evaluation.
 3. If the family income is between 500% and 600% of the federal poverty guidelines, the district shall pay 50% of the costs of an independent education evaluation.
 4. If the family income is over 600% of the federal poverty guidelines, the district shall have no obligation to cost-share with the parent.
5. When the parent seeks and receives public funding for an independent education evaluation under these provisions, the parent may request independent assessments in one, more than one, or all of the areas assessed by the school district.
6. The right to this publicly funded independent education evaluation under 603 CMR 28.04(5)(c) continues for 16 months from the date of the evaluation with which the parent disagrees.

(d) If the parent is requesting an independent education evaluation in an area not assessed by the school district, the student does not meet income eligibility standards, or the family chooses not to provide financial documentation to the district establishing family income level, the school district shall respond in accordance with the requirements of federal law. Within five school days, the

district shall either agree to pay for the independent education evaluation or proceed to the Bureau of Special Education Appeals to show that its evaluation was comprehensive and appropriate. If the Bureau of Special Education Appeals finds that the school district's evaluation was comprehensive and appropriate, then the school district shall not be obligated to pay for the independent education evaluation requested by the parent.

(e) Whenever possible, the independent education evaluation shall be completed and a written report sent no later than 30 days after the date the parent requests the independent education evaluation. If publicly funded, the report shall be sent to the parents and to the school district. The independent evaluator shall be requested to provide a report that summarizes, in writing, procedures, assessments, results, and diagnostic impressions as well as educationally relevant recommendations for meeting identified needs of the student. The independent evaluator may recommend appropriate types of placements but shall not recommend specific classrooms or schools.

(f) Within ten school days from the time the school district receives the report of the independent education evaluation, the Team shall reconvene and consider the independent education evaluation and whether a new or amended IEP is appropriate.

Note About End of School Year Referrals:

If the district receives an evaluation consent form within 30-45 school days prior to the end of the school year, the district will ensure a team meeting is scheduled prior to the end of the school year. However, if the district receives an evaluation consent from fewer than 30 school days prior to the end of the school year, the timeline of the evaluation process starts at the receipt of the consent but stops on the last day of school and then restarts at the start of the following school year.

6. Eligibility

Convening the Team.

Within 45 school working days after receipt of a parent's written consent to an initial evaluation or reevaluation, the school district shall: provide an evaluation; convene a Team meeting to review the evaluation data, determine whether the student requires special education and, if required, develop an IEP in accordance with state and federal laws; and provide the parents with two copies of the proposed IEP and proposed placement, except that the proposal of placement may be delayed according to the provisions of 603 CMR 28.06(2)(e); or, if the Team determines that the student is not eligible for special education, the school district shall send a written explanation of the finding that the student is not eligible. The evaluation assessments shall be completed within 30 school working days after receipt of parental consent for evaluation.

Summaries of such assessments shall be completed so as to ensure their availability to parents at least two days prior to the Team meeting. If consent is received within 30 to 45 school working days before the end of the school year, the school district shall ensure that a Team meeting is scheduled so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible no later than 14 days after the end of the school year.

Determinations of the Team

(a) Eligibility determination. The Team shall examine the evaluative data, including information provided by the parent, and make one of the following determinations:

1. The student is eligible. If the student has one or more of the disabilities defined at 603 CMR 28.02(7) and if, as a result of the disability(ies), the student is unable to progress effectively in the general education program without the provision of specially designed instruction, or is unable to access the general curriculum without the provision of one or more related services, the Team shall determine that the student is eligible.
 1. Consistent with state and federal special education law, the Team shall establish whether a student has a disability(ies) as defined in 603 CMR 28.02(7), determine the type(s) of disability(ies) and shall ensure that the student's inability to progress is a result of the disability(ies) and not a result of an inability to meet the school discipline code, limited English proficiency, social maladjustment, or lack of instruction in reading or math.
 2. Once eligibility has been determined, the type of disability of the student shall not be used to provide a basis for labeling or stigmatizing the student. Additionally, the type of disability shall not

define the needs of the student and shall in no way limit the services, programs, or inclusion opportunities provided to the student.

3. If the Team determines that the student is an eligible student, the Team shall develop an individualized education program (IEP).
2. The student is not eligible. If the Team determines that the student is not eligible, the Team chairperson shall record the reason for such finding, list the meeting participants, and provide written notice to the parent of their rights in accordance with federal requirements within ten days of the Team meeting.

7. Individualized Education Program (IEP)

Contents of the IEP

Upon determining that the student requires special education and based upon the evaluative data, the Team shall write an IEP for the student and decide the student's placement. The IEP shall describe the special education and related services that the student requires and shall include all elements required under federal and state law.

(a) The IEP shall include specially designed instruction to meet the needs of the individual student and related services that are necessary to allow the student to benefit from the specially designed instruction, or may consist solely of related services that are necessary to allow the student to access the general curriculum, consistent with federal and state requirements.

(b) The Team shall carefully consider the general curriculum, the learning standards of the Massachusetts Curriculum Frameworks, the curriculum of the district, and shall include specially designed instruction or related services in the IEP designed to enable the student to progress effectively in the content areas of the general curriculum.

(c) For any student approaching graduation or the age of twenty-two, the Team shall determine whether the student is likely to require continuing services from adult human service agencies. In such circumstances, the Administrator of Special Education shall make a referral to the Bureau of Transitional Planning in the Executive Office of Health and Human Services in accordance with the requirements of M.G.L. c. 71B, § 12A through C (known as Chapter 688).

(d) The daily duration of the student's program shall be equal to that of the regular school day, unless the Team states that a different duration is necessary to provide a free appropriate public education to the student. In such case, the Team shall specify the daily duration of the program, and the Team shall state on the IEP the reason for such different duration.

1. An extended year program may be identified if the student has demonstrated or is likely to demonstrate substantial regression in his or her learning skills and/or substantial difficulty in relearning such skills if an extended program is not provided.
2. If residential services are required, the IEP must clearly specify the reasons for such determination and how such services will be coordinated with the day education services provided to the student. Additionally, the goals and services on the student's IEP must reflect the comprehensive nature of the educational program required.
3. If a longer program is required, the student's IEP must specify why a longer program is necessary.

4. Camping or recreation programs provided solely for recreational purposes and with no corresponding IEP goals or specially designed instruction shall not be considered extended year programs.

Transportation

The Team shall determine whether the student requires transportation because of his or her disability in order to benefit from special education.

(a) Regular transportation. If the student does not require transportation as a result of his or her disability, then transportation shall be provided in the same manner as it would be provided for a student without disabilities. In such case, the IEP shall note that the student receives regular transportation, and if the school district provides transportation to similarly situated students without disabilities, the eligible student shall also receive transportation.

1. If regular transportation is noted on the student's IEP and the student is placed by the school district in a program located at a school other than the school the student would have attended if not eligible for special education, the student is entitled to receive transportation services to such program.
2. If regular transportation is noted on the student's IEP and the student is enrolled by his or her parents in a private school and receiving services under 603 CMR 28.03(1)(e), such student is not entitled to transportation services unless the school district provides transportation to students without disabilities attending such private school.

(b) Special transportation. If the Team determines that the student's disability requires transportation or specialized transportation arrangements in order to benefit from special education, the Team shall note on the student's IEP that the student requires special transportation. In such circumstances, transportation is a related service.

1. The Team shall determine necessary modifications, special equipment, assistance, need for qualified attendants on vehicles, and any particular precautions required by the student and shall document such determinations in the student's IEP. If specialized arrangements can be provided on regular transportation vehicles, the school district shall make such arrangements.
 1. The district shall arrange to have eligible students who use wheelchairs transported in vehicles that do not require such students to be removed from their wheelchairs in order to enter or leave the vehicles; provided, however, that this requirement shall not be applicable where a Team or the student's physician recommends that the student regularly transfer in and out of

conventional vehicles to or from a wheelchair for therapeutic or for independence training reasons.

2. The Team shall specify whether the student requires assistance in or out of the home, on or off of the vehicle, and in or out of the school. If such assistance is specified, the district shall ensure that it is provided.
 3. The Team shall specify if the student has a particular need or problem that may cause difficulties during transportation, such as seizures, a tendency for motion sickness, behavioral concerns, or communication disabilities.
2. If special transportation is noted on the student's IEP, the student is entitled to receive transportation services to any program provided by the public school and in which the student participates.
 3. If special transportation is noted on the student's IEP and the student is enrolled by his or her parents in a private school and receiving services under 603 CMR 28.03(1)(e), the school district's obligation to provide transportation shall be limited to transportation services within the geographic boundaries of the school district.

(c) In no event shall a school district allow transportation considerations to influence, modify, or determine the educational program required by any student in need of special education.

8. Placement

At the Team meeting, after the IEP has been fully developed, the Team shall determine the appropriate placement to deliver the services on the student's IEP. Unless the student's IEP requires some other arrangement, the student shall be educated in the school that he or she would attend if the student did not require special education.

(a) Identification by the Team of placement shall proceed in accordance with the options delineated in 603 CMR 28.06.

(b) Lack of an identified placement shall not delay the proposal of the IEP to the parent following the Team meeting.

Least Restrictive Environment (LRE)

The district will ensure that, to the maximum extent appropriate, students with disability are educate with students who do not have disabilities and that special classes , separate schooling, or other removal of students with disabilities from the general education setting occurred only if the nature of the disability is such that the education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

9. Parents Rights/Involvement

Parental consent

In accordance with state and federal law, each school district shall obtain informed parental consent as follows:

(a) The school district shall obtain written parental consent before conducting an initial evaluation or making an initial placement of a student in a special education program under 603 CMR 28.00. Written parental consent shall be obtained before conducting a reevaluation and before placing a student in a special education placement subsequent to the initial placement in special education.

1. The school district shall obtain consent before initiating extended evaluation services as described in 603 CMR 28.05(2)(b).
2. A parent may revoke consent at any time. Except for initial evaluation and initial placement, and as prescribed by 603 CMR 28.00, consent may not be required as a condition of any benefit to the student.
3. Parents have the right to observe any program(s) proposed for their child if the child is identified as eligible for special education services.
4. A parent may discontinue special education and related services provided to his or her child by notifying the school district in writing that the parent revokes consent to the continued provision of all special education and related services to the child. The school district shall respond promptly by sending notice to the parent of the district's intention to discontinue all special education and related services to the student 10 school days from the date of the district's notice based on the parent's revocation of consent. The school district may not challenge the parent's decision through the dispute resolution processes provided under 603 CMR 28.08. Nothing in this regulation shall prevent a school district and a parent from meeting to discuss discontinuation of all special education and related services provided the parent's participation is voluntary.

(b) If, subsequent to initial evaluation and initial placement and after following the procedures required by 603 CMR 28.00, the school district is unable to obtain parental consent to a reevaluation or to placement in a special education program subsequent to the initial placement, or the parent revokes consent to such reevaluation or placement, the school district shall consider with the parent whether such action will result in the denial of a free appropriate public education to the student. If, after consideration, the school district determines that the parent's failure or refusal to consent will result in a denial of a free appropriate public education to the student, it shall seek resolution of the dispute through the procedures provided in 603 CMR 28.08. Participation by the parent in such

consideration shall be voluntary and the failure or refusal of the parent to participate shall not preclude the school district from taking appropriate action pursuant to 603 CMR 28.08 to resolve the dispute. This provision shall not apply if the parent has revoked consent to all special education and related services as provided in 603 CMR 28.07(1)(a)(4).

(c) When the participation or consent of the parent is required and the parent fails or refuses to participate, the school district shall make and document multiple efforts to contact the parent. Such efforts may include letters, written notices sent by certified mail, electronic mail (e-mail), telephone call, or, if appropriate, TTY communications to the home, and home visits at such time as the parent is likely to be home. Efforts may include seeking assistance from a community service agency to secure parental participation. The school district shall ensure that its efforts to involve the parent and gain parental consent meet a reasonable measure standard as articulated in federal law at 34 CFR §§300.300(c)(2) and 300.322(d). If the above efforts are attempted and documented and the district is unable to secure parental consent to a reevaluation or placement subsequent to the initial placement in a special education program, the school district shall proceed in accordance with 603 CMR 28.07(1)(b). This provision shall not apply if the parent has revoked consent to all special education and related services as provided in 603 CMR 28.07(1)(a)(4).

Parent right to waive assessments

Any individual assessment may be waived with the approval of the parents if an equivalent assessment has been recently completed and if the person conducting the school assessment determines that the assessment results are still accurate.

(a) All efforts shall be made to avoid duplicative or unnecessary testing.

(b) In accordance with federal requirements, if recommended by the school district, parents may agree to waive some or all assessments when the three-year reevaluation is required.

Reports to parents

Written progress reports for eligible students shall be submitted to parents at least as often as report cards or progress reports for students without disabilities.

Parent advisory participation

Each school district shall create a districtwide parent advisory council offering membership to all parents of eligible students and other interested parties. The parent advisory council duties shall include but not be limited to: advising the district on matters that pertain to the education and safety of students with disabilities; meeting regularly with school officials to participate in the planning, development, and evaluation of the school district's special education programs. The parent advisory council shall establish

by-laws regarding officers and operational procedures, and, in the course of its duties, the parent advisory council shall receive assistance from the district without charge, upon reasonable notice, and subject to the availability of staff and resources.

Student participation and consent at the age of majority

When the student reaches 18 years of age, he or she shall have the right to make all decisions in relation to special education programs and services. The school district shall have the obligation to obtain consent from the student to continue the student's special education program. The parents will continue to receive written notices and information but will no longer have decision-making authority, except as provided in 603 CMR 28.07(5)(a) through (c).

(a) If a parent has sought and received guardianship from a court of competent jurisdiction, then the parent retains full decision-making authority. The parent shall not have authority to override any decision or lack of decision made by the student who has reached the age of majority unless the parent has sought or received guardianship or other legal authority from a court of competent jurisdiction

(b) The student, upon reaching 18 years of age and in the absence of any court actions to the contrary, may choose to share decision-making with his or her parent (or other willing adult), including allowing the parent to co-sign the IEP. Such choice shall be made in the presence of the Team and shall be documented in written form. The student's choice shall prevail at any time that a disagreement occurs between the adult student and the parent or other adult with whom the student has shared decision-making

(c) The student, upon reaching 18 years of age and in the absence of any court actions to the contrary, may choose to delegate continued decision-making to his or her parent, or other willing adult. Such choice shall be made in the presence of at least one representative of the school district and one other witness and shall be documented in written form and maintained in the student record.

When a parent provides transportation

If a parent provides transportation to an eligible student requiring special transportation consistent with the requirements of 603 CMR 28.05(5)(b), the school district shall reimburse such parent the prevailing rate per mile for state employees. Reimbursement shall be for no more than the round-trip distance between the home and the school for school attendance and school-sponsored extracurricular activities. Mileage shall be determined based on a direct route between the student's home and school. No parent shall be obligated to provide such transportation.

Educational surrogate parent - District responsibility

When a student is without parental representation and requires an educational surrogate parent to be appointed in accordance with federal law and regulations, the Department may request assistance from the district responsible for services to the student in identifying a person willing to serve as an educational surrogate parent.

(a) Upon assignment by the Department, such educational surrogate parent shall have all the rights and responsibilities of a parent in making decisions regarding eligibility and services for special education for the assigned student. The Department shall provide notice of appointment to the school district and any state agency with custody of the student.

(b) A person identified by the district and willing to serve as an educational surrogate parent shall have no conflict of interest and shall not be in the employ of the school district or any state or local agencies involved with the care of the student.

(c) A person identified by the district, appointed by the Department, and serving as an educational surrogate parent shall not receive financial remuneration from the district except that the school district shall reimburse the person for reasonable expenses related to the exercise of his or her responsibilities as an educational surrogate parent for a student enrolled in the district.

Communications with parents and students

Each district shall ensure that all communications and meetings with parents and students pursuant to 603 CMR 28.00 meet the following standards:

(a) Communications shall be in simple and commonly understood words.

(b) Communications shall be in both English and the primary language of the home, if such primary language is other than English. Any interpreter used to implement this provision shall be fluent in the primary language of the home.

(c) Where the parents or the student are unable to read in any language or are blind or deaf, communications shall be made orally in English or with the use of a foreign language interpreter, in Braille, in sign language, via TDD, or in writing, whichever is appropriate.

Due Process Rights

At times, parents/guardians may not agree with the team's/district's proposed action. If a parent/guardian rejects a proposed IEP in its entirety or portions thereof, the document is sent to the BSEA within 5 days of receiving the parent/guardian's response.

There are several ways to settle disputes. Parents/guardians may request a meeting with school personnel at any time. The Special Education Coordinator/Tem

Chairperson is available to discuss your concerns. Please note that communicating with the district staff shall not be used to delay or deny a parent/guardian's right to access other dispute resolution methods outlined below per Massachusetts regulations 603 CMR 28.08.

Department Procedures

The Department maintains a Problem Resolution System that provides for the investigation of complaints and the enforcement of compliance with 603 CMR 28.00, as well as with other statutes and regulations relating to the provision of publicly funded education. The Department can make findings on procedural issues and issues related to implementation of requirements. Any party wishing to file a complaint may do so through the Department. Use of the Department Problem Resolution procedures shall not prevent a party from requesting alternative administrative remedies of mediation or hearing on any matter, at any time. Copies of the Problem Resolution System Guidelines and Procedures are available from the Department upon request. Findings and orders issued by the Department on complaints and the Department's processing of a complaint are not reviewable by the Bureau of Special Education Appeals. Additionally, the pendency of a complaint before the Department does not make the Department a necessary party to actions on related issues pending before the Bureau of Special Education Appeals.

Bureau of Special Education Appeals: Jurisdiction

In order to provide for the resolution of differences of opinion among school districts, private schools, parents, and state agencies, the Bureau of Special Education Appeals, pursuant to G.L. c. 71B, §2A, shall conduct mediations and hearings to resolve such disputes. The jurisdiction of the Bureau of Special Education Appeals over state agencies, however, shall be exercised consistent with 34 CFR §300.154(a). The hearing officer may determine, in accordance with the rules, regulations and policies of the respective agencies, that services shall be provided by the Department of Children and Families*, the Department of Developmental Disabilities*, the Department of Mental Health, the Department of Public Health, or any other state agency or program, in addition to the IEP services to be provided by the school district. Mediations and hearings shall be conducted by impartial mediators and hearing officers who do not have personal or professional interests that would conflict with their objectivity in the hearing or mediation and who are employed to conduct those proceedings.

(a) A parent or a school district, except as provided in 603 CMR 28.08(3)(c) and (d), may request mediation and/or a hearing at any time on any matter concerning the eligibility, evaluation, placement, IEP, provision of special education in accordance with state and federal law, or procedural protections of state and federal law for students with disabilities. A parent of a student with a

disability may also request a hearing on any issue involving the denial of the free appropriate public education guaranteed by Section 504 of the Rehabilitation Act of 1973, as set forth in 34 CFR §§104.31-104.39.

(b) No later than five days after receipt of a request for hearing or notice that an IEP, or proposed placement, or finding of no eligibility for special education has been rejected by the parent, the school district shall send a copy of such request or notice to the Bureau of Special Education Appeals. The Bureau of Special Education Appeals shall then give notice in writing to the parties of the rights of the parents and school district to request mediation and a hearing.

(c) A school district may not request a hearing on a parent's failure or refusal to consent to initial evaluation or initial placement of a student in a special education program, or on a parent's decision to revoke consent to the continued provision of all special education and related services to his or her child under 603 CMR 28.07(1)(a)(4).

(d) A school district may request a hearing to appeal the Department's assignment of school district responsibility under 603 CMR 28.10 according to the procedures in 603 CMR 28.10(9).

Mediation

A voluntary dispute resolution procedure, called mediation, shall be provided by mediators employed by the Bureau of Special Education Appeals and may be used by parents and school districts to seek resolution of their dispute. Mediations shall be provided at no cost to the parties. No parent shall be required to participate in mediation.

(a) Within 30 days of receipt of a request for mediation, the mediator shall schedule a mediation session at a time and place convenient to the parties. The mediation shall include the parents, any representative of the parents' choosing, and a representative(s) of the school district, with one representative who is authorized to resolve the dispute on behalf of the school district. When the parties reach agreement, it shall be set forth in written form. Concurrent with a request for mediation or if no agreement is reached, the parents or school district may request a hearing.

(b) All discussions that occur during mediation are confidential and may not be used as evidence in a hearing. Parents and school districts may request a hearing without participating in mediation.

Hearings

Five (5) days after receipt of a written request for hearing, the Bureau of Special Education Appeals shall notify the parties in writing of the name of the assigned hearing officer and, as appropriate, shall provide either a date for the hearing or a statement of federally required procedures to be followed before a hearing date can be assigned.

(a) The Bureau of Special Education Appeals shall issue Rules that state the parties' rights and obligations as to the hearing process, which shall be consistent with all state and federal laws. Such Rules shall be available to the public on request.

(b) Except as provided otherwise under federal law or in the administrative rules adopted by the Bureau of Special Education Appeals, hearings shall be conducted consistent with the formal Rules of Administrative Procedures contained in 801 CMR 1.00.

(c) The Special Education Appeals hearing officer shall have the power and the duty to conduct a fair hearing; to ensure that the rights of all parties are protected; to define issues; to receive and consider all relevant and reliable evidence; to ensure an orderly presentation of the evidence and issues; to order additional evaluations by the school district or independent education evaluations at public expense when necessary in order to determine the appropriate special education for the student; to reconvene the hearing at any time prior to the issuance of a decision; to take such other steps as are appropriate to assure the orderly presentation of evidence and protection of the parties' rights at the hearing; to ensure a record is made of the proceedings; and to reach a fair, independent, and impartial decision based on the issues and evidence presented at the hearing and in accordance with applicable law.

Hearing Decision

The decision of the hearing officer of the Bureau of Special Education Appeals shall be implemented immediately and shall not be subject to reconsideration by the Bureau of Special Education Appeals or the Department, but may be appealed to a court of competent jurisdiction.

(a) The written findings of fact and decision of the hearing officer along with notification of the procedures to be followed with respect to appeal and enforcement of the decision shall be sent to the parties and their representatives.

(b) A party contending that a Bureau of Special Education Appeals decision is not being implemented may file a motion with the Bureau of Special Education Appeals contending that the decision is not being implemented and setting out the areas of non-compliance. The hearing officer may convene a hearing at which the scope of the inquiry shall be limited to the facts on the issue of compliance, facts of such a nature as to excuse performance, and facts bearing on a remedy. Upon a finding of non-compliance, the hearing officer may fashion appropriate relief, including referral of the matter to the Legal Office of the Department or other office for appropriate enforcement action. The possibility of enforcement action does not make the Department a necessary party in matters pending before the Bureau of Special Education Appeals.

Student's right to IEP services and placement

In accordance with state and federal law, during the pendency of any dispute regarding placement or services, the eligible student shall remain in his or her current education program and placement unless the parents and the school district agree otherwise.

(a) If the parents are seeking initial placement in the public school, and the child is at least five years old, however, the child shall be placed in the public school program.

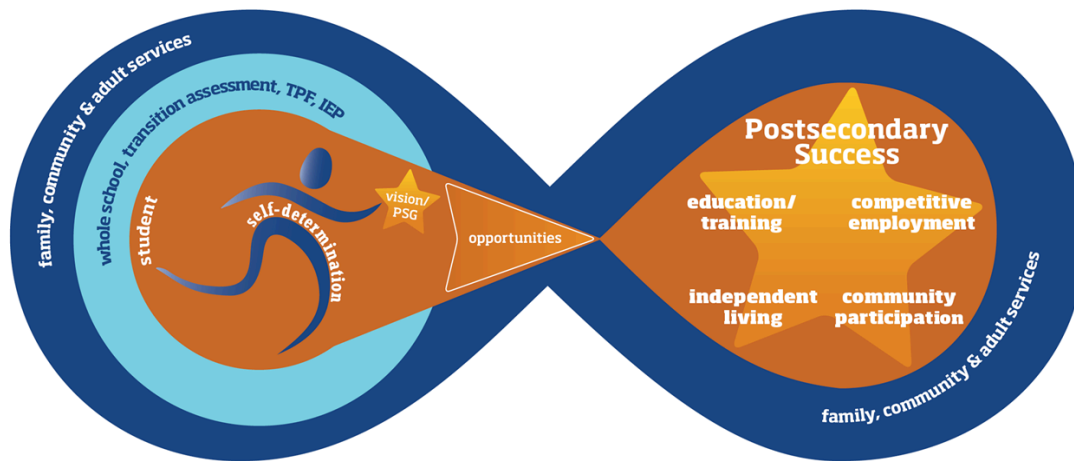
(b) For children three and four years of age, rights to services from the public school district are limited to children who have been found eligible for special education and have an IEP and placement proposed by the public school district and accepted by the parent.

(c) A hearing officer may order a temporary change in placement of an eligible student for reasons consistent with federal law, including but not limited to when maintaining such student in the current placement is substantially likely to result in injury to the student or others.

(d) Except as provided in 603 CMR 28.08(7)(a through c) above, any party seeking to change the eligible student's placement during the pendency of proceedings before the Bureau of Special Education Appeals or in subsequent judicial proceedings shall seek a preliminary injunction from a state or federal court of competent jurisdiction, ordering such a change in placement.

10. Transition Planning

Massachusetts Student-Driven Secondary Transition Model



According to the Individuals with Disabilities Education Act (IDEA), secondary transition services are a "coordinated set of activities... within a results-oriented process, that is focused on improving the academic and functional achievement" of students with disabilities, so as to facilitate their "movement from school to post-school activities."^[i] Created by the Department of Elementary and Secondary Education (ESE) in consultation with a broad cross-section of stakeholders, and with graphics expertise donated by the Institute for Community Inclusion at UMass Boston, the *Massachusetts Student-Driven Secondary Transition Model* visually represents this movement from school to post-school life for students with Individualized Education Programs (IEPs) aged 14-22. The model is informed by two big ideas:

“Student-Driven”

This model emphasizes the central, most important characteristic of a successful secondary transition process: it is *student-driven*. A large body of research demonstrates that students who achieve postsecondary success tend to be those who are supported by educators, families, and communities to be meaningfully engaged in planning, assessment, IEP development, course of study, and service delivery during their transition years. Successful students understand their own strengths and limitations, know themselves to be “causal agents in their own lives,”^[ii] have a vision for the future, and are directly involved in actualizing that vision.

An Infinity Symbol

No one – with or without disabilities – becomes successful in a vacuum. We are all interdependent, each person relying on the other for knowledge, companionship, resources, and support. Throughout the course of their lives, in school and beyond, individuals with disabilities are supported by family, community, and (in some cases) state agencies. In this visual model, the **dark blue infinity symbol** denotes the lifelong interdependence of every person, who from school days (on the left) progresses to adult life (on the right).

We invite all stakeholders – students, families, general and special educators, administrators, guidance counselors, vocational rehabilitation counselors, related service providers, and others – to use this model as a reference to inform the planning and delivery of secondary transition programs and services, on an individual and system-wide basis. We note that the model is aligned with existing state priorities such as college-career readiness, with district standards and indicators, and with initiatives such as the Massachusetts Tiered System of Supports.

11. Student Discipline

General Guidance for Disciplining Students with Disabilities

In general, all students are expected to meet the requirements for behavior as set forth in the student handbook and the school's code of conduct. In accordance with Chapter 71B of the Massachusetts General Laws and with federal law IDEA 2004: Section 615(k), the school may suspend or remove your child from his or her current placement for no more than ten (10) school days (or fewer if the removals constitute a pattern). Special provisions are outlined below for students with a documented disability who have an Individualized Education Program (IEP).

Procedures for suspension(s) not exceeding 10 school days:

- Any student with a disability may be suspended for up to ten (10) days during a school year. Disciplinary decisions are the same as for students without disabilities.
- Special circumstances exist if your child: possesses, uses, sells or solicits illegal drugs on school grounds or at a school-sponsored event; carries a weapon to school or a school-sponsored event; or inflicts serious bodily harm upon another person at school or a school-sponsored event. Under these circumstances, the TEAM may place your child in an interim alternative educational setting (IAES) for up to forty-five (45) school days. Your child may remain in this interim alternative setting for a period of time not to exceed forty-five (45) school days. Thereafter, your child will return to the previously agreed upon placement unless a hearing officer has ordered another placement, or you and the school agree to another placement.

Procedures for suspension of students with a disability when suspension exceeds 10 school days:

- If your child is suspended for more than ten (10) school days in a school year, this removal is considered a "change of placement". A change of placement invokes certain procedural protections under federal special education law and Section 504.
- Prior to any removal that constitutes a change in placement, the school will inform you that the law requires UCT to consider whether or not the behavior that forms the basis of the disciplinary action is related to your child's disability. This consideration is called a "manifestation determination". Parents have a right to participate in this process. All relevant information will be considered including the IEP or Section 504 Plan, teacher observations, and evaluations reports.

- At a manifestation determination meeting, the Team will consider the following:
 - Did the student's disability cause or have a direct and substantial relationship to the conduct in question?
 - Was the conduct a direct result of the district's failure to implement the IEP?

- If the manifestation determination decision is that the disciplinary action was related to the disability, then your child may not be removed from the current educational placement (unless under the special circumstances). The Team will review the IEP and Section 504 Plan and any behavioral intervention plans.

- If the manifestation determination decision is that the disciplinary action was not related to the disability, then the school may suspend or otherwise discipline your child according to the Student Handbook. Should the period of time of removal exceed 10 school days, the school district will provide educational services that allow your child to continue to make educational progress.

12. Section 504 and the Americans with Disabilities Act [504](#)

Section 504 of the Rehabilitation Act of 1973 (the precursor of ADA) protects the rights of individuals with disabilities in programs and activities, including schools, that receive federal funds. Section 504 provides that: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ."

ADA gives civil rights protections to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin, and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations (including most private schools, child care centers, etc), transportation, State and local government services (including public schools), and telecommunications.

The law requires that students with disabilities be educated along with nondisabled students to the maximum extent appropriate to the needs of the students with disabilities. This means that students with disabilities must be assigned to regular courses or classes if the students' needs can be met there. Also, decisions on academic placement must be based on an individual student's needs.

Schools that do not offer the special educational programs or facilities that may be required by a student with disabilities may refer that student to another school or educational institution. However, the student's home district remains responsible for providing the student a free and appropriate education.