

# Greenbush/Middle River School District #2683

## Total Special Education System (TSES)

This document serves as the Total Special Education System Plan for Greenbush/Middle River School District #2683 in accordance with Minn. R. 3525.1100. This plan also includes an assurance for compliance with the federal requirements pertaining to districts' special education responsibilities found in United States Code, title 20, chapter 33, sections 1400 et seq., and Code of Federal Regulations, title 34, part 300. This document is a companion to the Application for Special Education Funds – Statement of Assurances (ED-01350-29).

Kim Johnson, District 2683's special education director, is responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration. Kim Johnson may be reached at 218-874-8215

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## I. Child Study Procedures

The District's identification system is developed according to the requirement of nondiscrimination as Greenbush/Middle River School District #2683 does not discriminate in education on the basis of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability.

### A. Identification

*Greenbush/Middle River School District #2683* has developed systems designed to identify pupils with disabilities beginning at birth, pupils with disabilities attending public and nonpublic schools, and pupils with disabilities who are of school age and are not attending any school.

Infant and toddler intervention services under United States Code, title 20, chapter 33, section 1431 et seq., and Code of Federal Regulations, title 34, part 303, are available in *Greenbush/Middle River School District #2683* to children from birth through two years of age who meet the outlined criteria.

The team determines that a child from birth through the age of two years is eligible for infant and toddler intervention services if:

- A. The child meets the criteria of one of the disability categories in United States Code, title 20, chapter 33, as defined in Minnesota Rules; or
- B. The child meets one of the criteria for developmental delay in subitem (1), (2), or (3):
  - (1) The child has a diagnosed physical or mental condition or disorder that has a high probability of resulting in developmental delay regardless of whether the child has a demonstrated need or delay; or
  - (2) The child is experiencing a developmental delay that is demonstrated by a score of 1.5 standard deviations or more below the mean, as measured by the appropriate diagnostic measures and procedures, in one or more of the following areas:
    - (a) Cognitive development;
    - (b) Physical development, including vision and hearing;
    - (c) Communication development;
    - (d) Social or emotional development; and
    - (e) Adaptive development.
  - (3) The child's eligibility is established through the application of informed clinical opinion. Informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments to establish eligibility.

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

- A. The child meets the criteria of one of the categorical disabilities in United States Code, title 20, chapter 33, as defined in Minnesota Rules; or
- B. The child meets one of the criteria for developmental delay in subitem (1) and the criteria in subitem (2). *Greenbush/Middle River School District #2683* has elected the option of implementing these criteria for developmental delay.

(1) The child:

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

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

- (a) *At least one documented, systematic observation in the child's routine setting by an appropriate professional or, if observation in the daily routine setting is not possible, the alternative setting must be justified;*
- (b) *A developmental history; and*
- (c) *At least one other evaluation procedure in each area of identified delay that is conducted on a different day than the medical or norm-referenced evaluation; which may include criterion referenced instruments, language samples, or curriculum-based measures.*

*Greenbush/Middle River School District #2683's* plan for identifying a child with a specific learning disability (SLD) is consistent with Minnesota Rule 3525.1341. The district implements its interventions consistent with that plan and utilizes a severe discrepancy model (A, B, and C) in identifying a child with a specific learning disability.

## **B. Evaluation**

Evaluation of the child and assessment of the child and family will be conducted in a manner consistent with Code of Federal Regulations, title 34, section 303.321.

- A. *General.* (1) The lead agency must ensure that, subject to obtaining parental consent in accordance with §303.420(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability, receives—
  - (i) A timely, comprehensive, multidisciplinary evaluation of the child in accordance with paragraph (b) of this section unless eligibility is established under paragraph (a)(3)(i) of this section; and
  - (ii) If the child is determined eligible as an infant or toddler with a disability as defined in §303.21;

- (A) A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;
  - (B) A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described in paragraph (c) of this section and these assessments may occur simultaneously with the evaluation, provided that the requirements of paragraph (b) of this section are met.
- (2) As used in this part—
- (i) *Evaluation* means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of *infant or toddler with a disability* in §303.21. An *initial evaluation* refers to the child's evaluation to determine his or her initial eligibility under this part;
  - (ii) *Assessment* means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this part and includes the assessment of the child, consistent with paragraph (c)(1) of this section and the assessment of the child's family, consistent with paragraph (c)(2) of this section; and
  - (iii) *Initial assessment* refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.
- (3)(i) A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this part if those records indicate that the child's level of functioning in one or more of the developmental areas identified in §303.21(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under §303.21. If the child's part C eligibility is established under this paragraph, the lead agency or EIS provider must conduct assessments of the child and family in accordance with paragraph (c) of this section.
- (ii) Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the lead agency must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under paragraph (b) of this section.
- (4) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

- (5) Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of *native language* in §303.25.
  - (6) Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of *native language* in §303.25.
- B. Procedures for evaluation of the child. In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part. Procedures must include –
- (1) Administering an evaluation instrument;
  - (2) Taking the child's history (including interviewing the parent);
  - (3) Identifying the child's level of functioning in each of the developmental areas in § 303.21(a)(1);
  - (4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
  - (5) Reviewing medical, educational, or other records.
- C. Procedures for assessment of the child and family.
- (1) An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:
    - (i) A review of the results of the evaluation conducted by paragraph (b) of this section;
    - (ii) Personal observations of the child; and
    - (iii) The identification of the child's needs in each of the developmental areas in § 303.21(a)(1).
  - (2) A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must –
    - (i) Be voluntary on the part of each family member participating in the assessment;
    - (ii) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and

- (iii) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

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

*Greenbush/Middle River School District #2683* conducts full and individual initial evaluation before the initial provision of special education and related services to a pupil. The initial evaluation consists of procedures to determine whether a child is a pupil with a disability that adversely affects the child's educational performance as defined in Minnesota Statutes, section 125A.02, who by reason thereof needs special education and related services, and to determine the educational needs of the pupil. The district proposing to conduct an initial evaluation to determine if the child qualifies as a pupil with a disability obtains informed consent from the parent of the child before the evaluation is conducted. Parental consent for evaluation is not construed as consent for placement for receipt of special education and related services. The District will not override the written refusal of a parent to consent to an initial evaluation or re-evaluation.

### **Evaluation Procedures**

Evaluations and reevaluations are conducted according to the following procedures:

- A. *Greenbush/Middle River School District #2683* shall provide notice to the parents of the pupil, according to Code of Federal Regulations, title 34, sections 300.500 to 300.505, that describes any evaluation procedures the district proposes to conduct.
- B. In conducting the evaluation, *Greenbush/Middle River School District #2683*:
  - (1) Uses a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and progress in the general curriculum, or for preschool pupils, to participate in appropriate activities;
  - (2) Does not use any single procedure as the sole criterion for determining whether a child is a pupil with a disability or determining an appropriate education program for the pupil; and
  - (3) Uses technically sound instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- C. *Greenbush/Middle River School District #2683* ensures that:
  - (1) Tests and other evaluation materials used to evaluate a child under this part are selected and administered so as not be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;
  - (2) Materials and procedures used to evaluate a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and

needs special education and related services, rather than measure the child's English language skills;

- (3) Any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;
  - (4) The child is evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
  - (5) Evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;
  - (6) If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;
  - (7) Tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
  - (8) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure; and
  - (9) In evaluating each pupil with a disability, the evaluation is sufficiently comprehensive to identify all of the pupil's special education and related service needs, whether or not commonly linked to the disability category in which the pupil has been classified.
- D. Upon completion of administration of tests and other evaluation materials, the determination of whether the child is a pupil with a disability as defined in Minnesota Statutes, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.
- E. In making a determination of eligibility under item D, a child shall not be determined to be a pupil with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency, and the child does not otherwise meet eligibility criteria under parts 3525.1325 to 3525.1351.

***Additional requirements for evaluations and reevaluations***

- A. As part of an initial evaluation, if appropriate, and as part of any reevaluation under this part, or a reinstatement under part 3525.3100, the IEP team and other qualified professionals, as appropriate, shall:
- (1) Review existing evaluation data on the pupil, including evaluations and information provided by the parents of the pupil, current classroom-based assessments and observations, and teacher and related services providers observation; and
  - (2) On the basis of the review, and input from the pupil's parents, identify what additional data, if any, are needed to determine whether the pupil has a particular category of disability, as described in

Minnesota Statutes, section 125A.02, or, in case of a reevaluation of a pupil, whether the pupil continues to have such a disability, the present levels of performance and educational needs of the pupil, whether the pupil needs special education and related services, or in the case of a reevaluation of a pupil, whether the pupil continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

- B. The district administers such tests and other evaluation materials as may be needed to produce the data identified by the IEP team under item A, subitem (2).
- C. The district obtains informed parental consent, in accordance with subpart 1, prior to conducting any reevaluation of a pupil, except that such informed parental consent need not be obtained if the district can demonstrate that it had taken reasonable measures to obtain such consent and the pupil's parent has failed to respond.
- D. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the pupil continues to be a pupil with a disability, the district shall notify the pupil's parents of that determination and the reasons for it, and the right of such parents to request an evaluation to determine whether the pupil continues to be a pupil with a disability, and shall not be required to conduct such an evaluation unless requested to by the pupil's parents.
- E. A district evaluates a pupil in accordance with federal regulation before determining that the pupil is no longer a pupil with a disability.

#### ***Procedures for determining eligibility and placement***

- A. In interpreting the evaluation data for the purpose of determining if a child is a pupil with a disability under parts 3525.1325 to 3525.1351 and the educational needs of the child, the school district:
  - (1) Draws upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
  - (2) Ensures that the information obtained from all of the sources is documented and carefully considered.
- B. If a determination is made that a child is a pupil with a disability who needs special education and related services, an IEP is developed for the pupil according to Minnesota Rule 3525.2810.

#### ***Evaluation report***

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

- A. A summary of all evaluation results;
- B. Documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability;
- C. The pupil's present levels of performance and educational needs that derive from the disability;



- D. Whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and
- E. Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum.

**The district intends to use restrictive procedures.** See the attached Restrictive Procedure Plan – **Appendix A**. The district follows the restrictive procedure statute, Minnesota Statute 125A.094-125A.0942.

### **C. Plan for Receiving Referrals**

*Greenbush/Middle River School District #2683's* plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies is attached as **Appendix B**.

## **II. Method of Providing the Special Education Services for the Identified Pupils**

*Greenbush/Middle River School District #2683* provides a full range of educational service alternatives. All students with disabilities are provided the special instruction and services which are appropriate to their needs. The following is representative of *Greenbush/Middle River School District's* method of providing the special education services for the identified pupils, sites available at which service may occur, and instruction and related services are available.

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

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

- (1) In-direct instruction/consultation services
- (2) Direct instruction
- (3) Push in model with special education teacher in the classroom
- (4) Small group instruction
- (5) One on one services
- (6) Home based or Homebound instruction
- (7) Home visits (Age Birth to 3 years old or as designated by an IEP)
- (8) DayCare Setting for Birth up to Kindergarten

### B. Sites available at which services may occur:

- (1) Greenbush/Middle River - High School (Gr. 9-12 building), Middle School (Gr. 6-8) and Elementary (PreSchool – Gr. 5)

## C. Available instruction and related services:

- (1) Physical Therapy
- (2) Occupational Therapy
- (3) Psychological Services
- (4) School Health and School Nursing Services
- (5) Speech Language Services
- (6) Developmental Adaptive Physical education Services (DAPE)
- (7) Audiological Services
- (8) Orientation and Mobility Services
- (9) Interpreter Services
- (10) Vision Consultant
- (11) Autism Consultant
- (12) Physically Impaired Consultant
- (13) Deaf Hard of Hearing Consultant
- (14) Mental Health Services (Counseling, School Social Worker)
- (15) Special Transportation
- (16) Other, - as determined by the IEP team as necessary to make progress on IEP goals.

**III. Administration and Management Plan.**

*Greenbush/Middle River School District #2683* utilizes the following administration and management plan to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils:

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

| <b>Staff Name and Title</b>                         | <b>Contact Information<br/>(phone/email/ mailing<br/>address/office location)</b> | <b>Brief Description of Staff<br/>Responsibilities Relating to Child Study<br/>Procedures and Method of Providing<br/>Special Education Services</b> |
|---|---|--|
| Kim Johnson,<br>Director of<br>Special<br>Education | NWRIC Office<br>PO Box 9<br>Newfolden, MN 56738                                   | Oversee special education programs   |

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|  | 218-874-8215<br><a href="mailto:kjohnson@nwrict.com">kjohnson@nwrict.com</a>  |   |
| Kevin McKeever   | GMR School<br>PO Box 70<br>Greenbush, MN 56726<br>218-782-2232 Ext. 205<br><a href="mailto:kmckeever@greenbush.k12.mn.us">kmckeever@greenbush.k12.mn.us</a>   | Oversee all programs in the district.   |
| Jamie Lunsetter,<br>High School,<br>Middle School &<br>Elementary<br>Principal | GMR School<br>PO Box 70<br>Greenbush, MN 56726<br>218-782-2232 Ext. 206<br><a href="mailto:jlunsetter@greenbush.k12.mn.us">jlunsetter@greenbush.k12.mn.us</a> | Oversee child study procedure at Greenbush/Middle River site and participate in meetings. |

- B. Due Process assurances available to parents: *Greenbush/Middle River School District #2683* has appropriate and proper due process procedures in place to assure effective and efficient results of child study procedures and methods of providing special education services for the identified pupils, including alternative dispute resolution and due process hearings. *A description of these processes are as follows:*
- (1) Prior written notice to a) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and b) state that a parent who objects to a proposal or refusal in the prior written notice may request a conciliation conference or another alternative dispute resolution procedure.
  - (2) *Greenbush/Middle River School District #2683* will not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.
  - (3) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless medical, dental, mental and other health services are necessary, in the professional's judgment, that the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.
  - (4) Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes are provided at no cost to the parent.

- (5) Conciliation Conference: a parent has the opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives prior written notice. *Greenbush/Middle River School District #2683* holds a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. All discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the District's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.
- (6) In addition to offering at least one conciliation conference, *Greenbush/Middle River School District #2683* informs parents of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.
- (7) Descriptions of the mediation process, facilitated team meetings, state complaint, and impartial due process hearings may be found in *the*

***District's Part C and Part B Procedural Safeguard Notices - See Appendix E***

#### **IV. Interagency Agreements the District has Entered**

*Greenbush/Middle River School District #2683* has entered in the following interagency agreements or joint powers board agreements for eligible children, ages 3 to 21, to establish agency responsibility that assures that interagency services are coordinated, provided, and paid for, and that payment is facilitated from public and private sources:

| <b>Name of Agency</b>   | <b>Terms of Agreement</b>  | <b>Agreement Termination/<br/>Renewal Date</b>       | <b>Comments</b>                            |
|---|--|--|--|
| Region 1 Help Me Grow Interagency Early Intervention Committee (IEIC)                   | <b>See Appendix C</b>  | Entered into 9-21-11 and continues until terminated. |  |
| Marshall County Family Services/Children's Mental Health Collaborative                  | Available upon request from the district.                                  | Entered into 6-14-02 and continues until terminated. | For students that live in Marshall County. |
| Northwest Regional Inter-district Council (NWRIC) #382-52 Special Education Cooperative | Available upon request from the NWRIC Office by calling 218-874-8215       | Entered into 7-1-99 and continues until terminated.  |  |
| Headstart Program   | Available upon request from the District Office. Use of district building, | Ongoing agreement.                                   |  |

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|  | cooperation with special education services. |  |  |
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## V. Special Education Advisory Council (SEAC)

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, *Greenbush/Middle River School District #2683* has a special education advisory council.

- A. *The District's* Special Education Advisory Council is *established in cooperation with other districts who are members of the same special education cooperative.*
- B. *Member Districts include:*
- a. *Badger #676, Goodridge #561, Greenbush/Middle River #2683, Grygla #447, Kittson Central #2171, Tri-County #2358, Lancaster #356, and Marshall County Central #441.*
- C. *The District's* Special Education Advisory Council is *not* a subgroup of *any existing committee.*
- D. At least half of *the District's* parent advisory councils' members are parents of students with a disability.
- The district does not have a nonpublic school located in its boundaries.
- The district has a nonpublic school located in its boundaries and the parent advisory council includes at least one member who is a parent of a nonpublic school student with a disability, or an employee of a nonpublic school if no parent of a nonpublic school student with a disability is available to serve.
- E. *The District's* Special Education Advisory Council meets a minimum of once a year.

***SEAC Operating Procedures, See Appendix D***

## VI. Assurances

Code of Federal Regulations, section 300.201: Consistency with State policies. *Greenbush/Middle River School District #2683*, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under sections 300.101 through 300.163, and sections 300.165 through 300.174. (Authority: 20 U.S.C. § 1413(a)(1)).

Yes: Assurance given.

## Appendix A - Restrictive Procedures Plan

*In accordance with Minnesota Statute 125A.0942, Subd. 1, every school district is required to develop and make public a plan that discloses its use of restrictive procedures. The plan specifically outlines the list of restrictive procedures the school intends to use; how the school will monitor and review the use of restrictive procedures, including post use debriefings and convening an oversight committee; and a written description and documentation of the training staff have received and who received the training.*

**Greenbush/Middle River School District uses restrictive procedures only in emergency situations even if written into a child's Individual Educational Plan (IEP) or Behavior Intervention Plan (BIP). "Emergency means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists." Minn. Stat. 125A.0941(b).**

### Restrictive Procedure used in Greenbush/Middle River School District

1. Physical holding: Physical holding procedures are used as the least intrusive procedure necessary to keep students and staff safe in emergency situations. Selected staff is taught annually techniques of physical holding through CPI-Crisis Prevention Intervention.
2. Physical holding means physical intervention intended to hold a child immobile or limit a child's movement and where body contact is the only source of physical restraint. Physical holding ends when the threat of harm ends and the staff determine the child can safely return to the classroom or activity.
3. The term Physical holding does not mean physical contact that: (a) Helps a child respond or complete a task; (b) Assists a child without restricting the child's movement; (c) Is needed to administer an authorized health-related service or procedure; or (d) Is needed to physically escort a child when the child does not resist or the child's resistance is minimal. Physical holding is not used to discipline a noncompliant child.
4. Greenbush/Middle River School District intends to use the following types of physical holding:
  - a) CPI Children's Control Position
  - b) CPI Team Control Position
  - c) CPI Transport Position
  - d) CPI Interim Control Position

### Before Incorporating Physical Holding into the Individual Education Plan (IEP) or Behavior Intervention Plan (BIP)

1. Before incorporating physical holding into the IEP or BIP, the IEP team must ensure that a Functional Behavior Assessment (FBA) has been completed. The IEP team must use the FBA information along with the present levels of performance, needs, goals and objectives to develop a BIP. Required components of a Behavior Intervention Plan (BIP):

(a) Include positive behavior supports, de-escalation procedures, instruction in appropriate behavior, and other preventative measures in the BIP,

(b) Document which restrictive procedure is being included and why it is the least restrictive effective intervention. The BIP must identify the frequency and severity of target behaviors for which the regulated intervention is being considered; and anticipated criteria for returning the pupil to the routine activities and regular education environment if the intervention is used.

(c) Document the physical health and psychological assessments determined that physical holding is not advised, or to be used, because of psychological or physical health reasons, if any, or include a statement that the team has ruled out any psychological or physical health reasons requiring that a physical hold NOT be used.

(d) Must document in the IEP or BIP how the parent wants to be notified when a restrictive procedure is used.

### **Frequency - Use of Restrictive Procedures**

If a restrictive intervention is used, or if a student is removed from a classroom, school building, or school grounds by a peace officer at the request of school personnel, on two separate school days twice within 30 calendar days or when a pattern of behavior emerges and the child's IEP or behavior intervention plan does not provide for using restrictive procedures in an emergency; or at the request of a parent or a district after restrictive procedures are used. The district must review use of restrictive procedures at the child's annual IEP team meeting when the IEP provides for using restrictive procedures in an emergency.

If the IEP team determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

The team must conduct or review a functional behavioral analysis, review data, consider developing additional or revised behavior interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the IEP or the BIP. The District may use restrictive interventions in emergencies until the team meets, provided the emergency measures are deemed necessary by the district to protect the individual pupil or others from harm.

### **Monitoring and Reviewing the Use of Restrictive Procedures**

1. The Greenbush/Middle River School District will monitor and review the use of restrictive procedures in the following manner. Each time physical holding is used, the staff person who implements or oversees the physical holding, shall document, as soon as possible after the incident concludes, the following information on the Restrictive Procedures Form:

a) A description of the incident that led to the physical holding; Why a less restrictive measure failed or was determined by staff to be inappropriate or impractical; The time the physical holding began and the time the child was released; and A brief record of the child's behavioral and physical status.

b) A copy of the completed Restrictive Procedures Form must be given to the designated building administrator, the student's IEP case manager, and a copy put in the student's file.

c) School will make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child; or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means; or as otherwise indicated by the child's parent.

**Note:** Attached is Greenbush/Middle River's form used to document the use of physical holding.

**Post-use debriefings:**

1. Each time physical holding is used, the staff person who implemented or oversaw the physical holding shall conduct a post-use debriefing as soon as possible after the incident with the staff involved and district administrator.

2. The post-use debriefing will review the following: (a) whether the physical hold was used in an emergency, (b) the physical hold was the least intrusive intervention that effectively responds to the emergency, (c) the physical hold ended when the threat of harm ended and staff determined that the child could safely return to the activity, (d) the staff directly observed the child while in a physical hold, (e) documentation was completed correctly, (f) Parents were correctly notified, (g) whether an IEP team meeting needs to be scheduled, (h) the appropriate staff used the physical hold, and (i) whether the staff that used physical holding was appropriately trained.

**Note:** If the post-use debriefing reveals that the use of physical holding was not used appropriately, the Greenbush/Middle River School District will ensure that an immediate corrective action is taken by providing review of this plan outlining appropriate use of restrictive procedures and determining if more training is needed for staff in the district.

**Positive Behavior Strategies**

1. Greenbush/Middle River Elementary classes use the Responsive Classroom approach to teaching and learning which emphasizes social, emotional and academic growth in a strong and safe school community. The approach consists of classroom and schoolwide practices for deliberately helping children build academic and social-emotional competencies.

The Greenbush/Middle River Middle School uses advisor/advisee time teaching character lessons in community service and appropriate and expected behavior and manners in various settings such as mealtime, a dance, hallway, classroom, recess, and academic organizations.

The Greenbush/Middle River High School uses Restorative Justice which represents a philosophy and a process that acknowledges that when a person does harm, it affects the person they hurt, the community and themselves. By applying restorative measures, district personnel have another tool to use with children and youth to repair harm and teach problem solving skills. The Restorative Justice model includes: (1) Peacemaking circles – group of individuals address issues in school, (2) Restorative meetings – wrongdoing occurs; classroom discusses impact on fellow students and school community, and (3) Conferencing – conversation among people affected by behavior to explore the harm and how individuals were affected and how to repair the harm with a plan.

2. Through the evaluation process, the district will determine strengths and weaknesses of individual students and include, as appropriate, positive behavior strategies, replacement skills building, and/or social skills training into the Individual Education Plan (IEP).

**Link to Mental Health Services**

If warranted, and as a result of a Mental Health Screening, information on available Mental Health Services will be provided to the student's parents or guardian by the School Psychologist, or School Social Worker.



## Oversight Committee

1. Greenbush/Middle River School District school oversight committee will meet quarterly (if any restraints have occurred) to review the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used school wide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situation; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures.

2. This committee must include: (1) a mental health professional, school psychologist, or school social worker; (2) an expert in positive behavior strategies; (3) a special education administrator; and (4) a general education administrator.

## Authorized Staff

1. The following staff are authorized by Minnesota Statute 125A.0942, Subd. 2 to use restrictive procedures if they have been properly trained:

(a) Licensed special education teacher, (b) School social worker, (c) School psychologist, (d) Behavior analyst certified by the National Behavior Analyst Certification Board, (e) Person with a master's degree in behavior analysis, (f) Other licensed education professional, (g) paraprofessional, or (h) Mental health professional.

## Staff Training

1. Targeted staff will be trained in the following areas using CPI-Crisis Prevention Intervention. Additional training will be provided by the Director of Special Education on the topic of Positive Behavioral Supports and Interventions and required components of a Behavior Intervention Plan.

(a) positive behavioral intervention: CPI Crisis Development Model, Verbal Interventions

(b) communicative intent of behaviors: CPI Unit entitled: CPI Crisis Development Model, Preventative Techniques

(c) relationship building: CPI Unit entitled: Preventative Techniques

(d) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior: CPI Unit entitled: Precipitating Factors, Rational Detachment, Integrated Experience

(e) de-escalation methods: CPI Unit entitled: CPI Crisis Development Model

(f) standards for using restrictive procedures only in an emergency: CPI Unit entitled: Nonviolent Physical Crisis and Team Intervention, & Understanding the Risks of Restraints

(g) obtaining emergency medical assistance: Nonviolent Physical Crisis Intervention and Team Intervention, & training on local numbers to call in case of an emergency

(h) the physiological and psychological impact of physical signs of distress when physical holding: CPI Unit entitled: Nonviolent Physical Crisis and Team Intervention, Understanding the Risks of Restraints, & Crisis Development Model

- (i) monitoring and responding to a child’s physical signs of distress when physical holding is being used: CPI Unit entitled: Nonviolent Physical Crisis Intervention and Team Intervention
- (j) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used: CPI Unit entitled: Participant workbook Chapter Understanding the Risks of Restraints
- (k) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and
- (l) schoolwide programs on positive behavior strategies.

The district will maintain records of staff that have been trained and the organization or professional that conducted the training.

**Restrictive Procedures NOT used by the district**

The district does **not** use the following Restrictive Procedures: (1) Seclusion. Definition: Confining a child alone in a room from which egress is barred. In 2013, the Legislature clarified that: “Egress may be barred by an adult locking or closing the door in a room or preventing the child from leaving the room.” (2) Prone Restraint. Definition: Placing a child in a face down position.

**Reasonable Force Permitted**

“Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379.” See Minn. Stat. 125A.0942

If you have questions pertaining to this Restrictive Procedures Plan, please contact the district’s building administrator, or Kim Johnson, Director of Special Education at 218-874-8215.

|                                      |  |
|--------------------------------------|--|
| <i>Legal Authority</i>               | <i>Minn. R 3525.0850</i>   |
| <i>Minn. Stat. 125A.094</i>          | <i>Minn. R 3525.2710, subp. 4(F)</i>                             |
| <i>Minn. Stat. 125A.0941</i>         | <i>Minn. R 3525.2810, subp. 2(B)(1)</i>                          |
| <i>Minn. Stat. 125A.0942</i>         | <i>Minnesota State Fire Code, Minn. R 7511.1008, subp. 3</i>     |
| <i>Minn. Stat. 121A.067, subd. 2</i> | <i>Minnesota State Building Code, Minn. R 1305.1008, subp. 8</i> |

## Appendix B - Plan for Receiving Referrals and Student Assistance Team (SAT)

### REFERRAL PROCESS: BIRTH TO PREKINDERGARTEN

The district utilizes the Help Me Grow referral process for children birth to prekindergarten in need of early intervention.

When a referral should be made:

- A parent or provider is concerned about any aspect of a child's development including: cognitive, physical, communication, adaptive or social emotional, or
- When a screening of the child indicates concerns and the need for a complete developmental evaluation, or
- When the child has a confirmed diagnosis that is likely to result in a developmental delay (a diagnosed physical, cognitive or mental health condition is not required to make a referral)
  - Suspected hearing impairment
  - Suspected vision impairment
  - Congenital anomalies
  - This can include weight or premature birth

A referral can be made by:

- Parents/guardians, healthcare providers, childcare providers, teachers, social workers, or anyone associated with the child or family, professionally or personally.

Referrals can be made by:

- Calling 1-866-693-GROW (4769)
- Using online referral form available at the Minnesota Parents Know website  
[Help Me Grow](#) Select "Refer a child to Help Me Grow" in the upper right corner.
- Contact your resident school district for the Part C Case Coordinator contact information or call the NWRIC cooperative office at 218-874-8215.

After a referral has been received, a district representative will contact the family to gather information and plan a course of action. The plan will include activities to determine if the child is eligible for Early Intervention Services.

If the child is found eligible, an early childhood special education teacher from the district will work with the family to plan appropriate services and supports. Parents/guardians are involved every step of the way. Parents/guardians must give written permission for action to be taken on the referral, evaluation and plan development. Parents help develop intervention plans, goals and objectives. Services are voluntary on the part of the family. For eligible children, an individual family service plan (birth through age 2) or an individualized education plan (ages 3-5) is developed. For children birth through age 2, the goal is 45 calendar days from date of referral to plan development. If a child is not found eligible, the family will be provided with information about other early childhood community services and programs that may be helpful.

**Ages 5 to 22:**

The purpose of a Student Assistance Team (SAT) is a system for supporting classroom teachers on a day-to-day basis within a building. It also serves as a peer problem-solving group. It is based on the belief that teachers have the skills and knowledge to effectively teach many students with learning and behavioral problems by working in a collective problem-solving environment. The Student Assistance Team (SAT) may consist of General Education Teachers, School Social Worker, School Nurse, School Psychologist, Special Education Staff, Administration or any other school staff/personnel that may have expertise in a particular area depending upon the nature of the concern.

**The district uses the following referral process for students between the ages of 5 to 22:**

1. A concern is identified by a parent or teacher; and a referral is made to the district's Student Assistance Team (SAT) for review. The referring teacher completes pages 1 & 2 of the District Special Education Referral Form and presents the form to the SAT Team.
2. If needed, further information is gathered by the SAT Team.
3. At least two pre-referral interventions are conducted and results documented on the Special Education Referral Form.

Note: There are situations when a SAT team may waive the pre-referral intervention requirements. This may include a student who enters the district with a documented history of blindness, deafness, cognitive delay, paraplegia, autism, traumatic brain injury, or a student whose disability is well documented. A team may also determine that a student's behavior is so severe that interventions are either waived, or conducted at the same time as an evaluation.

4. If concerns persist and performance is discrepant from classmates/norms, the SAT team will complete the District Special Education Referral Form and assign a special education case manager. The general education teacher or SAT team lead person will contact the parent.
5. A multi-disciplinary team will discuss the referral at an evaluation planning meeting. Parents must be given an opportunity to participate in this meeting. If this team determines an evaluation is appropriate, an evaluation plan will be given to the parent that includes a Prior Written Notice and Parent Consent/Objection Form.

Note: Parents must be provided with the opportunity to participate in the decision-making when their child is being considered for special education evaluation. The parent must be notified of the intent to develop an evaluation plan. It is recommended that the parent and classroom teacher discuss concerns regarding the student prior to the referral which should be made to the building SAT to implement and review the interventions attempted, and determine the need for evaluation.

If the parent wishes to be a part of the planning process but is unable to attend the meeting, the case manager should seek input and provide the parent with an opportunity to have questions answered.

6. Occasionally a parent may request the school to conduct an evaluation before the SAT process is initiated. When this happens, the school district should initiate a SAT meeting and follow the process outlined in steps 1-5. If the school district concludes that an evaluation is not warranted and declines

the parent's request for an evaluation, the district must issue a Prior Written Notice as required under 34 CFR 300.301(b) which states: "written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change identification, evaluation, or educational placement of the child or the provision of FAPE to the child." The parent can challenge this decision.

Student Assistance Team (SAT) Referral Form is available upon request from the district.

## Appendix C - REGION 1 IEIC OPERATING PROCEDURES

9/21/2011

### Region 1 Help Me Grow Interagency Early Intervention Committee (IEIC)

#### Glossary of terms:

**ICC – Governor’s Interagency Coordinating Council**

**IEIC – Interagency Early Intervention Committee**

**Regional IEIC – Region 1 Help Me Grow IEIC**

#### Purpose of the Committee

- F. The purpose of the Region 1 Help Me Grow IEIC is to develop and assure the implementation of interagency policies and procedures, in a way that is consistent with other regions throughout the state, so that eligible children ages birth to five and their families are identified and have access to appropriate services and supports.

#### Requirements of the Committee

##### Statutory Requirements:

Purpose of Interagency Early Intervention Committee: M.S. 125A.30

(a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, must establish an Interagency Early Intervention Committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local health, education, and county human service agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and may also include representatives from other private or public agencies and school nurses. The Committee must elect a chair from among its members and must meet at least quarterly.

(b) The Committee must develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families, especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, of available programs and services;

(2) to reduce families' need for future services, and especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities, including a child under the age of three who: (i) is involved in a substantiated case of abuse or neglect or (ii) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services;

(7) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(8) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313); and

(9) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local Committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families; and

(2) review and comment on the early intervention section of the total special education system (TSES) for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, the section on children with special needs in the county child care fund plan, sections in Head Start plans on coordinated planning and services for children with special needs, any relevant portions of early childhood education plans, such as early childhood family education or school readiness, or other applicable coordinated school and community plans for early childhood programs and services, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities.

### **G. Relationships/ Alignment / Priorities**

This section serves to clarify the required roles of the state, regional and local entities within the statewide early intervention system. Roles and responsibilities have either changed from how things have been done in the past or they have been clarified to comply with state statute. Clarifying the roles will help to ensure that communication occurs within and between the three entities.

- **Lead Agency and State Partners:** Minnesota Department of Education is the lead agency for Part C Early Intervention services, with Minnesota Department of Health and Department of Human Services participating as state partners, in delivering a comprehensive and coordinated interagency system. State agency staff may attend and participate in the Region 1 HELP ME GROW IEIC as ex officio members. The Minnesota Department of Education will determine a way to establish this across the state (i.e., state staff could be a liaison with each region for attendance at meetings, etc.).
- **Governor's Interagency Coordinating Council (ICC):** The Region 1 Help Me Grow designee will attend the ICC meetings and report the business of the Regional IEIC to the ICC in the role of a guest. ITV as an option for Region 1 and 2 will be explored by MDE Help Me Grow staff.
- **Special Education Administrative Units (SEAU):** The Region 1 Help Me Grow IEIC will collaborate with SEAUs to examine and distinguish local vs. regional priorities. Funding priorities will be established to help guide funding decisions at the SEAU.
- **Other local agencies:** Linkages to local entities (community-based service providers) should be maintained. SEAUs and local agencies will collaborate to maintain established relationships.
- **Centers of Excellence for Young Children with Disabilities Project (COE):** The Region 1 Help Me Grow IEIC will collaborate with the COE to ensure that ongoing training needs are met. The COE will participate in assessing district/local agency needs for training. Districts are strongly encouraged to align training with the COE to avoid duplication of training efforts. *See appendix 1, Region 1 & 2 Cross Sector Professional Development Committee, an affiliated work group of the Region 1 & 2 Help Me Grow IEIC's.*

### **Operational Considerations**

H. **Fiscal Host:** The fiscal host for the Region 1 Help Me Grow IEIC is: **The Bemidji Regional Interdistrict Council (BRIC)**

- I. A fiscal host has been designated by the IEIC. The agency designated as the fiscal host must be an eligible recipient of federal special education funds and agrees to expend these federal funds consistent with the approved budget and in accordance with the "Statement of Assurances" as signed by the district special education director and superintendent.

**J. Local Primary Agency (LPA):** The local primary agency for the region 1 Help Me Grow IEIC is:

**The Bemidji Regional Interdistrict Council (BRIC)**

An LPA has been determined by the IEIC. The LPA will perform duties consistent with Minnesota Statutes, section 125A.31 including: providing oversight of funds received through the annual fund request and providing oversight for data collection efforts.

**Maintain documents:** Local Primary Agency will maintain IEIC documents. Examples of documents include Operating Procedures, Work Plan, meeting minutes, fiscal host, membership rosters, meeting sign-in sheets, and other documents as identified.

**Website posting:**

Use existing WIKI for Region 1 and 2 for members; <http://nwmncoe.pbworks.com>

Use a current website for more public information. (Consider BRIC &/or ASEC)

**Process to change Operating Procedures:**

Changes proposed at one meeting would be voted on at the meeting or within two weeks electronically, providing an electronic quorum has been met (see description of a quorum on page 5). If electronic voting is needed, proper documentation explaining the proposed change will be sent with the request for electronic vote. Within 30 days of the date the proposed change is received, it shall be submitted in writing to the IEIC Chair, who will then distribute the request to the Regional IEIC membership (as defined below). The membership shall have received the proposed amendment or amendments at least 14 days prior to the meeting. The overall system will be evaluated using the same measures at 1 year and at the 3 year mark to evaluate effectiveness and impact of the new structure. The Interagency Coordinating Council will create that process.

**K. Demographics**

**L. Geographic area served:**

- M. **School Districts:** Crookston 593, Roseau 682, Thief River Falls 564, Warroad 690, Ada-Borup 2854, Climax 592, East Grand Forks 595, Fertile-Beltrami 599, Fisher 600, Fosston 601, Norman County East 2215, Norman County West 2527, Plummer 627, Red Lake Falls 630, Stephen Argyle Central 2856, Warren-Alvarado-Oslo 2176, Win-E-Mac 2609, Badger 676, Goodridge 561, Greenbush-Middle River 2683, Tri-County 2358, Grygla 447, Kittson Central 2171, Lancaster 356, Marshall County Central 441.

N. **Region 1 Counties:** Norman, Polk, Marshall, Red Lake, Pennington, Kittson, Roseau

O. **Region 2 Counties:** Lake of the Woods, Beltrami, Clearwater, Mahnomen, Hubbard, Cass

**P. Head Start:**

- Q. Region 1: Northwest Community Action, Inter County Community Council, Tri-Valley Opportunity Council
- R. Region 2: Northwest Community Action, Inter County Community Council, Mahube, Bi-CAP, White Earth Head Start, Leech Lake Head Start, Red Lake Head Start

**Reservations:**

- S. Region 1: Red Lake
- T. Region 2: White Earth, Leech Lake and Red Lake

**Membership**

- U. **Mandated Sector Membership requirement:** (*according to statute*)

**V. Representation:**

- Health



- Education
- County human services
- County board
- School board
- Early Childhood Family Education programs
- Head Start
- Parents of young children with disabilities under age 12
- Child Care Resource and Referral
- School Readiness programs
- Current service providers
- May also include representatives from:
  - Private agencies
  - Public agencies
  - School nurses

W. **Additional Members Identified:** Other members to be identified by the new Region 1 Help Me Grow IEIC.

**Ex Officio** – CoE staff

**Public meeting** – Anyone is welcome to attend and can request to be on the agenda,

**Recruitment/ selection of members:** To be determined by the new Region 1 Help Me Grow IEIC.

**X. Chair/ Co Chair and Secretary:**

Y. Chair – Bren Ackerson, Assistant Director of Special Education, ASEC

Z. Co-Chair/Chair Elect – Kathy Girdler, Polk County Nursing Services

AA. Secretary – Member rotation

**Assurance of area representation:** There is representation from each geographic area. The representative will bring information to and share information from those constituents.

**Removal/replacement:** If a member of the Region 1 Help Me Grow IEIC is not able to continue on the Regional IEIC, the vacancy must be filled by another member from the same representative category (process yet to be determined).

In the event a Regional IEIC committee member shall miss two of the scheduled committee meetings in a twelve-month period without notifying the IEIC Chair(s), the Chair(s) of the Regional IEIC Committee shall have the right to remove the absent member and the membership committee shall fill the vacancy thereby created.

**Conflict of interest:** Any individual working for an agency that may benefit from a decision that is made would need to disclose that potential conflict of interest. No member of the Committee may cast a vote on any matter that would provide direct financial or other perceived benefit to that member or otherwise give the appearance of a conflict of interest.

**Terms of membership:** 9/26/12 – 2-year term length for chair, co-chair & Secretary

**BB. Meetings**

**CC. Meetings of members:**

**DD. Meeting cycle:**

Quarterly meetings

- |                           |           |
|---------------------------|-----------|
| 1 <sup>st</sup> Q: Summer | June      |
| 2 <sup>nd</sup> Q: Fall   | September |
| 3 <sup>rd</sup> Q: Winter | January   |
| 4 <sup>th</sup> Q: Spring | April     |

**Meeting notification:** Notices, agendas, and supporting documents will be sent out electronically 2 weeks prior to meetings.

**Ground rules:** To be determined by the new Region 1 Help Me Grow IEIC.

**Attendance:** Two consecutive absences without notifying the chair would result in dismissal from the Committee. Designees may be assigned as follows:

When members are unable to attend scheduled Region 1 Help Me Grow IEIC meetings, they may assign a designee, in writing, to the Chair. The designee shall have the authority to exercise the full privileges of the absent member.

Members may request an electronic connection to the meeting.

**Decision-making process/voting:** The committee may make decisions via electronic communication.

**Distribution of meeting minutes to other stakeholders, interested parties:** There will be communication mechanisms (e.g., website postings) in place to ensure that decisions and regional committee work are available to all interested parties.

**Electronic participation:** Electronic voting as a group at meetings is acceptable. Conference calling within 24 hours notice; or other form of electronic meeting is acceptable with 48 hour notice to the chair.

**Absentee Voting:** A member who is unable to attend a meeting may vote on any noticed action item by submitting his or her vote in writing to the Chair(s) in advance of the meeting in which the action will be taken. Such vote may be sent by mail, email or facsimile transmission.

EE. **Standing agenda format:** The new Region 1 Help Me Grow IEIC will determine if a standing agenda format is needed.

FF. **Quorum:** Quorum is established by the majority of those present in person and electronically.

**Voting:** Decisions by the Region 1 Help Me Grow IEIC shall, to the extent possible, be made by consensus of members (and designees), unless an exception is noted. If there is no consensus, decisions shall be made by a majority vote (51% or more) of the members (and designees). Simple majority of those present.

GG. **Conflict:** When a decision cannot be reached, an outside facilitator could be brought in to assist, if needed.

HH. **Reimbursement policies:** The new Region 1 Help Me Grow IEIC will determine if any members or positions shall receive reimbursement for participation and duties on the IEIC. If a Regional IEIC member is serving within his/her assigned job duties, expenses will not be reimbursed by the Regional IEIC committee.

II. **Standing Sub-Committees:** (optional)

JJ. The committee structure shall be determined by the Regional IEIC. The Regional IEIC Chair(s) shall appoint IEIC members, community representatives, agency liaisons to each committee, considering individual interests and expertise. Other workgroups and task forces shall be designated in order to conduct the business of the Regional IEIC.

Chair of Subcommittee: The Chair(s) of the Sub Committees will be appointed by the Regional IEIC Chair(s).

- a) Membership – To be determined
- b) Public Awareness/Child Find – To be determined
- c) Professional Development – To be determined

## **Appendix D-SEAC Operating Procedures**

### **NWRIC Special Education Advisory Committee**

#### **Purpose:**

The purpose of the Special Education Advisory Committee (SEAC) is to enhance sound district policy and decision-making for the provision of special education services of the Northwest Regional Interdistrict Council. The SEAC:

- Supports the NWRIC mission to ensure the provision of appropriate, comprehensive, and quality services to identified children within its member districts.
- Advocates for high quality programs and services necessary to effectively and efficiently meet the needs of all children with disabilities.
- Advises NWRIC and its member districts, through the Director of Special Education (hereafter referred to as the Director), on the policies, procedures, and practices required to implement effective special education and related services based on student needs under current federal and state laws.
- Encourages and facilitates communication and mutual support among students, parents, school personnel and persons in the greater community.

#### **Membership:**

- The committee shall include representatives from parents, NWRIC staff, and member district staff. The final makeup of the SEAC will be determined by parent and staff interested in serving on the committee, with at least 50% of the committee comprised of parents of children with disabilities and with no more than 12 total members at a time.

Potential areas of representation include:

- No more than one parent from each member district, representing children from various ages; grades and disability areas
- NWRIC or member district special education teachers representing a variety of disability areas
- NWRIC or member district administrators
- NWRIC Director (permanent member of the committee)

Persons serving on the committee may be specifically invited by NWRIC or its member districts. Other people interested in membership should call the NWRIC Special Education Office 218-874-8215 for more information.

#### **Terms**

Committee members will serve renewable three-year terms. The term shall commence upon the member's receipt of an appointment to serve from the Director and shall terminate on June 30<sup>th</sup> in the third year of the appointment. Committee members who show a continued interest to

serve will have their terms automatically renew on July 1<sup>st</sup> following the most recent term's expiration unless additional members from the same representative group have previously communicated interest in an appointment to the committee. If additional interest has been communicated to the Director, s/he will make a determination as to the appointment of one of the persons who has expressed interest, with specific attention paid to whether or not a specific interested party can provide representation from an underrepresented population (demographically, geographically, etc.).

**Meetings:**

The SEAC shall meet at least once per year. Agendas will be set by the Director. Meeting notices will be mailed or emailed to all committee members.

## Appendix E – Procedural Safeguards – Part C



### PART C PROCEDURAL SAFEGUARDS NOTICE – Birth through age 2

#### INFANT AND TODDLER INTERVENTION

*The intent of this document is to offer general information about special education rights provided by state and federal law provided to parents of children from birth through age 2. It explains a selection of some of the rights provided to parents under the Individuals with Disability Education Act (IDEA) and Minnesota laws; however, it is not a complete explanation of those rights. This document does not constitute legal advice, nor is it a substitute for consulting with a licensed attorney regarding your specific legal situation.*

#### INTRODUCTION

This brochure provides an overview of parental special education rights for infant and toddler intervention services, sometimes called procedural safeguards. This Notice of Procedural Safeguards must be given to you when your child is referred under Part C of the IDEA, including when you or the district request a due process hearing. The district must also make available an initial copy of your child's early intervention record, at no cost to you.

#### PRIOR WRITTEN NOTICE

The school district or a service provider must provide you with prior written notice within a reasonable timeframe before each time it proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, and education placement of your child or the provision of appropriate infant and toddler intervention services to your child and your child's family. This notice must be given to you before any changes are made and must include sufficient detail to inform you of:

1. The action that is being proposed or refused;
2. An explanation of why the district proposes or refuses to take the action; and
3. All procedural safeguards that are available under Part C of the IDEA, including a description of mediation, how to file a state complaint, and a due process complaint in the provisions, and any timelines under those procedures.

The notice must be written in a language understandable to the general public and provided in your native language unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, the public agency, or designated early intervention service provider, must take steps to ensure that the notice is translated orally or by other means to you in your native language or other mode of communication. The provider

must also take steps to ensure that you understand the notice; and, that there is written evidence that these requirements have been met.

Native language, when used with respect to an individual who is limited English proficient, means the language normally used by that individual, or in the case of a child, the language normally used by the parents of the child. For evaluations and assessments conducted for the child, native language means the language normally used by the child, if this language is determined developmentally appropriate for the child by the qualified personnel conducting the evaluation or assessment. For an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, native language means the mode of communication that is normally used by the individual, such as sign language, braille, or oral communication.

## **FOR MORE INFORMATION**

If you need help understanding any of your procedural rights or anything about your child's education, please contact your child's early childhood special education coordinator, the school district's special education director or the person listed below. This notice must be provided in your native language or other mode of communication you may be using.

If you have any questions or would like further information, please contact:

Name: District Director of Special Education or Early Childhood Part C Coordinator

Phone: 218-874-8215

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

ARC Minnesota (advocacy for persons with developmental disabilities)

[www.thearcofminnesota.org](http://www.thearcofminnesota.org)

651-523-0823; 1-800-582-5256

Minnesota Association for Children's Mental Health

[www.macmh.org](http://www.macmh.org)

651-644-7333; 1800-528-4511

Minnesota Disability Law Center

[www.mndlc.org](http://www.mndlc.org)

612-332-1441; 1-800-292-4150

612-332-4668 (TTY)

PACER (Parent Advocacy Coalition for Educational Rights)

[www.pacer.org](http://www.pacer.org)

952-838-9000; 1-800-53-PACER

952-838-0190 (TTY)

Minnesota Department of Education

[www.education.state.mn.us](http://www.education.state.mn.us)

651-582-8689

651-582-8201 (TTY)

## **PARENTAL CONSENT**

### **Definition of Consent**

As a parent, you have the right to give consent to any action proposed by the district. Consent means that you have been fully informed, in your native language, of all information relevant to the activity for which your written permission is sought and that you fully understand and agree in writing with carrying out the activity for which consent is sought. The written consent must describe the activity and list any early intervention records that will be released and to whom. Consent is voluntary and may be revoked at any time. However if you revoke your consent, that revocation is not retroactive.

### **When the District Must Obtain Your Consent**

There are several situations in which the district must obtain your written consent before acting. The district must obtain your written consent before the following:

1. Administering screening procedures that are used to determine whether your child is suspected of having a disability;
2. Conducting all Part C evaluations and assessments of your child;
3. Providing early intervention services to your child;
4. Using public benefits or private insurance to pay for your child's Part C early intervention services in certain situations; and
5. Disclosing personally identifiable information about you or your child.

As a parent, you also have the right to receive written notice of and to provide written consent to the exchange of information among agencies that is consistent with state and federal law.

### **Parent's Right to Decline Consent**

If you do not provide consent, the district must make reasonable efforts to ensure that you are fully aware of the nature of the evaluation and assessment, or the early intervention services that would be available, and that you understand that your child will not be able to receive the evaluation and assessment or receive early intervention services unless you provide consent. The district may not use the due process hearing procedures in Part B or Part C of the IDEA to challenge your refusal to provide any consent that is required. Thus, if you refuse, in writing, to consent to the initial evaluation or reevaluation of your child the district may not override your written refusal.

### **Parental Right to Decline Services**

You can decide whether or not to accept or decline any early intervention service. You can selectively accept or decline any early intervention service, including declining a service after first accepting it, without jeopardizing other early intervention services your child may receive.

## **Confidentiality and Personally Identifiable Information**

Personally identifiable information is information that includes, but is not limited to, your child's name; your name (parent's name) or other family member's name; your address; your child's address; a personal identifier, such as your child's or your Social Security number; biometric record; another indirect identifier, such as the child's date of birth, place of birth, a mother's maiden name, or a list of personal characteristics; or other information that would make it possible to identify your child with reasonable certainty.

Districts, the Minnesota Department of Education (MDE), and any other early intervention service providers must protect the confidentiality of any personally identifiable data about you and your child, including information and records they collect, use and maintain, disclose and destroy. Generally, a district or other participating agency may not disclose personally identifiable information, as defined in Part C of the IDEA, to any party except participating agencies (including the lead agency and early intervention service providers) that are part of the state's Part C system without parental consent unless authorized to do so under the IDEA or for any purpose other than meeting a requirement of that law. Please refer to the Federal Educational Rights and Privacy Act (FERPA) for additional information on consent requirements concerning data privacy under federal law.

Confidentiality provisions under Part C of the IDEA apply from the point in time when your child is referred for early intervention services until the district is no longer required to maintain or no longer maintains the child's information under applicable state or federal laws, whichever is later.

## **Notice to Parents about Confidentiality**

The district must give you notice when your child is referred under Part C of the IDEA that fully informs you about the confidentiality requirements discussed above. This notice should include a description of your child about whom personally identifiable information is maintained, the types of information about your child requested, the method intended to be used in gathering information, including the sources from whom information is gathered, and how the information about your child will be used. This notice must also include a summary of the policies and procedures that the district and providing agencies must follow regarding storage of data about you and your child, disclosure of this data to third parties, and retention and destruction of personally identifiable information. Additionally, this notice must include a description of all of your rights and your child's rights regarding this information, including rights under the Part C confidentiality provisions. Lastly, this notice must include a description of the extent that the notice is provided in the native languages of the various population groups in the state.

## **INDIVIDUAL FAMILY SERVICE PLANS (IFSP)**

If your child is under age three and has a disability, you and your child have a right to receive an IFSP. An IFSP is a written plan that is developed by a team to record your goals for your family and your child. An IFSP also lists the services that will best help you and your child reach those goals and describe when, where, and how services will be delivered. You and other family members work with the early intervention service coordinator and other providers (if appropriate) to create the IFSP. You may invite anyone you wish to the IFSP meetings, including an advocate. The IFSP is reviewed at least every six months, or more frequently if requested. You are involved in planning the time, date and place of these meetings to ensure your participation. You may request a meeting to review your child's IFSP at any time, even if one recently took place. A district must provide you with a copy of each of your child's evaluations,



assessments, family assessments, and IFSPs as soon as possible after each IFSP meeting at no cost to you.

## **THE RIGHT TO RECEIVE SERVICES IN NATURAL ENVIRONMENTS**

Early intervention services for infants and toddlers with disabilities are focused around your family's and your child's daily routines and are designed to be carried out within regular activities. These services are provided, to the maximum extent appropriate, in natural environments. This helps you and/or your child's other caregivers learn strategies for teaching your child new skills that may be practiced throughout the day. When a service needs to be provided anywhere other than a natural environment, the IFSP team must provide written justification in the IFSP.

## **WRITTEN ANNUAL NOTICE RELATING TO THIRD-PARTY BILLING FOR IFSP (INDIVIDUAL FAMILY SERVICE PLAN) HEALTH-RELATED SERVICES**

The school district must obtain your consent before your (or your child's) public benefits or insurance or private insurance information is used to pay for Part C services, if such consent is required.

The district must provide you annual written notice that:

Parental consent must be obtained under Part C of the IDEA before the state lead agency or Early Intervention Service Provider discloses personal information for billing purposes;

A statement of the no-cost protection provisions in Part C of the IDEA. If you do not provide consent, Part C services must still be made available to you and your child through the IFSP for which you have provided consent;

The district will bill medical assistance or Minnesota Care for the health-related services on your child's IFSP;

You have the right to receive a copy of education records the district shares with any third party when seeking reimbursement for health-related services on your child's IFSP; and

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

## **EDUCATION RECORDS**

### **Your Access to Records**

You have the right to inspect and review all Part C early intervention records about your child and your child's family that are collected, maintained or used under Part C of the IDEA, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving your child, or any part of your child's early intervention record. Upon request, the district must give you access to your child's early intervention records without unnecessary delay and before any meeting regarding an IFSP or any due process hearing. The district must respond to your request immediately, if possible, or within 10 days of the request (excluding weekends and legal holidays).

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

1. A response from the participating district to reasonable requests for explanations or interpretations of your child's record;
2. Request that the participating district provide copies of your child's early intervention records to you if failure to provide these copies would effectively prevent you from exercising your right to inspect and review the records;
3. Have your representative inspect and review the early intervention records; and
4. Review your child's records as often as you wish, in accordance with state law. State law provides that if you have been shown private data and have been informed of its meaning, that data does not need to be disclosed to you for a period of six months unless a dispute or action is pending or new information is created or collected.

A district may presume that you have the authority to inspect and review records relating to your child unless the district has been provided documentation that you do not have the authority under applicable state laws governing such matters as custody, foster care, guardianship, separation, and divorce.

Under Minnesota state law, education records include most of the information about your child that is held by the school, including evaluations and assessments, eligibility determinations, development and implementation of IFSPs, individual complaints dealing with your child, and any other records about your child and family. However, information held solely by your child's teacher for his or her own instructional use may not be included in the education records.

### **Disclosure to Health Plan Company**

The district may not disclose information contained in your child's IFSP, including diagnosis and treatment information, to a health plan company without your signed consent.

### **Records on More Than One Child**

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

### **Record of Access by Others**

The district must keep a record of each request for access and who obtains access to early intervention records collected, maintained, or used under Part C about you and your child. Access to these records by you and authorized representatives and employees of the district do not need to be recorded. This record of access must include the name of the individual to whom access was given, and the purpose for which the individual was authorized to use the early intervention records.

### **List of Types and Locations of Information**

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

## **Consent to Release Records**

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

## **Fees for Searching, Retrieving and Copying Records**

The district may not charge a fee to search or retrieve records. However, if you request copies, the district may charge a reasonable fee for the copies, unless charging that fee would prevent you from exercising your right to inspect and review the education records because you cannot afford to pay it. A district must provide you with a copy of each of your child's evaluations, assessments, family assessments, and IFSPs as soon as possible after each IFSP meeting at no cost to you.

## **Amendment of Records at Parent's Request**

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

The district must decide within a reasonable time whether it will amend the records. If the district decides not to amend the records, it must inform you of its refusal to amend the records and inform you that you have the right to a hearing to challenge the district's decision.

## **Opportunity for a Hearing**

Upon your request, the district must provide you with the opportunity for a hearing to challenge information in your child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of you or your child. You may request a hearing under the procedures set out under Part C of the IDEA or you may request a hearing under Minnesota's due process hearing procedures.

If as a result of the hearing the district decides that the information is inaccurate, misleading or in violation of the privacy or other rights of you or your child, it must amend the information accordingly and inform you in writing.

If, as a result of that hearing, the district decides that the information in your child's early intervention record is not inaccurate, misleading, or otherwise in violation of the privacy rights or other rights of you or your child, it must inform you that you have the right to include a statement of your comments and disagreements alongside the challenged information in your child's early intervention education records. Any explanation placed alongside your child's early intervention education records must be kept by the district as part of your child's early intervention records as long as your child's records are maintained by the district. If your child's early intervention records or the contested portion of your child's records are disclosed by the district to any party, the explanation you submitted must also be disclosed to the party.

## **Transfer of Records**

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

## **Destruction of Records**

The district must inform you when personally identifiable information collected, maintained, or used by the district is no longer needed in order to provide early intervention services to your child. You have the right to request that education records about the provision of early intervention services to your child under Part C of the IDEA be destroyed upon your request. This information must be destroyed by the district upon receiving your request. However, the district may retain a permanent record of your child's name, date of birth, parent contact information (including address and phone number), names of service coordinators and early intervention service providers, and exit data (including year and age upon exit, and any programs your child entered upon exiting Part C).

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

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

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

## **CHILD'S RIGHT TO A SURROGATE PARENT**

A child with a disability whose parent cannot be identified or located by the district using reasonable efforts, or who is a ward of the state, has the right to have a surrogate parent assigned to them.

The appropriate public agency must determine whether a child needs a surrogate parent and assign a surrogate to the child. In appointing a surrogate parent for a child, the public agency must consult with the agency that has been assigned to care for the child. The public agency must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

A surrogate parent may be selected in any way permitted under state law. The appropriate public agency must ensure that the person selected as a surrogate parent is not an employee of any state agency or early intervention service provider that provides services or care to the child or any family member of the child; has no personal or professional interest that conflicts with the interests of the child he or she represents; and has knowledge and skills necessary for adequate representation of the child. In the case

of a child who is a ward of the state, the surrogate parent can be appointed by the judge overseeing the child's case, as long as the surrogate parent appointed satisfies the above-mentioned requirements. An individual who qualifies to be a surrogate parent is not an employee of the public agency solely because he or she is paid by the agency to serve as a surrogate parent.

A surrogate parent has the same rights as a parent for all purposes under the Part C regulations. Thus, a surrogate parent may represent a child in all matters related to the evaluation and assessment of the child, development, and implementation of the child's IFSP, including annual evaluations and periodic reviews, the ongoing provision of early intervention services, and any other rights available to the child under the Part C regulations.

## **ALTERNATIVE RESOLUTION OF DISPUTES**

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

## **MEDIATION**

Mediation is a free, voluntary process to help resolve disputes. The state bears the cost of the mediation process. You or your district may request mediation from MDE at 651-582-8222 or 1-866-466-7367. Mediation is conducted by a qualified and impartial mediator (a third party) trained in effective mediation techniques. The state maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. Mediators are selected by the state on a rotational and geographic basis.

Mediation may not be used to deny or delay your right to a due process hearing or any other rights under Part C of the IDEA. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation. Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient for both you and the district. You and the district must complete the mediation process within 30 calendar days of the date MDE receives a written request for mediation, signed by both parties.

If you and the district reach an agreement to the dispute during the mediation process, the agreement must be set forth in writing. The agreement must also be signed by both you (the parent) and a representative of the district who has the authority to bind the district. Parties to the mediation will receive a copy of the agreement. Discussions held during the mediation process are confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding.

Resolution of a dispute through mediation, or other form of alternative dispute resolution, is not limited to formal disputes arising from your objection and is not limited to the period following a request for a due process hearing. You may request mediation at any time to resolve a dispute arising under Part C of the IDEA, including matters arising prior to the filing of a due process complaint, regardless of whether a special education complaint has been filed or a request for a due process hearing has been made.

The local primary agency may request mediation on behalf of the involved agencies when disputes arise between agencies regarding responsibilities to coordinate, provide, pay for, or facilitate payment for infant and toddler early intervention services. You or the district can request another mediation to resolve a dispute over implementing the mediation agreement.

An individual who serves as a mediator may not be an employee of the state, the district, or a provider that is involved in the provision of early intervention services or other services to your child under Part C of the IDEA. A mediator cannot have a personal or professional interest that conflicts with their objectivity. A mediator is not considered an employee of the state, the district, or a provider of early intervention services solely because he or she is paid by the agency to serve as a mediator.

For more information about mediation, please contact MDE's mediation coordinator at 651-582-8222.

## **FILING A WRITTEN COMPLAINT**

You or the district may file a complaint with MDE. Complaints sent to MDE must:

1. Be in writing and be signed by the individual or organization filing the complaint;
2. Include a statement alleging violations of state or federal special education law or rule related to Part C of the IDEA;
3. State the facts upon which the allegation is based;
4. Include the signature and contact information for the complainant;
5. Include the name and residence of your child, the name of the early intervention service provider, a description of the nature of your child's problem, including facts related to the problem, and a proposed resolution of the problem to the extent known and available to you at the time the complaint is filed, if the alleged violation is related to your specific child; and
6. Allege a violation that occurred not more than **one year** prior to the date that the complaint is received.

The complaint must be sent to:

Minnesota Department Education  
Division of Compliance and Monitoring  
Due Process Supervisor  
1500 West Highway 36  
Roseville, MN 55113-4266  
Phone: 651.582.8689  
Fax: 651.582.8725

The party filing the complaint, either you or the district, must send a copy of the complaint to the district or early intervention service provider at the same time you or the district files with MDE.

MDE will complete its investigation and issue a written decision within 60 calendar days, unless exceptional circumstances require a longer time or if you and the district agree to extend the timeframe

to engage in mediation. You (the parent) or the school district injured-in-fact by the decision may appeal the final complaint decision within 60 days of receiving notice of the final decision.

If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues of which one or more are part of that hearing, the part of the complaint that is being addressed in the due process hearing must be set aside until the conclusion of the hearing.

If an issue is raised in a complaint filed under Part C of the IDEA that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the complainant must be informed of this by MDE. Please see the section below for more information about due process hearings.

## MODEL FORMS

MDE has developed model forms that can be used to file special education or due process complaints. These forms are not required, but are available as a resource to use when filing a complaint. These model forms are available on MDE's website at: [www.education.state.mn.us](http://www.education.state.mn.us) > Select District, Schools and Educators > Special Education > Due Process Forms.

## IMPARTIAL DUE PROCESS HEARING

For due process hearing procedures for children covered under Part C of the IDEA, Minnesota has chosen to adopt the Part B due process hearing procedures set out in the IDEA.

### Requesting a Due Process Hearing

You, the district, or a provider of early intervention services may file a due process hearing request with MDE on any matter relating to the identification, evaluation, or placement of your child, or the provision of early intervention services to your child and your family under Part C of the IDEA. Specifically, a due process hearing can be requested regarding a proposal or refusal to initiate or change your child's evaluation, IFSP, educational placement, or to provide FAPE. The due process hearing request must be in writing and must allege a violation of the IDEA that occurred not more than **two years** before the date that you or the early intervention service provider knew, or should have known, about the alleged action that forms the basis of the due process complaint.

This two-year timeline does not apply if you were prevented from filing a due process complaint because the district or an early intervention service provider misrepresented that it had resolved the problem forming the basis of your due process complaint or the district or early intervention service provider failed to provide you with information that was required under the IDEA.

If you request it or if you or the district file a due process complaint, MDE must inform you of any free or low-cost legal and other relevant services available in your area.

An impartial hearing officer will be assigned to your case. MDE maintains a list of individuals who serve as impartial hearing officers. You may not raise issues in a due process hearing that were not raised in the written complaint.

Within 15 days of receiving notice of your due process complaint, and prior to the due process hearing, the school district must arrange for a resolution meeting with you and the relevant members of your

child's IFSP Team who have knowledge of the facts alleged in the due process complaint. If the resolution meeting is not held within 15 days of receiving notice of your due process complaint, you may seek the intervention of a hearing officer to begin the due process hearing timeline.

This resolution meeting must include a representative of the district who has decision-making authority and may NOT include an attorney for the district unless an attorney accompanies you. You and the district determine the relevant members of the IFSP team to attend the resolution meeting. The purpose of this meeting is for you to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the school district has the opportunity to resolve the dispute that is the basis for the due process complaint.

The resolution meeting does not need to be held if you and the school district agree in writing to waive the meeting or agree to mediation. If you do not participate in the resolution meeting, your actions will delay the timelines for the resolution process and a due process hearing until the meeting is held.

### **Resolution Period**

If the matter is not resolved within 30 days of receipt of your due process complaint, the hearing timelines begin and a due process hearing may occur. If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made, and the district has documented its efforts to obtain your participation, and the school district does not agree to waive the resolution meeting or to use mediation, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

### **Hearing Timeline**

The 30-day hearing timeline starts the day after one of the following events:

1. You and the district agree in writing to waive the resolution meeting;
2. After either mediation or the resolution meeting starts, but before the end of the 30-day period, you and the district both agree in writing that no agreement is possible; or
3. You and the district agree to continue the mediation at the end of the 30-day resolution period, but later, you or the district withdraws from the mediation process.

### **Settlement Agreement**

If you and the district reach a resolution at the resolution meeting, you and the district must execute a legally binding agreement that is signed by both you and a representative of the district that has the authority to bind the district; the agreement is enforceable in any state or district court. You or the district may void such an agreement within three days of the agreement's execution.

### **Loss of Right to a Due Process Hearing**

NOTE: Due to an interpretation of state law by the Eighth Circuit Court of Appeals, if your child changes school districts and you do not request a due process hearing before your child enrolls in a new district, you may lose the right to have a due process hearing about any special education issues that arose in



the previous district. You do still have a right to request a due process hearing about special educational issues that may arise in the new district where your child is enrolled.

### **Procedures for Initiation of a Due Process Hearing**

If you wish to have a hearing, you or your attorney must properly request a due process hearing in writing. All written requests for a due process hearing must include:

1. The name and address of your child;
2. The name of the early intervention service provider serving your child;
3. A description of the nature of the problem, including your view of the facts; and
4. A proposed resolution of the problem to the extent known and available to you at the time of your request for a due process hearing.

Upon receiving a written request for a hearing from you or the district, MDE must give you a copy of the procedural safeguard notice, which includes a description of your rights at a due process hearing. If you or the district request a hearing, the other party must be provided with a copy of the request and submit a copy of the request to MDE.

If you file a hearing request and you did not previously receive a prior written notice from the district about the subject matter of the hearing request, the district must send you a written explanation of why the district proposed or refused to take the action raised in the hearing request within 10 days of receiving the hearing request. This explanation must include a description of other options considered by the IFSP team; why those options were rejected; a description of each evaluation procedure; assessment, record, or report that the district or early intervention service provider used as the basis for the proposed or refused action; and a description of the factors relevant to the district's proposal or refusal decision.

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

The district or early intervention service provider can assert that your hearing request does not meet the requirements under state law. A hearing request is considered sufficient unless the party who received the request notifies the hearing officer and the other party in writing within 15 days of receiving the request that they believe the request does not meet statutory requirements. The hearing officer must determine whether the hearing request meets statutory requirements within five days of receiving the request and immediately notify the parties in writing of that determination.

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

Both you and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including evaluation data and recommendations based on that data that are intended to be used at the hearing; and
4. Receive a written or electronic, verbatim record of the hearing transcript and/or the findings of fact and decisions.

As the parent, you have the right to:

1. Decide whether or not to have your child be present at the due process hearing. Infants and toddlers do not need to be present at due process hearings, however, you, as the parent, can decide whether or not your infant or toddler will attend the due process hearing;
2. Open the hearing to the public; and
3. Receive a copy of the record or transcript of the hearing and the hearing officer's findings of fact, conclusions of law and decisions made at no cost.

### **Amending a Request for a Due Process Hearing**

You or the district may amend your request for a due process hearing only if the other party consents in writing to the amendment and is given an opportunity to resolve the due process complaint through a resolution meeting or if the hearing officer grants permission. The hearing officer may only grant permission not later than five days before the due process hearing begins.

If you or the district files an amended request for a due process hearing, the timelines for the resolution meeting and the resolution period begin again with the filing of the amended request.

### **Disclosure of Additional Evidence before a Hearing and Prehearing Conference**

A prehearing conference must be held within five business days of the date the commissioner appoints a hearing officer. The hearing officer must initiate the prehearing conference. This conference can be held in person, at a location within the district, or by telephone. The hearing officer must create a verbatim record of the prehearing conference, which is available to you or the district upon request. At the prehearing conference, the hearing officer must accomplish the following: identify the questions that must be answered to resolve the dispute and elimination claims and complaints that are without merit; set a scheduling order for the hearing and additional pre hearing activities; determine if the hearing can be disposed of without an evidentiary hearing and, if so; establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

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

## **The Hearing Decision**

The hearing officer must reach a final decision in the due process hearing and give a copy of the decision to each party not later than 45 days after the 30-day period or within the adjusted time periods. The hearing officer is encouraged to accelerate the timeline to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. The hearing decision timeline may be extended if the hearing officer determines that good cause exists. The hearing officer must conduct oral arguments in a hearing at a time and place that is reasonably convenient to you and your child. The hearing officer's decision whether an infant or toddler was appropriately identified, evaluated, or placed, or whether the infant or toddler with a disability and the family were appropriately provided early intervention services under Part C of the IDEA, must be based on substantive grounds. The hearing decision is final unless you or the district files a civil action. A hearing officer does not have the authority to amend a decision except for clerical and mathematical errors.

## **Separate Request for Due Process Hearing**

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

## **COMPLAINTS AND HEARINGS DATABASE**

Final decisions on special education complaints and due process hearings are available to the public on the MDE website. MDE maintains a public database called the Complaints, Hearings and Letters Search Engine. Decisions available in the database are redacted and all personally identifiable information is removed. This database is available on the Compliance and Monitoring webpage on the MDE website at: <http://education.state.mn.us/MDE/dse/sped/conf/rec/>.

## **CIVIL ACTION**

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

## **PLACEMENT DURING A HEARING OR CIVIL ACTION**

During a hearing or court action, unless you and the district agree otherwise, your child must continue to receive the appropriate early intervention services in the setting identified and that you consented to in the IFSP. If the complaint involves an application for initial services under Part C of the IDEA, your child must continue to receive those services that are not in dispute.

## **EXPEDITED DUE PROCESS HEARINGS**

You or a school district may file a written request for an expedited due process hearing.

Expedited hearings must be held within 20 school days of the date the hearing request is filed. The hearing officer must issue a decision within 10 school days after the hearing. A resolution meeting must occur within seven days of receiving the hearing request, unless you and the school district agree in

writing to either waive the resolution meeting or use the mediation process. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the request.



**PART B NOTICE OF PROCEDURAL SAFEGUARDS  
PARENTAL RIGHTS FOR PUBLIC SCHOOL  
SPECIAL EDUCATION STUDENTS – Ages 3 through 22**

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

**INTRODUCTION**

This document provides an overview of parental special education rights, sometimes called procedural safeguards. These same procedural safeguards are also available for students with disabilities who have reached the age of 18.

This Notice of Procedural Safeguards must be given to you at least one time per year. 34 C.F.R. § 300.504(a). It must also be given to you:

1. The first time your child is referred for a special education evaluation or if you request an evaluation, 34 C.F.R. § 300.504(a)(1);
2. The first time you file a complaint with the Minnesota Department of Education (MDE) in a school year, 34 C.F.R. § 300.504(a)(2);
3. The first time you or the district requests a due process hearing in a school year, 34 C.F.R. § 300.504(a)(2);
4. On the date the district decides to change the placement of your student by removing the student from school for a violation of the district discipline policy, 34 C.F.R § 300.504(a)(3); or
5. Upon your request, 34 C.F.R. § 300.504(a)(4).

## PRIOR WRITTEN NOTICE

The district must provide you with prior written notice each time it proposes to initiate or change, or refuses to initiate or change:

- the identification of your child;
- the evaluation and educational placement of your child;
- the provision of a free appropriate public education (FAPE) to your child; or
- When you revoke consent for services for your child in writing and before the district stops providing special education and related services, 34 C.F.R. §§ 300.503(a)(1)-(2) and 300.300(b)(4)(i).

This written notice must include:

1. A description of the action proposed or refused by the district, 34 C.F.R. § 300.503(b)(1);
2. An explanation of why the district proposes or refuses to take the action, 34 C.F.R. § 300.503(b)(2);
3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for its proposal or refusal, 34 C.F.R. § 300.503(b)(3);
4. A statement that you, as parents of a child with a disability, have protection under these procedural safeguards and information about how you can get a copy of the brochure describing the procedural safeguards, 34 C.F.R. § 300.503(b)(4);
5. Sources for you to contact to obtain assistance in understanding these procedural safeguards, 34 C.F.R. § 300.503(b)(5);
6. A description of other options the IEP team considered and the reasons why those options were rejected, 34 C.F.R. § 300.503(b)(6); and
7. A description of other factors relevant to the district's proposal or refusal, 34 C.F.R. § 300.503(b)(7).

In addition to federal requirements, prior written notice must inform you that, *except for the initial placement of your child in special education*, the school district will proceed with its proposal for your child's placement, or for providing special education services, unless you notify the district of an objection within 14 days of when the district sent you the prior written notice. Minn. Stat. § 125A.091, Subd. 3a(1). The district must also provide you with a copy of the proposed IEP whenever the district proposes to initiate or change the content of the IEP. Minn. R. 3525.3600.

The prior written notice must also state that, if you object to a proposal or refusal in the prior written notice, you must have an opportunity for a conciliation conference, and the school district must inform you of other alternative dispute resolution procedures, including mediation and facilitated IEP team meetings, under Minnesota Statutes, section 125A.091, Subdivisions 7-9. Minn. Stat. § 125A.091, Subd. 3a(2).

## FOR MORE INFORMATION

If you need help in understanding any of your procedural rights or anything about your child's education, please contact your district's special education director or the person listed below. This notice must be provided in your native language or other mode of communication you may be using. If your mode of communication is not a written language, the district must take steps to translate this notice orally or by other means. The district must ensure that you understand the content of this notice and maintain written evidence that this notice was provided to you in an understandable mode of communication and that you understood the content of this notice. 34 C.F.R. § 300.503(c).

If you have any questions or would like further information, please contact:

Name District Director of Special Education

Phone 218-874-8215

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

ARC Minnesota (advocacy for persons with developmental disabilities)

[www.thearcofminnesota.org](http://www.thearcofminnesota.org)

651-523-0823

1-800-582-5256

Minnesota Association for Children's Mental Health

[www.macmh.org](http://www.macmh.org)

651-644-7333

1-800-528-4511

Minnesota Disability Law Center

[www.mndlc.org](http://www.mndlc.org)

612-334-5970 (Twin Cities Metro)

1-800-292-4150 (Greater Minnesota)

612-332-4668 (TTY)

PACER (Parent Advocacy Coalition for Educational Rights)

[www.pacer.org](http://www.pacer.org)

952-838-9000

1-800-53-PACER,

952-838-0190 (TTY)

Minnesota Department of Education

[www.education.state.mn.us](http://www.education.state.mn.us)

651-582-8689

651-582-8201 (TTY)

## **ELECTRONIC MAIL**

If your school district gives parents the choice to receive notices by email, you can choose to receive your prior written notice, procedural safeguards notice, or notices related to a due process complaint via email. 34 C.F.R. § 300.505.

## **PARENTAL CONSENT**

### **Definition of Consent**

Consent means that you have been fully informed of all information relevant to the activity for which your consent is sought, in your native language, or through another mode of communication. 34 C.F.R. § 300.9(a). In order to consent you must understand and agree in writing to the carrying out of the activity for which your consent is sought. This written consent must list any records that will be released and to whom. 34 C.F.R. § 300.9(b).

### **Revocation of Consent**

Consent is voluntary and may be revoked in writing at any time. 34 C.F.R. §§ 300.9(c)(1) and 300.300(b)(4). However, revocation of consent is not retroactive; meaning revocation of consent does not negate an action that has occurred after the consent was given and before the consent was revoked. 34 C.F.R. § 300.9(c)(2).

## **When the District Must Obtain Your Consent**

### ***A. Initial Evaluation***

The district must obtain your written and informed consent before conducting its initial evaluation of your child. 34 C.F.R. § 300.300(a)(1)(i) and Minn. Stat. § 125A.091, Subd. 5(a). You or a district can initiate a request for an initial evaluation. 34 C.F.R. § 300.301(b). If you do not respond to a request for consent or if you refuse to provide consent for an initial evaluation, the district cannot override your refusal to provide consent. 34 C.F.R. § 300.300(a)(3)(i) and Minn. Stat. § 125A.091, Subd. 5(a). An initial evaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation, unless a conciliation conference or hearing is requested. Minn. R. 3525.2550, Subp. 2.

A district will not be found in violation of meeting its child find obligation or its obligations to conduct evaluations and reevaluations if you refuse to consent to or fail to respond to a request for consent for an initial evaluation. 34 C.F.R. § 300.300(a)(3)(ii).

If you consent to an initial evaluation, this consent cannot be construed as being consent for the initial provision of special education and related services. 34 C.F.R. § 300.300(a)(1)(ii).

### ***B. Initial Placement and Provision of Special Education Services and Related Services***

The district must obtain your written consent before proceeding with the initial placement of your child in a special education program and the initial provision of special education services and related services to your child determined to be a child with a disability. Minn. Stat. § 125A.091, Subd. 3a(1) and 5(a); 34 C.F.R. § 300.300(b)(1).

If you do not respond to a request for consent, or if you refuse to consent to the initial provision of special education and related services to your child, the district may not override your written refusal. Minn. Stat. § 125A.091, Subd. 5(a).

If you refuse to provide consent for the initial provision of special education and related services, or you fail to respond to a request to provide consent for the initial provision of special education and related services, the district will not be considered in violation for failure to provide your child with special education and related services for which the district requested consent. 34 C.F.R. § 300.300(b)(4)(i).

### **C. Reevaluations**

Your consent is required before a district conducts a reevaluation of your child. 34 C.F.R. § 300.300(c). If you refuse consent to a reevaluation, the district may not override your written refusal. 34 C.F.R. § 300.300(c)(1)(ii) and Minn. Stat. § 125A.091, Subd. 5(a). A reevaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation or within 30 days from the expiration of the 14 calendar day time period during which you can object to the district's proposed action. Minn. R. 3525.2550, Subp. 2.

### **D. Transition Services**

Your consent is required before personally identifiable information is released to officials of participating agencies providing or paying for transition services. 34 C.F.R. §§ 300.622(a)(2) and 300.321(b)(3).

### **When Your Consent is Not Required**

*Except for an initial evaluation and the initial placement and provision of special education and related services*, if you do not notify the district of your objection within 14 days of when the district sends the notice of the district's proposal to you, the district's proposal goes into effect even without your consent. Minn. Stat. § 125A.091, Subd. 3a(1).

Additionally, your consent is not required for a district to review existing data in your child's educational file as part of an evaluation or a reevaluation. 34 C.F.R. § 300.300(d)(1)(i).

Your consent is also not required for the district to administer a test or other evaluation that is given to all children, unless consent is required from parents of all children. 34 C.F.R. § 300.300(d)(1)(ii).

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

You have a right to object to any action the district proposes within 14 calendar days of when the district sends you the prior written notice of their proposal. Minn. Stat. § 125A.091, Subd. 3a(1). If you object to the district's proposal, you have the right to request a conciliation conference, mediation, facilitated IEP team meeting or a due process hearing. 34 C.F.R. § 300.507; Minn. Stat. §§ 125A.091, Subd. 3a(2) and Subd. 14. Within ten calendar days from the date the district receives notice of your objection to its proposal or refusal in the district's prior written notice, the district will ask you to attend a conciliation conference. Minn. Stat. § 125A.091, Subd. 7.

Except as provided under Minnesota Statutes, section 125A.091, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five days after the final conciliation conference, the district must prepare and provide to you a conciliation



conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible evidence in any subsequent proceeding. Minn. Stat. § 125A.091, Subd. 7.

You and the district may also agree to use mediation or a facilitated individualized education program (IEP) team meeting to resolve your disagreement. Minn. Stat. § 125A.091, Subd. 8. You or the district can also request a due process hearing (see section about Impartial Due Process Hearings later in this document). The district must continue to provide an appropriate education to your child during the proceedings of a due process hearing. 34 C.F.R. § 300.518.

### **Confidentiality and Personally Identifiable Information**

Personally identifiable information is information that includes, but is not limited to, a student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's Social Security number, student number, or biometric record, another indirect identifier, such as the student's date of birth, place of birth, a mother's maiden name, other information that, alone or in combination, is linked to or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates. 34 C.F.R. § 99.3.

Districts and MDE must protect the confidentiality of any personally identifiable data, information, and records they collect, maintain, disclose and destroy. 34 C.F.R. §§ 300.610 and 300.623.

Generally, your written consent is required before a district may disclose personally identifiable information from your child's educational record with anyone other than officials of participating agencies collecting or using the information under the Individuals with Disabilities Education Act (IDEA) or for any purpose other than meeting a requirement of that law. 34 C.F.R §§ 99.3 and 99.31.

When your consent is not required to share personally identifiable information. Your consent, or the consent of an eligible student (age 18 or older), is not required before personally identifiable information contained in education records is released to officials of a school district or the state department of education for meeting IDEA requirements. 34 C.F.R. § 300.622(a).

Your child's educational records, including disciplinary records, can be transferred without your consent to officials of another school, district, or postsecondary institution if your child seeks to enroll in or attend the school or institution or a school in that district. 34 C.F.R. § 99.31(a)(2).

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

### **Directory Information**

Directory information can be shared without your consent. This type of information is data contained in an education record of your child that would not generally be considered harmful or an invasion of privacy if disclosed. 34 C.F.R. § 99.3.

Directory information includes, but is not limited to, a student's address, telephone number, email address, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in official activities and sports, weight and height of athletic team members, degrees, honors, and awards received, the most recent educational agency or institution attended, and a student ID number, user ID, or other unique personal identifier used for accessing or communicating electronically if certain criteria are met. Directory information does not include a student's Social Security number or a student ID number not used in connection with accessing or communicating electronically as provided under federal law. 34 C.F.R. § 99.3.

Districts must give you the option to refuse to let the district designate any or all data about your child as directory information. This notice can be given to you by any means reasonably likely to inform you or an eligible student of this right. Minn. Stat. § 13.32, Subd. 5. If you do not refuse to release the above information as directory information, that information is considered public data and can be shared without your consent.

Data about you (meaning parents) is private data but can be treated as directory information if the same procedures that are used by a district to designate student data as directory information are followed. Minn. Stat. § 13.32, Subd. 2(c).

### **WRITTEN ANNUAL NOTICE RELATING TO THIRD PARTY BILLING FOR IEP HEALTH-RELATED SERVICES**

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

1. The district will share data related to your child and health-related services on your child's IEP with the Minnesota Department of Human Services to determine if your child is covered by Medical Assistance or MinnesotaCare and whether those services may be billed to Medical Assistance or MinnesotaCare.
2. Before billing Medical Assistance or MinnesotaCare for health-related services the first time, the district must obtain your consent, including specifying the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided), the purpose of the disclosure, the agency to which the disclosure may be made (i.e. the Department of Human Services) and which specifies that you understand and agree that the school district may access your (or your child's) public benefits or insurance to pay for health-related services.
3. The district will bill Medical Assistance or MinnesotaCare for the health-related services on your child's IEP. Minn. Stat. § 125A.21, Subd. 2(c)(1).
4. The district may not require you to sign up for or enroll in Medical Assistance or MinnesotaCare or other insurance programs in order for your child to receive special education services.
5. The district may not require you to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for health services provided, but may pay the cost that you otherwise would be required to pay.

6. The district may not use your child's benefits under Medical Assistance or MinnesotaCare if that use would: decrease available lifetime coverage or any other insured benefit; result in your family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time your child is in school; increase your premiums or lead to the discontinuation of benefits or insurance; or risk your loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
7. You have the right to receive a copy of education records the district shares with any third party when seeking reimbursement for IEP health-related services. Minn. Stat. § 125A.21, Subd. 2(c)(2).

You have the right to stop your consent for disclosure of your child's education records to a third party, including the Department of Human Services, at any time. If you stop consent, the district may no longer share your child's education records to bill a third party for IEP health-related services. You can withdraw your consent at any time, and your child's IEP services will not change or stop. Minn. Stat. § 125A.21, Subd. 2(c)(3).

## **INDEPENDENT EDUCATIONAL EVALUATIONS**

An independent educational evaluation (IEE) is an evaluation by a qualified person(s) who is not an employee of your district. 34 C.F.R. § 300.502(a)(3)(i). You may ask for an IEE at school district expense if you disagree with the district's evaluation. 34 C.F.R. § 300.502(b)(1). A hearing officer may also order an independent educational evaluation of your child at school district expense during a due process hearing. 34 C.F.R. § 300.502(d).

Upon request for an IEE, the district must give you information regarding its criteria for selection of an independent examiner and information about where an independent education evaluation may be obtained. 34 C.F.R. § 300.502(a)(2).

If you request an IEE, the district must, without delay, ensure that it is provided at public expense or request a hearing to determine the appropriateness of its evaluation. 34 C.F.R. § 300.502(b)(2). If the district goes to hearing and the hearing officer determines the district's evaluation is appropriate, you still have the right to an independent evaluation, but not at public expense. 34 C.F.R. § 300.502(b)(3).

If you obtain an IEE, the results of the evaluation must be considered by the IEP/IIIP (Individual Interagency Intervention Plan) Team and may be presented as evidence at a due process hearing regarding your child. 34 C.F.R. § 300.502(c).

## **EDUCATION RECORDS**

### **Definition of an Education Record**

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

### **Your Access to Records**

If you want to look at your child's education records, the district must give you access to those records for your review. Education records include most of the information about your child that is held by the school.

34 C.F.R. § 300.613(a). However, information held solely by your child's teacher for his or her own instructional use may not be included in the education records. Minn. Stat. § 13.32, Subd. 1(a).

The district must allow you to review the records without unnecessary delay, and before any meeting regarding an IEP, or any hearing or resolution session about your child. 34 C.F.R. § 300.613(a). In addition, the district must comply with your request to review your child's education records immediately, if possible, or within 10 days of the date of the request (excluding Saturdays, Sundays and legal holidays), if immediate compliance is not possible. Minn. Stat. § 13.04, Subd. 3.

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

1. An explanation or interpretation from the district of your child's records upon request, 34 C.F.R. § 300.613(b)(1); Minn. Stat. § 13.04, Subd. 3;
2. Have your representative inspect and review the records on your behalf, 34 C.F.R. § 300.613(b)(3);
3. Request that the district provide copies of your child's educational records to you, 34 C.F.R. § 300.613(b)(2); Minn. Stat. § 13.04, Subd. 3; and
4. Review your child's records as often as you wish in accordance with state law, 34 C.F.R. § 300.613(c). State law provides that if you have been shown private data and have been informed of its meaning, that data does not need to be disclosed to you for a period of 6 months unless a dispute or action is pending or new information is created or collected. Minn. Stat. § 13.04, Subd. 3.

### **Transfer of Rights**

Your rights regarding accessing your child's education records generally transfer to your child at age 18. 34 C.F.R. §§ 300.625 and 99.5(a). Notice must be provided to you and your child regarding this transfer of rights. 34 C.F.R. § 300.520(a)(3).

### **Records on More Than One Child**

If any education record includes information on more than one child, you have the right to inspect and review only information relating to your child. 34 C.F.R. § 300.615. You can seek consent to review and inspect education records that include information about children in addition to your own, but the parents of those children have a right to refuse your request for consent.

### **List of Types and Locations of Information**

Upon your request, the district and the department must provide you with a list of the types and locations of education records they collect, maintain or use. 34 C.F.R. § 300.616.

### **Record of Access by Others**

The district must keep a record of each request for access to, and each disclosure of, personally identifiable information in your child's education records. This record of access must include the name of the individual who made the request or received personally identifiable information from your child's education records, the date access was given and the purpose of the disclosure or the individual's legitimate interest in the information. 34 C.F.R. §§ 300.614 and 99.32.

## **Consent to Release Records**

Generally, your consent is required before personally identifiable information is released to unauthorized individuals or agencies. 34 C.F.R. §§ 300.622(a) and 99.30(a); Minn. Stat. § 13.05, Subd. 4(d). The consent must be in writing and must specify the individuals or agencies authorized to receive the information: the nature of the information to be disclosed; the purpose for which the information may be used; and a reasonable expiration date for the authorization to release information. 34 C.F.R. § 99.30(b); Minn. Stat. § 13.05, Subd. 4(d). Upon request, the district must provide you with a copy of records it discloses after you have given this consent. 34 C.F.R. § 99.30(c).

The district may not disclose information contained in your child's IEP/IIIP, including diagnosis and treatment information, to a health plan company without your signed and dated consent. Minn. Stat. § 125A.21, Subd. 7.

## **Fees for Searching, Retrieving and Copying Records**

The district may not charge a fee to search or retrieve records. However, if you request copies, the district may charge a reasonable fee for the copies, unless charging that fee would prevent you from exercising your right to inspect and review the education records because you cannot afford to pay it. 34 C.F.R. §§ 300.617 and 99.11; Minn. Stat. §13.04, Subd. 3.

## **Amendment of Records at Parent's Request**

If you believe that information in your child's records is inaccurate, misleading, incomplete or in violation of your child's privacy or other rights, you may request in writing that the district amend or remove the information. 34 C.F.R. §§ 300.618(a) and 99.20(a); Minn. Stat. § 13.04, Subd. 4.

The district must decide within a reasonable time whether it will amend the records. 34 C.F.R. §§ 300.618(b) and 99.20(b). If the district decides not to amend the records, it must inform you that you have the right to a hearing to challenge the district's decision. 34 C.F.R. §§ 300.618(c), 300.619 and 99.20(c). If, as a result of that hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of your child's privacy right, it must inform you that you have the right to include a statement of your comments and disagreements alongside the challenged information in your child's education records. 34 C.F.R. § 300.620(b). A hearing to challenge information in education records must be conducted according to the procedures for such hearings under FERPA. 34 C.F.R. § 300.621.

## **Transfer of Records**

Minnesota Statutes require that a district, a charter school, or a nonpublic school transfer a student's educational records, including disciplinary records, from a school a student is transferring from to a school in which a student is enrolling within 10 business days of a request. Minn. Stat. § 120A.22, Subd. 7.

## **Destruction of Records**

The district must inform you when personally identifiable information is no longer needed in order to provide education services to your child. 34 C.F.R. § 300.624(a). That information must be destroyed at your request. However, the school may retain a permanent record of your child's name, address, phone

number, grades, attendance records, classes attended, grade level completed and year completed. 34 C.F.R. § 300.624(b).

Under federal law, destruction means the physical removal of personal identifiers from information so that the information is no longer personally identifiable. Thus, the student's record does not need to be physically destroyed to comply with your request to destroy special education related records. Districts can appropriately comply with this requirement by removing personally identifiable information from the student's records. The choice of destruction method generally lies with the school district. 34 C.F.R. § 300.611; Letter to Purcell, 211 IDELR 462 (OSEP, 1987); and Klein Indep. Sch. Dist., 17 IDELR 359 (SEA TC, 1990).

The district shall not destroy any education records if there is an outstanding request to inspect or review the records. 34 C.F.R. § 99.10(e).

Despite your request to destroy records a district can keep certain records necessary to comply with the General Education Provision Act (GEPA), which requires that recipients of federal funds keep records related to the use of those funds. Letter to New, 211 IDELR 473 (OSEP, 1987); 34 C.F.R. §300.611(a); and 20 U.S.C. Ch. 31, sec. 1232(f)(a). You may want to maintain certain special education records about your child for documentation purposes in the future, such as for applying for SSI benefits.

## **MEDIATION**

Mediation is a free, voluntary process to help resolve disputes. You or your district may request free mediation from the Minnesota Department of Education's Special Education Alternative Dispute Resolution program at 651-582-8222 or 1-866-466-7367. Mediation uses a neutral third party trained in dispute resolution techniques. Mediation may not be used to deny or delay your right to a due process hearing. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation. 34 C.F.R. §§ 300.506 and 300.152(a)(3)(ii).

If you and the district resolve all or a portion of the dispute or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by both you and the district and that both parties receive a copy of the document. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding on both you and the district and is enforceable in state or federal district court. You or the district can request another mediation to resolve a dispute over implementing the mediation agreement. Minn. Stat. § 125A.091, Subd. 10.

## **FILING A WRITTEN COMPLAINT**

Any organization or individual may file a complaint with the Minnesota Department of Education (MDE). 34 C.F.R. § 300.153(a). Complaints sent to MDE must:

1. Be in writing and be signed by the individual or organization filing the complaint, 34 C.F.R. § 300.153(a);
2. Allege violations of state or federal special education law or rule, 34 C.F.R. § 300.153(b)(1);

3. State the facts upon which the allegation is based, 34 C.F.R. § 300.153(b)(2);
4. Include the name, address and telephone number of the person or organization making the complaint, 34 C.F.R. § 300.153(b)(3);
5. Include the name and address of the residence of the child and the name of the school the child is attending, 34 C.F.R. § 300.153(b)(4)(i)(ii);
6. A description of the nature of the child's problem; including facts relating to the problem, 34 C.F.R. § 300.153(b)(4)(iv);
7. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed, 34 C.F.R. § 300.153(b)(4)(v); and
8. Be forwarded to the public agency providing services to the child at the same time the complaint is sent to MDE, 34 C.F.R. § 300.153(d).

The complaint must be sent to:

Minnesota Department Education  
Division of Compliance and Assistance  
Due Process Supervisor  
1500 West Highway 36  
Roseville, MN 55113-4266  
651.582.8689 Phone  
651.582.8725 Fax

The complaint must be received by MDE no later than one year after the alleged violation occurred. 34 C.F.R. § 300.153(c). MDE will issue a written decision within 60 days, unless exceptional circumstances require a longer time or you or the district agree to extend the time to participate in mediation. 34 C.F.R. § 300.152(a) and (b). The final complaint decision may be appealed to the Minnesota Court of Appeals by you (the parent) or the school district injured-in-fact by the decision within 60 days of receiving notice of the final decision.

## **MODEL FORMS**

MDE has developed model forms that can be used to file special education or due process complaints. These forms are not required, but are available as a resource to use when filing a complaint. 34 C.F.R. § 300.509. These model forms are available on MDE's website: MDE > Select District, Schools and Educators > Special Education > Due Process Forms.

## **IMPARTIAL DUE PROCESS HEARING**

Both you and the district have a right to request an impartial due process hearing in writing within two years of the date you or the agency knew or should have known about the alleged action that forms the basis of the due process complaint. Minn. Stat. § 125A.091, Subd. 14(a) and 34 C.F.R. §§ 300.507 and 300.511(e).

A due process hearing can be requested regarding a proposal or refusal to initiate or change a child's evaluation, IEP, educational placement, or to provide FAPE. Minn. Stat. § 125A.091, Subd. 14(a).

A due process hearing may address any matter related to the identification, evaluation, educational placement, manifestation determination or provision of a free and appropriate public education of your child. Minn. Stat. § 125A.091, Subd. 12. Within 15 days of receiving notice of your due process complaint, and prior to the due process hearing, the school district must arrange for a resolution meeting with you and the relevant members of the IEP Team who have knowledge of the facts alleged in the due process complaint. 34 C.F.R. § 300.510(a).

The purpose of this meeting is for you to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the school district has the opportunity to resolve the dispute that is the basis for the due process complaint. 34 C.F.R. § 300.510(a)(2).

The resolution meeting need not be held if you and the school district agree in writing to waive the meeting or agree to mediation. 34 C.F.R. § 300.510(a)(3). A resolution meeting is also not required to be held when the district is the party who requests a due process hearing. 34 C.F.R. 300.510(a) cmts. at 71 F.R. 46700 (2006).

If the matter is not resolved within 30 days of receipt of the due process complaint, the hearing timelines begin. 34 C.F.R. § 300.510(b)(1).

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint. 34 C.F.R. § 300.510(b)(4).

### **Loss of Right to a Due Process Hearing**

NOTE: Due to an interpretation of state law by the 8th Circuit Court of Appeals, if your child changes school districts and you do not request a due process hearing before your child enrolls in a new district, you may lose the right to have a due process hearing about any special education issues that arose in the previous district. See *Thompson v. Bd. of the Special Sch. Dist. No. 1*, 144 F.3d.574 (8th Cir. 1998). You do still have a right to request a due process hearing about special educational issues that may arise in the new district where your child is attending.

### **Procedures for Initiation of a Due Process Hearing**

Upon a written request for a hearing, the district must give you a copy of this procedural safeguard notice and a copy of your rights at hearing. 34 C.F.R. § 300.504(a)(2). If you or the district request a hearing, the other party must be provided with a copy of the request and submit the request to the department. Once it receives the request, the department must give a copy of the procedural safeguards notice to you. Minn. Stat. § 125A.091, Subd. 14(d). All written requests must include:

1. The name of your child, 34 C.F.R. § 300.508(b)(1); Minn. Stat. § 125A.091, Subd. 14(b);
2. The address of your child, 34 C.F.R. § 300.508(b)(2); Minn. Stat. § 125A.091, Subd. 14(b);



3. The name of the school your child is attending, 34 C.F.R. § 300.508(b)(3); Minn. Stat. § 125A.091, Subd. 14(b);
4. A description of the problem(s), including your view of the facts, 34 C.F.R. § 300.508(b)(5); Minn. Stat. § 125A.091, Subd. 14(b); and
5. A proposed resolution of the problem to the extent known and available to you at the time, 34 C.F.R. § 300.508(b)(6); Minn. Stat. § 125A.091, Subd. 14(b).

MDE maintains a list of qualified hearing officers. Upon receipt of a written request for a hearing, MDE will appoint a hearing officer from that list to conduct the hearing. Minn. Stat. § 125A.091, Subd. 13. Below are a few of your rights at hearing. This is not a complete list of rights.

Both you and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, 34 C.F.R. § 300.512(a)(1);
2. Present evidence and confront, cross-examine and compel the attendance of witnesses, 34 C.F.R. § 300.512(a)(2);
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including evaluation data and recommendations based on that data, 34 C.F.R. § 300.512(a)(3); and
4. Receive a free copy of the hearing transcript or electronic recording of findings of fact and decisions, 34 C.F.R. §§ 300.512(a)(4)-(a)(5) and (c)(3).

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

1. Have your child, who is the subject of the hearing, present, 34 C.F.R. § 300.512(c)(1);
2. Open the hearing to the public, 34 C.F.R. § 300.512(c)(2); and
3. Have the record or transcript of the hearing and the hearing officer's findings of fact, conclusions of law and decisions made provided to you at no cost. 34 C.F.R. § 300.512(c)(3); Minn. Stat. § 125A.091, Subd. 12.

### **Responding to the Hearing Request**

If you file a hearing request and you did not previously receive a prior written notice from the district about the subject matter of the hearing request, the district must send you a written explanation of why the district refused to take the action raised in the hearing request within 10 days of receiving the hearing request. This explanation must include a description of other options considered by the IEP team, why those options were rejected, a description of each evaluation procedure, assessment, record, or report that the district used as the basis for the proposed or refused action, and a description of the factors relevant to the district's proposal or refusal decision. Minn. Stat. § 125A.091, Subd. 14(e)(1).

The district can assert that the hearing request does not meet the requirements under state law. A hearing request is considered sufficient unless the party who received the request notifies the hearing officer in writing within 15 days of receiving the request that they believe the request does not meet statutory requirements. The hearing officer must determine whether the hearing request meets statutory requirements within 5 days of receiving the request and notify the parties. Minn. Stat. § 125A.091, Subd. 14(e) (1) and (2).

Upon receiving your hearing request, the district must also send you a written response that addresses the issues you raised in the hearing request within 10 days of receiving the request. Minn. Stat. § 125A.091, Subd. 14(f).

### **Disclosure of Additional Evidence Before a Hearing**

A prehearing conference must be held within 5 business days of the date the commissioner appoints a hearing officer. This conference can be held in person, at a location within the district, or by telephone. Minn. Stat. § 125A.091, Subd. 15. At least 5 business days before a hearing, you and the district must disclose to each other all evaluations of your child completed by that date and recommendations based on those evaluations that are intended to be used at the hearing. 34 C.F.R. § 300.512(b)(1). A hearing officer may refuse to allow you to introduce any undisclosed evaluations or recommendations at the hearing without consent of the other party. 34 C.F.R. § 300.512(b)(2).

### **The Hearing Decision**

A hearing decision must be issued and provided to each party within 45 calendar days, or within an appropriately extended time period, upon the expiration of the 30-day resolution period after the due process complaint was received by the state agency. 34 C.F.R. § 300.515; Minn. Stat. § 125A.091, Subd. 20(a). A hearing officer may extend the time beyond the 45-day period if requested by either party for good cause shown on the record. 34 C.F.R. § 300.515(c); Minn. Stat. § 125A.091, Subd. 18, 20(a). A hearing officer must conduct oral arguments in a hearing at a time and place that is reasonably convenient to you and your child. Minn. Stat. § 125A.091, Subd. 20(a). A hearing officer's decision on whether your child received FAPE must be based on evidence and arguments that directly relate to FAPE. 34 C.F.R. § 300.513. The hearing decision is final unless you or the district files a civil action. 34 C.F.R. §§ 300.514(a)-(b) and 300.516(a). A hearing officer lacks the authority to amend a decision except for clerical and mathematical errors. Minn. Stat. § 125A.091, Subd. 20(b).

### **Separate Request for Due Process Hearing**

You have the right to file a separate due process complaint on an issue separate from a due process complaint already filed. 34 C.F.R. § 300.513(c).

### **Free or Low-Cost Legal Resources**

The district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or if you or the school district file a due process complaint. 34 C.F.R. § 300.507(2)(b). A list of free or low-cost legal resources is also available on [MDE's Special Education Hearings web page](#) (MDE > Districts, Schools and Educators > Special Education > Conflicts in Special Education > Special Education Complaints).

## COMPLAINT AND HEARINGS DATABASE

Final decisions on special education complaints and due process hearings are available to the public on the MDE website. 34 C.F.R. § 300.513(d). MDE maintains a public database called the Complaints, Hearings and Letters Search Engine. Decisions available in the database are redacted and all personally identifiable information is removed. This database is available on the Compliance and Assistance webpage on the MDE website at: <http://education.state.mn.us/MDE/dse/sped/conf/rec/>.

## CIVIL ACTION

When you or the district disagrees with the findings or decisions made by a hearing officer, either party may file a court action. The action may be brought in federal district court or the state court of appeals. 34 C.F.R. §§ 300.514(b) and 300.516(a). Different standards of review apply in each court. An appeal to the state court of appeals must be made within 60 calendar days of your receipt of the decision. Minn. Stat. § 125A.091, Subd. 24. An appeal to federal district court must be made within 90 days of the date of the decision. 34 C.F.R. § 300.516(b); Minn. Stat. § 125A.091, Subd. 24.

## PLACEMENT DURING A HEARING OR CIVIL ACTION

During a hearing or court action, unless you and the district agree otherwise, your child will remain in the educational placement where he/she is currently placed and must not be denied initial admission to school. 34 C.F.R. §§ 300.518(a) and (b) and 300.533. This is commonly referred to as the “stay-put” rule.

Two exceptions to the “stay-put” rule exist:

1. Students may be removed from their educational setting for not more than 45 school days to an interim alternative educational placement for certain weapon, drug or serious bodily injury violations, 34 C.F.R. § 300.530(g)(1)-(3); and
2. A hearing officer’s decision agreeing with you that a change in placement is appropriate as the “stay-put” placement during subsequent appeals, 34 C.F.R. § 300.518(d).

## EXPEDITED HEARINGS

You (the parent) or the district can request an expedited hearing in the following situations:

1. Whenever you dispute the district’s proposal to initiate or change the identification, evaluation or educational placement of your child or the district’s provision of FAPE to your child, Minn. Stat. § 125A.091, Subd. 14(a); 34 C.F.R. § 300.532(a) and (c)(1); 34 C.F.R. 300.507(a) and 34 C.F.R. § 300.503(a)(1);
2. Whenever you dispute the district’s refusal to initiate or change the identification, evaluation or educational placement of your child or the district’s provision of FAPE to your child, Minn. Stat. § 125A.091, Subd. 14(a); 34 C.F.R. § 300.532(a) and (c)(1); 34 C.F.R. § 300.507(a); 34 C.F.R. § 300.503(a)(2);
3. Whenever you dispute the manifestation determination, 34 C.F.R. §§ 300.530 and 300.532(a); and
4. Whenever the district believes that maintaining the current placement of your child is substantially likely to result in injury to the child or to others, 34 C.F.R. § 300.532(b)(2)(ii).

You or a school district may file a written request for an expedited due process hearing as described above. Minn. Stat. § 125A.091, Subd. 19; 34 C.F.R. § 300.532(c)(1).

### **Timelines for Expedited Hearings**

Expedited hearings must be held within 20 school days of the date the hearing request is filed. The hearing officer must issue a decision within 10 school days after the hearing. Minn. Stat. § 125A.091, Subd. 19; 34 C.F.R. § 300.532(c)(2). A resolution meeting must occur within 7 days of receiving the hearing request, unless you and the school district agree in writing to either waive the resolution meeting or use the mediation process. Minn. Stat. § 125A.091, Subd. 19; 34 C.F.R. § 300.532(c)(3) and (3)(i). The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the request. Minn. Stat. § 125A.091, Subd. 19; 34 C.F.R. § 300.532(c)(3)(ii).

### **Dismissal of Complaint**

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint. 34 C.F.R. § 300.510(b)(4).

### **Placement by a Hearing Officer**

A hearing officer may decide to move your child to an interim alternative educational setting for up to 45 school days if the hearing officer determines your child is substantially likely to injure himself or herself or others if he/she remains in the current placement. 34 C.F.R. § 300.532(b)(2)(ii).

### **Right to Appeal Decision**

You or the district can appeal the decision of a hearing officer in an expedited due process hearing. 34 C.F.R. §§ 300.532(c)(5) and 300.514.

## **INTERIM ALTERNATIVE EDUCATIONAL PLACEMENT**

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

1. Carries a dangerous weapon to or possesses a dangerous weapon at school, on school premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law, 34 C.F.R. § 300.530(g)(1);
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the school district or MDE. This does not include alcohol or tobacco, 34 C.F.R. § 300.530(g)(2); or
3. Inflicts serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law, 34 C.F.R. § 300.530(g)(3).

On the date the district decides to remove your child and the removal is a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with the procedural safeguards notice. 34 C.F.R. § 300.530(h).

The IEP/IIIP team determines the interim alternative educational setting and appropriate special education services. 34 C.F.R. §§ 300.530(d)(5) and 300.531. Even though this is a temporary change, it must allow your child:

1. To continue to participate in the general education curriculum and progress towards meeting goals set out in your child's IEP, although in a different setting, 34 C.F.R. §§ 300.530(d)(1)(i) and (d)(4); and
2. Include services and modifications designed to prevent the behavior from recurring, 34 C.F.R. § 300.530(d)(1)(ii).

If your child is placed in an interim alternative educational setting, an IEP/IIIP meeting must be convened within 10 school days of the decision. 34 C.F.R. § 300.530(e)(1). At this meeting, the team must discuss behavior and its relationship to your child's disability. The team must review evaluation information regarding your child's behavior, and determine the appropriateness of your child's IEP/IIIP and behavior plan. The team will then determine if your child's conduct was caused by, or had a direct relationship to his or her disability, or if your child's conduct was the direct result of the school district's failure to implement the IEP. 34 C.F.R. § 300.530(e)(1).

### **ATTORNEY'S FEES FOR HEARINGS**

You may be able to recover attorney fees if you prevail in a due process hearing. 34 C.F.R. § 300.517(a)(1)(i). A judge may make an award of attorney's fees based on prevailing rates in your community. 34 C.F.R. § 300.517(c)(1). The court may reduce an award of attorney's fees if it finds that you unreasonably delayed the settlement or decision in the case. 34 C.F.R. § 300.517(c)(4)(i). If the district prevails and a court agrees that your request for a hearing was for any improper purpose, you may be required to pay the district's attorney's fees. 34 C.F.R. § 300.517(a)(iii).

### **EXCLUSIONS AND EXPULSION OF PUPILS WITH A DISABILITY**

Before your child with a disability can be expelled or excluded from school, a manifestation determination must be held. Minn. Stat. § 121A.43(d). If your child's misbehavior is related to his or her disability, your child cannot be expelled.

When a child with a disability is excluded or expelled under the Pupil Fair Dismissal Act, Minnesota Statutes Sections 121A.41-56, for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services after the period a period of suspension, if imposed. Minn. Stat. § 121A.43(d).

### **DISCIPLINARY REMOVALS**

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

1. The removal is for more than 10 school days in a row, 34 C.F.R. § 300.536(a)(1); or

2. Your child has been subjected to a series of removals that constitute a pattern because:
  - a. The series of removals total more than 10 school days in a year, 34 C.F.R. § 300.536(a)(2)(i);
  - b. Your child's behavior is substantially similar to your child's behavior in previous incidents that resulted in a series of removals, 34 C.F.R. § 300.536(a)(2)(ii); and
  - c. Of additional factors such as the length of each removals, the total amount of time your child has been removed, and the proximity of the removals to one another, 34 C.F.R. § 300.536(a)(2)(iii).

The determination of whether a pattern of removals constitutes a change of placement is made by the district. 34 C.F.R. § 300.536(b)(1). If this determination is challenged it is subject to review through due process and judicial proceedings. 34 C.F.R. § 300.536(b)(2).

### **CHILDREN NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES**

If your child has not been determined eligible for special education and related services and violates a code of student conduct, and the school district knew before the discipline violation that your child was a child with a disability then your child can utilize the protections described in this notice. 34 C.F.R. § 300.534(a).

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

1. You expressed concern in writing to supervisory or administrative personnel at the district or to your child's teacher that your child is in need of special education and related services, 34 C.F.R. § 300.534(b)(1);
2. You requested an evaluation related to eligibility for special education and related services under Part B of the IDEA, 34 C.F.R. § 300.534(b)(2); or
3. Your child's teacher or other district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the district's director of special education or to other district supervisory staff, 34 C.F.R. § 300.534(b)(3).

### **Exceptions to a District's Knowledge**

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

1. You have previously refused consent for an evaluation of your child or you have previously refused special education services, 34 C.F.R. § 300.534(c)(1)(i)-(ii); or
2. Your child has already been evaluated and determined to not be a child with a disability under Part B of IDEA, 34 C.F.R. § 300.534(c)(2).

### **Conditions that Apply if There is No Basis of Knowledge.**

If a district does not have knowledge that your child is a child with a disability prior to taking disciplinary measures against your child, your child may be subjected to similar disciplinary consequences that are applied to children without disabilities who engage in similar behaviors. 34 C.F.R. § 300.534(d).

If a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. 34 C.F.R. § 300.534(d)(2)(i). Until the evaluation is complete, your child remains in the educational placement determined by the district, which can include suspension or expulsion without educational services. 34 C.F.R. § 300.534(d)(2)(ii). In Minnesota, regular special education services are provided on the sixth day of a suspension and alternative education services are provided.

### **REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES**

A district can report a crime committed by a child with a disability to appropriate authorities and State law enforcement and judicial authorities can exercise their responsibilities under the law related to crimes committed by a child with a disability. 34 C.F.R. § 300.535(a).

#### **Transmittal of records**

If a district reports a crime committed by a child with a disability, the district must ensure that copies of the child's special education and disciplinary records are transmitted to the appropriate authorities to whom the crime is reported for consideration. However, the district may only transmit copies of your child's special education and disciplinary records to the extent permitted by FERPA. 34 C.F.R. § 300.535(b).

### **PRIVATE SCHOOL PLACEMENT**

IDEA does not require the district to pay for the cost of educating your child, including special education and related services, at a private school if the district made FAPE available to your child and you chose to place your child in a private school. 34 C.F.R. § 300.148(a). However, you may be able to recover tuition expenses for a private school placement if you informed the district of your intent to enroll your child in a private school at public expense in a timely manner and if a hearing officer finds that the district did not promptly make FAPE available to your child prior to your child being enrolled in the private school and if the private placement is appropriate. You must inform the district of your intent to place your child in a private placement at public expense at the most recent IEP/IIIP meeting prior to removal of your child from public school or by written notice to the district at least 10 business days prior to removal of your child from public school. 34 C.F.R. § 300.148(c)-(d).

Your notice must state why you disagree with the district's proposed IEP/IIIP or placement. If a hearing officer or court finds that the district failed to provide or is unable to provide your child with an appropriate education and that the private placement is appropriate, you may be reimbursed for the cost of the private placement. Failure to tell the school of your intent to enroll your child in a private school at public expense, failure to make your child available for evaluation prior to placing your child in a private school after the district has given you notice of its intent to evaluate your child, or other unreasonable delay on your part could result in a reduction or denial of reimbursement for the private school placement. 34 C.F.R. § 300.148(d).

A hearing officer cannot reduce or deny the cost of reimbursement if: the district prevented you from being provided with this notice; you did not receive notice of your responsibilities as discussed above in this section; or if compliance with the above requirements would likely result in physical harm to your child and if you failed to provide the required notice because you cannot write in English or if compliance with the above requirements would likely result in serious emotional harm to your child. 34 C.F.R. § 300.148(e).