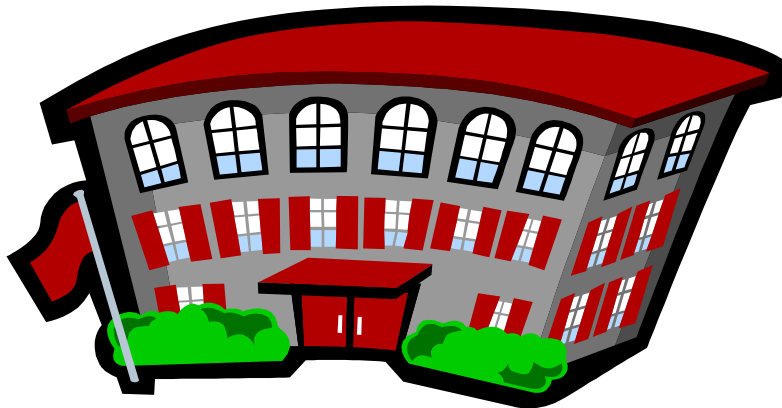


WESTON PUBLIC SCHOOLS



SPECIAL EDUCATION POLICY AND PROCEDURES MANUAL

**UPDATED:
September 2011**

TABLE OF CONTENTS

I. <u>Identification/Referrals/Evaluation Process</u>	<u>Page</u>
Standards and Procedures for Evaluation and Placement Decision.....	7
Instructional Support Intervention Process	8
Required and Optional Assessments.....	20
Administrative Advisory SPED 2004-3	21
End of School Year Evaluations.....	23
Response to Request for Independent Evaluations.....	24
Administrative Advisory SPED 2004-1	29
Administrative Advisory SPED 2001-3	36
Frequency of Reevaluation.....	39
Child Find/Outreach by School District.....	41
Sample Letter	
Screening.....	43
Extended Evaluations.....	44
Forms	
Parent and Community Involvement (Forms: Referral, N1, N2).....	47
II. <u>The Team Process/Development of IEP/Placement</u>	
Special Requirements for Determination of Specific Learning Disabilities.....	53
Specific Learning Disability (SLD) Forms	
IDEA Key Points regarding SLD	75
Reporting Assessment Results.....	77

Transfer of Parental Rights and Student Participation and Consent at age of Majority.....	78
Sample Letter	
Required Participation at Team Meetings/Attendance.....	81
Eligibility Determination/IEP Timelines/504 Plan.....	84
Administrative Advisory SPED 2002-2	85
Notice of Parent and Student Rights under Section 504	87
IEP Development and Content (Forms).....	91
Key Points for IDEA-2004 Team Meetings	93
Administrative Advisory SPED 2001-5	94
School Day and School Year Requirements.....	99
Least Restrictive Program Selection.....	100
Parent Consent/Team Meetings Notice (Forms and Letter Samples).....	101
Continuum of Alternative Services and Placements; Program Descriptions.....	110
Administrative Advisory SPED 2002-3	112
Weston Public School Extended School Year Notes/forms	116
Weston Public School Special Education Services PK-12+	118
III. <u>State and Local Testing</u>	
Participation in General State and District-Wide Assessment Programs.....	124
Administrative Advisory SPED 2004-2 AYP	125
Administrative Advisory SPED 2004-2 Revised	128
IV. <u>Early Childhood Procedures and Programs</u>	
Screening.....	131
Preschool Parent Questionnaire	133

Programs for Young Children Three and four Years of Age.....	144
Home Training Agreement	145
V. <u>Transition Planning and Services</u>	
Transition Services.....	147
Technical Assistance Advisory SPED 2009-1	148
New Chapter 688 Referral Form	153
Initiation of Services at Age Three and EI Transition Procedures.....	154
Sample Letters	
VI. <u>Program Evaluation and Monitoring</u>	
Progress Reports, Content and Forms.....	158
IEP Implementation and Monitoring.....	160
IEP Implementation, Accountability, and Financial Responsibility.....	161
Procedures for the Evaluation of Programs/Services.....	162
VII. <u>Student Records</u>	
Confidentiality of Personally Identifiable Information.....	163
Transfer of Student Records	
603 CMR 23.00 Student Records	
FERPA.....	172
VIII. <u>Parent Rights and Community Involvement</u>	
Notice of Procedural Safeguards.....	173
State and District Responsibility for Educational Surrogate Parents.....	190
Dispute Resolution/Special Education Appeals	191
Guidance on Appointment of Educational Surrogate Parents	192

Parent Advisory Council for Special Education	198
Parent Advisory Council for the Weston Public Schools	
IX. <u>Role of Administrators (Including Home/Hospital/ELL)</u>	
Responsibilities of the School Principal and Administrator of Special Education	199
Protocol for Home/Hospital Services.....	201
Administrative Advisory SPED 2003-1	202
Program Quality Assurance Services	206
Communication in the Primary Language of the Home.....	213
Procedure for Supporting ELL in the Classroom	
X. <u>Curriculum and Instruction</u>	
Involvement in General Curriculum.....	214
Instructional Grouping and Age Span Requirements	
XI. <u>Placement Procedures and Options</u>	
Procedures for Approved and Unapproved Out-of-District Placements.....	215
Administrative Advisory SPED 2002-5	216
Out of District Placement in Unapproved Programs and Forms	226
Educational Services in Institutional Settings (ESIS).....	234
Provision of Services to Students Enrolled in Private School at Private Expense	
XII. <u>Behavioral Interventions and Discipline Guidelines</u>	
Definitions and Acronyms.....	245
Behavior Interventions (Forms).....	246
Anti-Bullying Protocol	247
Physical Restraint Protocol	260

603 CMR 46.00 Physical Restraint	265
Procedures for Suspension of Students with Disabilities.....	274
Procedures for Recording Suspensions.....	276
Procedural Requirements for Students with Undetermined Eligibility	277
XIII. <u>Student Support Services</u>	
Equal Opportunity/FAPE.....	278
Administrative Advisory SPED 2002-1	279
Related Services (Including Vocational/Counseling/Transportation).....	282
Use of Tutors/Instructional Aides.....	286

Weston's Evaluation Standards and Procedures for Student Evaluation and Placement Decisions

1. **School Referral** – Initially, a student who is struggling in school will be discussed at a Grade Level Team meeting by his/her team of teachers and school counselor to determine if difficulties are isolated to one subject area of all subject areas. Cumulative records and any other reports are reviewed and discussed at this meeting. If the difficulties are impacting the student's school performance in more than one subject area, his/her name will be brought to the attention of the Principal and Support Services Team where suggestions for a Curriculum Accommodation Plan for this student are developed and implemented. (RTI – Response to Intervention) The progress of the student is then monitored. After the Grade Level Team has made every effort to meet the needs of the student through the Curriculum Accommodation Plan, and these efforts have not been successful the Grade Level Team will notify the Principal and refer the student for an evaluation to determine eligibility.
Next Steps – Once a determination to assess is made, assessments are chosen that are valid, administered and interpreted by trained individuals, free from cultural biases, tailored to specific area of need and all other elements as specified in SE1 by the Department of Early and Secondary Education.

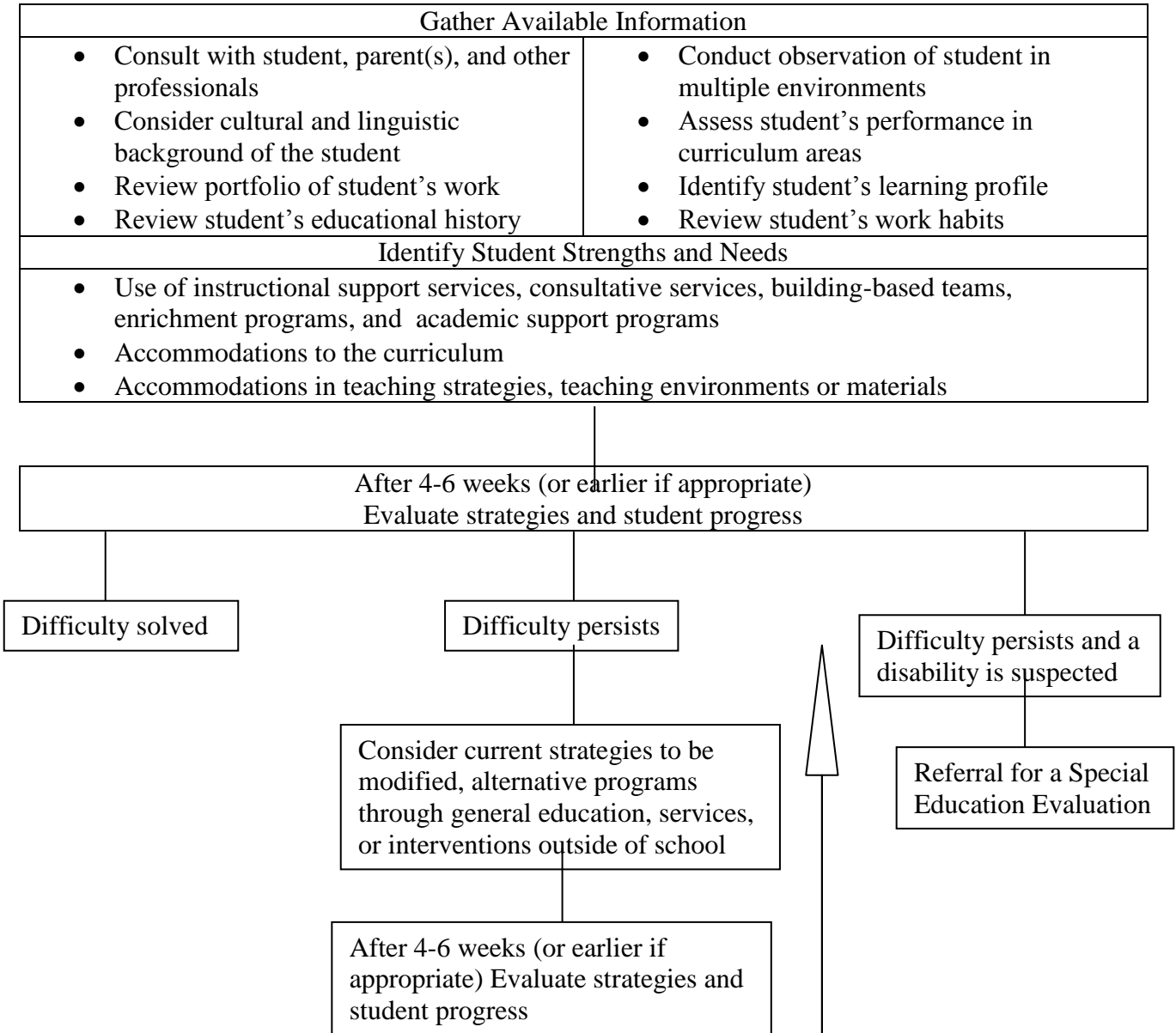
When interpreting data and making decisions, the Team uses information from a variety of sources, ensures that information obtained from these sources is considered, ensures placement in the LRE, and includes information related to enabling the student to be involved in progress in the general curriculum.

See Attached Request for SST forms

2. **Parent or Guardian Referral** – If a parent or guardian requests that an evaluation be completed; a meeting is set up with the school counselor, learning specialist and at least one of the student's teachers, who will represent the school team to discuss the parent/guardian's concerns. During this meeting, the parent/guardian's concerns and student's progress are discussed at length and the parent/guardian decides to move forward and request an evaluation, they are asked to fill out a Parent Referral Form detailing their concerns. The learning specialist will then review specific assessments that will be completed based upon the area of suspected special needs as part of the Initial IEP Evaluation process.
3. If a parent/guardian has had an **Independent Evaluation** completed on a student who is not on an IEP, the Grade Level Team, school counselor and learning specialist will meet with the parent/guardian within ten school days to discuss the findings. At this meeting, the Team will determine whether a referral for a special education evaluation is appropriate. If appropriate, the learning specialist will review the specific assessments to be completed by the IEP team based upon the area of suspected special needs. The Team can also determine that the Independent Evaluation will be used alone to determine eligibility.

Instructional Support Intervention Process*
(Excerpt from, “Is Special Education the Right Service?”)

Student Experiences School Difficulties*



***Note: the law requires that no instructional support program or any other intervention limits the rights of a parent to refer a student for a special education evaluation. However, if a referral for a special education evaluation has been made and the district has asked for and received parental consent to evaluate, then evaluation information from any instructional support program should be made available to the special education team to consider when determining if the student is eligible for special education.**

Weston Public Schools - Weston, MA

Request for Student Support Team Meeting

Prior to handing this form into your School Adjustment Counselor and being scheduled on an SST agenda, please make a copy of this form for yourself.

Please bring to the meeting:

- 1. Work Samples
- 2. Other relevant information from the cumulative folder
- 3. Observation information

Student Name: _____ Teacher: _____ Grade: _____

Date of Birth: _____ Native Language: _____ Primary Spoken Language: _____

Current Status: ___ Active Special Ed ___ Active 504 ___ General Ed

1. Has the student ever been referred for or evaluate for special education services? (If you are unsure, please speak with your School Adjustment Counselor) ___ If yes, in what areas?

2. Has the student received (or is currently receiving) any regular education interventions and/or special education services? ___ If yes, in what areas?

3. Primary area(s) of concern:

- | | | |
|---------------------|-------------------|-----------------------|
| ___ Academic Skills | ___ Social Skills | ___ Speech/Language |
| ___ Work Completion | ___ Behavior | ___ Motor Development |
| ___ Attention | | ___ Sensory Issues |

4. Provide data regarding the student's skill level:

	MCAS Results	ERB Results	Benchmarks	Class Tests/ Informal Assessments	Other data
Reading					
Writing					
Math					

5. Student Strengths:

6. If the student is currently receiving English as a Second Language, provide or attach scores from the IPT 2 Reading and Writing and IPT I Oral for the current year and all preceding years for which it is available:

7. Describe what you would like the student to be able to do that he/she does not do now.

8. Describe specifically what you have done to help this student cope with the difficulties.

9. To what extent are the parents/guardians aware of this concern?

10. What do you hope to have come out of a Student Support Team meeting?

11. List any other relevant information (Family information, medical, etc...)

Signature of Staff Member requesting SST: _____ Date: _____

Please submit the completed form to , SST Chair.

Student Name: _____ Teacher: _____ Building: _____

ACADEMIC ISSUES:

Reading:

- Difficulty with letter/word recognition
- Difficulty with sound/symbol relationships
- Difficulty with phonic skills when reading
- Weak comprehension
- Understands what is read aloud but not what he/she reads silently

Math:

- Does not remember math facts
- Difficulty with solving math word problems
- one step
- more than one step
- Confuses operational signs

Written Expression:

- Difficulty writing a sentence
- Difficulty with writing conventions
- Difficulty completing written work
- Difficulty organizing sentences and ideas
- Difficulty with spelling

SOCIAL/EMOTIONAL ISSUES:

- Lacks motivation
- Lacks self control
- Easily frustrated
- Needs constant approval
- Difficulty making and keeping friends
- Doesn't accept responsibility for behavior
- Unusually aggressive toward others
- Disruptive to others
- Uncooperative with adults
- Unusually shy or withdrawn
- Anxious, nervous

ATTENTION/WORK HABIT ISSUES:

- Difficulty beginning a task
- Difficulty maintaining attention
- Difficulty completing tasks
- Difficulty with changes in routine
- Easily distracted
- Daydreams, sits and stares
- Restless, fidgety, plays with objects
- Impulsive (acts without thinking)
- Difficulty following directions

VISUAL/MOTOR COORDINATION ISSUES:

- Difficulty with small motor tasks
- Difficulty with pencil/paper tasks
- Difficulty copying from the board

- Requires individual teacher monitoring
- Avoids work
- Inconsistent day to day performance
- Does not seek assistance from teacher
- Interrupts frequently

SPEECH ISSUES:

- Pauses and hesitates while speaking
- Difficulty articulating speech sounds
- Unusual voice quality

LISTENING COMPREHENSION ISSUES:

- Difficulty understanding spoken language
- Difficulty following verbal directions

MEMORY ISSUES:

- Difficulty remembering what is seen
- Difficulty remembering what is heard
- Difficulty retaining information over a period of time
- Difficulty remembering sequences

ORAL EXPRESSION ISSUES:

- Difficulty expressing thought and ideas
- Limited speaking vocabulary
- Omits, adds, substitutes, or rearranges words when speaking
- Does not use proper subject-verb agreement when speaking
- Difficulty carrying on a conversation
- Does not complete thoughts when speaking

INTERVENTIONS USED/RESULTS:

(please check what interventions were used and note if the results were positive, negative or neutral)

- Work contracts + 0 -

COMMENTS:

___ Parent Involvement + 0 -

___ Tangible reinforcers + 0 -

___ Give more time + 0 -

___ Negative consequences + 0 -

___ Physical proximity to teacher + 0 -

___ Preferential seating + 0 -

___ Peer tutoring/pairing + 0 -

___ General ed reading support + 0 -

___ Modified or reduced work + 0 -

___ Adapted instructional delivery + 0 -

Weston Public Schools - Weston MA
Student Support Team Report

Student Name: _____ **Date of Meeting:** _____

Date of Birth: _____ Grade: _____ Native Language: _____

Current Status: _____ **Active Special Ed** _____ **Active 504** _____ **General Ed**

Participants:

1. Has the student ever been referred and/or evaluate for special education services? _____ If yes, in what areas?

2. Has the student received (or is currently receiving) any regular education interventions and/or special education services? _____ If yes, in what areas?

3. What are the student's strengths?

4. What learning challenge(s) is this student currently experiencing?

5. Supportive data, additional information, relevant history, etc.

6. Prioritize 1-3 specific skills/competencies that this student needs to develop in order to be a more successful learner:

7. What strategies/interventions will be put in place to support the development of the needed skills/competencies? (NOTE: *Testing is not a strategy or intervention.*) Who will be responsible for each and what will be the timeline for implementation?

Strategy/Intervention: _____

Person Responsible: _____

Timeline for Implementation: _____

Strategy/Intervention: _____

Person Responsible: _____

Timeline for Implementation: _____

8. How will the effectiveness of the strategy/intervention be evaluated? What data will be used to show that the student's learning has improved?

9. While the student is learning the needed skills/competencies, are there any accommodations or modifications that are recommended to be put in place?

10. Other points of discussion from the SST meeting:

At this time, is there reason to suspect that this student has a disability?

No. Yes; disability suspected under IDEA. Yes; disability suspected under Section 504.

Disposition:

Reconvene Student Support Team; when: _____

Referral for general education evaluation; team to include:

_____ Psych _____ Counselor _____ literacy specialist _____ math specialist
other: _____

Referral for special education evaluation; team to include:

_____ Psych _____ Counselor _____ LC _____ S/L _____ other: _____

Referral for a 504 evaluation; team to include:

___ Psych ___ Counselor ___ LC ___ S/L ___ other: _____

Follow up coordinator: _____

Revised 10/24/2008

Weston Public Schools - Weston, MA

**DOCUMENTATION OF STUDENT RESPONSE
TO SYSTEMATIC INTERVENTION**

STUDENT NAME: _____

TEACHER: _____ **GRADE:** _____ **DATE:** _____

1. INTERVENTIONS

Document whether the intervention is working and should continue, or whether the intervention is unsuccessful and should be modified. If modified, describe the modifications.

Intervention	Outcome	Recommendation Continue, Modify, Refer

2. CONCLUSION

Based on repeated assessments, is the student making progress at a rate sufficient to reach the expected grade level benchmarks during this school year?

Teacher Signature: _____ Date: _____

Required and Optional Assessments

Weston Public Schools administers the required assessments and any additional assessments considered to provide relevant, meaningful information regarding the student's school performance. The **required assessments** administered by appropriately credentialed and trained specialists are as follows:

- Assessments in all areas related to the suspected disability that can include an educational assessment, psychological assessment, an occupational therapy, physical therapy or speech and language evaluation.
- Consideration of any needed assistive technology devices (e.g. touch screen window, Intellikeys keyboard, Braille, and a Braille)
- Educational Assessment Forms A & B:
 - Educational history assessment conducted by a licensed school adjustment counselor or school guidance counselor
 - Classroom Performance Assessment conducted by the student's classroom teacher(s). This assessment includes information pertaining to the student's performance in the district curriculum that is aligned with the Massachusetts Curriculum Frameworks, and the student's abilities related to attention, behavior, social skills, and memory
- Observation (for eligibility determination of a three year old child) in the child's home environment or early intervention setting. Evaluations conducted by EI agencies are also considered. Observations are also required for the determination of a specific learning disability. Please see special requirements for determination of a specific learning disability
- A health assessment, conducted by the family physician and paid for by the parents, at the initial evaluation to determine if any medical issues may impact a student's learning

School personnel or the parents may recommend additional assessments. Weston Public Schools routinely offers the following optional assessments:

- A psychiatric assessment by a certified and licensed psychiatrist
- A home assessment conducted by a registered and licensed school nurse that may include a home visit with permission from the parent

When a student is re-evaluated to determine eligibility for a specific service or for special education services in general, additional assessments may be conducted at that time. Weston Public Schools recommends to the parent the need for additional testing, or, in the case where no additional assessments are deemed necessary, informs the parent of the reason for this determination. Parents are also informed of their right to request additional assessments.

Special Education

Administrative Advisory SPED 2004-3: College Testing Information

To: Special Education Administrators, Charter School Leaders, and Other Interested Parties

From: Marcia Mittnacht, State Director of Special Education

Date: January 28, 2004

The purpose of this advisory is to respond to questions the Department of Elementary and Secondary Education has received from school districts about their obligations to provide supporting documentation to the College Board when a student has requested accommodations on College Board tests (e.g., PSAT/NMSQT, SAT or AP). The College Board has recently changed its eligibility requirements for testing accommodations. Districts and parents are reporting that the College Board is rejecting many requests for accommodation because the documentation supporting the request is not sufficient under its new eligibility standards. As a result, parents and students are asking districts to conduct additional evaluations or eligibility assessments to support students' requests for accommodation.

School districts typically have provided the College Board with documentation supporting the student's request for accommodation when the school district has such documentation on file, consistent with the Massachusetts Student Records Regulations. See 603 CMR 23.00. The Department expects that districts will continue to assist students who apply for accommodations on College Board tests. This advisory is intended to address only the recent changes to the College Board's requirements. The Department has consulted with other state education agencies and with the U.S. Office for Civil Rights.

Background: The College Board's eligibility requirements for testing accommodations are posted at <http://www.collegeboard.com/disable/students/html/eligible.html>, and its guidelines for the documentation that a candidate must submit with a request for accommodation are available at <http://www.collegeboard.com/disable/students/html/document.html>.

Parents and school districts report that the College Board is rejecting requests for accommodation on College Board testing for students with disabilities, even when the school district submits documentation that supports a finding of disability and shows a history of the district accommodating the student. In some cases, the College Board is asking that the student provide documentation of specific additional assessments or updated assessment information that the district does not need in order to deliver appropriate special education services to the student.

1. Are school districts required to update assessments or provide additional assessments as requested by the College Board or by the parent in order to support the request of a student with a disability for accommodation on College Board examinations?

School districts are not obligated to provide or pay for updated or additional assessments to support a student's request for accommodation on College Board examinations if such assessment information does not already exist and is not necessary for the appropriate special educational program for the student at the time of the request. The parent (or adult student) is responsible for paying for additional assessments that are needed for the sole purpose of supporting the student's request for accommodation on the College Board examinations.

If the parent requests an evaluation or assessment, whether or not the request describes the reason for the request, the school district must respond in accordance with the requirements of state and federal special education law. The district may either agree to conduct such an assessment or may provide notice to the parent that it will not do so, using notice form N2. The district's decision not to conduct the assessment is subject to the due process requirements of the law.

2. Are school districts required to evaluate a student for eligibility for special education if the student wishes to demonstrate such eligibility for the purpose of requesting accommodations on College Board examinations?

If a request for an evaluation is made for the purpose of demonstrating a need for accommodations on College Board tests, and the school district has no reason to believe the student has a disability or needs special education services, then the district can deny the request for an eligibility evaluation. The district must notify the parent or student of its denial using notice form N2. The district's decision not to conduct the evaluation is subject to the due process requirements of state and federal law.

Although there is no legal precedent in Massachusetts addressing this issue, a recent administrative decision in Maryland suggests that the district may refuse to conduct an assessment where eligibility is sought only to support the student's request for accommodation on the College Board exams. (See 40 IDELR 24, September 23, 2003.) In that case, the administrative law judge upheld the district's determination that a student did not have an impairment that substantially limited his learning, and therefore the student was not entitled to have the school conduct an assessment to support his request for accommodation on College Board examinations. Additionally, the administrative law judge noted that no legal precedent establishes that "test taking" is a substantial life activity that must be accommodated (as is required for an appeal under Section 504 of the Rehabilitation Act).

We hope this information is helpful. Questions regarding this advisory may be addressed to Program Quality Assurance Services at 781-338-3700. Additional information on preparing students with disabilities for postsecondary education transitions has been prepared by the U.S.D.O.E. and is available at: <http://www.ed.gov/about/offices/list/ocr/transition.html?exp=0>

End of the School Year Evaluations

Weston Public Schools is committed to processing all consents received within thirty (30) to forty-five (45) school working days before the end of the school year no later than fourteen (14) days after the school year has ended. Either an IEP will be written or a finding of no eligibility will be sent to the parent in writing. Evaluations can be completed over the summer in emergency situations and if the parent cannot wait until September. In an effort to maintain compliance and to effectively serve Weston's students, the Director of Student Services exercises her discretion in ensuring that no student is denied a free and appropriate public education (FAPE).

Independent Educational Evaluation Weston's Response to a Parental Request

A parent has the right to disagree with Weston's initial evaluation or three-year re-evaluation. If, as a result of this disagreement, the parent requests an independent educational evaluation (IEE), Weston conducts the following steps:

1. All independent evaluations funded by Weston are conducted by qualified persons who are licensed or certified and who abide by rate-set fees established by the State Department of Health Care Finance and Policy. Unique circumstances pertaining to the student may allow for a fee that is higher than usual.
2. Weston Public Schools has established procedures to offer parents a means of participating in an income eligibility program for free or reduced cost IEEs that are equivalent to the type of assessments performed by the school. (See Parent Letter)
3. Rights to a publicly funded IEE (cost shared or funded for students eligible for free or reduced cost lunch) are offered for sixteen months from the date of the evaluation with which the parent disagrees.
4. If the parent is requesting an evaluation in an area not previously assessed by the district or is unwilling to share the appropriate financial documentation, Weston either pays for the IEE or, within five school days, proceeds to BSEA to demonstrate that Weston's evaluation was appropriate and comprehensive.
5. The IEE should be completed with a written report in approximately 30 days from the date the parent requests the testing. The evaluator should send the publicly funded assessment report to the Weston Public Schools and to the parent. The independent evaluator should recommend appropriate types of placements and services but should not suggest specific classrooms or schools. The IEE report should also include a written summary of procedures, assessments, results and diagnostic impressions as well as educationally relevant recommendations for meeting identified needs of the student.
6. Weston's IEP Teams reconvene within 10 days of receipt of the written independent report (whether publicly or privately funded) to consider the report and determine if a new or amended IEP is necessary.

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089

Fax 781-529-8098

Office of Special Education

Mrs. Dianna Mullen
Assistant Director of Student Services

Date

Mr. and Mrs.
Weston, MA 02493

Dear:

As you know, I am in receipt of your request for an independent evaluation. The IEP Team believes it has conducted an appropriate and comprehensive evaluation. Per our phone conversation, I am sending you another copy of the Parents' Rights Brochure. Please note the highlighted section that addresses the requirements for seeking an independent evaluation at public expense.

School districts must offer parents seeking public funding for Independent Education Evaluations (IEE) information about the sliding fee program. Weston will require documentation (e.g. tax returns, pay stubs) of your family income and assets in order to determine eligibility. Any family whose income is more than 600% of the Federal Poverty Guidelines is ineligible for the sliding fee program. For a family of five to eight, that income range is \$ to \$. Providing financial documentation to the school district is completely voluntary on your part. If, however, you do not agree to provide such documentation, participation in the sliding fee program will not be available to you. Should you have any questions or concerns, Dr. Miller will be glad to speak with you.

Thank you in advance for your cooperation in this matter.

Sincerely,

Dianna Mullen
Assistant Director of Student Services

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089

Fax 781-529-8098

Office of Special Education

Mrs. Dianna Mullen
Assistant Director of Student Services

Date

Mr. and Mrs.
Weston, MA 02493

Dear:

I am in receipt of your written request for an independent evaluation, received in my office on _____. The IEP Team believes they have conducted an appropriate, thorough, and comprehensive evaluation. I have read the # pages of evaluation reports and I concur that _____ has been accurately and carefully assessed. However, parents always have the right to seek an independent evaluation.

When we spoke on the telephone on ___, I asked you if ___ was eligible for free or reduced-cost lunch, explaining that this eligibility would influence ___ access to an independent evaluation at public expense. You responded that ___ was eligible. However, after checking our records, I discovered that ___ was found to be ineligible on the application you submitted on _____. You did not re-apply in September of ___. If ___ does not qualify for a free or reduced cost lunch, he/she still may be eligible for school district funding, depending on your family income.

I am sending you another copy of the Parents' Rights Brochure. Please note the highlighted section that addresses the requirements for seeking an independent evaluation at public expense on page 4.

School districts must offer parents seeking public funding for Independent Education Evaluations (IEE) information about the sliding fee program. Weston will require documentation (e.g. tax returns, pay stubs) of your family income and assets in order to determine eligibility. Any family whose income is more than 600% of the Federal Poverty Guidelines is ineligible for the sliding fee program. Providing financial documentation to the school district is completely voluntary on your part. If, however, you do not agree to provide such documentation, participation in the sliding fee program will not be available to you. Should you have any questions or concerns, I will be happy to speak with you.

Additionally, in our telephone conversation on ___, I asked you to identify the areas you disagreed with in the school's evaluation. You were not able to identify the areas at that time but said you would do so in writing. IN your letter, you did not disclose areas of performance but rather identified specific testing instruments you wanted to be re-administered. Given that

our school conducted this evaluation in ____ of the current year, it would not be a valid measure of __ performance if some of the same tests were given to _____. I am still curious regarding those areas in the evaluation you oppose.

Thank you in advance for your cooperation in this matter.

Sincerely,

Dianna Mullen
Assistant Director of Student Services

CC:

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089

Fax 781-529-8098

Office of Special Education

Mrs. Dianna Mullen
Assistant Director of Student Services

Date

Mr. and Mrs.
Weston, MA 02493

Dear:

I have enclosed all documentation sent to me by you to determine your eligibility for an Independent Education Evaluation (IEE). Upon careful review today of your tax return, I have determined that ___ is entitled to receive an equivalent evaluation in the areas of ____ at public expense.

Weston Public Schools is obligated to enter into an agreement with an independent evaluator of your choice who is insured, certified, and abides by the Massachusetts Division of Health Care Finance and Policy Regulations. So that schools are not subject to unreasonably excessive costs, the fees established by the Division of Health Care Finance for the assessment for which you qualify are:

Test fee

If you would like assistance in finding a qualified person to conduct these evaluations, please call me at your earliest convenience.

Sincerely,

Dianna Mullen
Assistant Director of Student Services

Special Education

Administrative Advisory SPED 2004-1: Independent Educational Evaluations

To: Special Education Administrators, Charter School Leaders, Directors of Collaboratives,
Directors of Approved Special Education Schools, and Other Interested Parties

From: Marcia Mitnacht
State Director of Special Education

Date: October 23, 2003

The purpose of this advisory is to clarify school district responsibility under the federal and state special education law for providing a publicly funded independent educational evaluation (IEE) for a student. The federal regulation on IEEs is found at 34 CFR 300.502. The state regulation is found at 603 CMR 28.04(5). The text of these regulations is included at the end of this advisory.

When a student has been referred for a special education evaluation and the school district has obtained consent from the student's parent (or authorization from a hearing officer), the district must assess the student in all areas related to the suspected disability as well as conduct a comprehensive educational assessment. In addition the district may recommend or the parent may request health, psychological and home assessments if warranted.¹ The goal is to provide the evaluation Team with "relevant functional and developmental information about the child,...and information related to enabling the child to be involved in and progress in the general curriculum ...that may assist in determining (1) whether the child is a child with a disability under §300.7; and (2) the content of the child's IEP."²

Parents may obtain an independent educational evaluation of their child by appropriate professionals at their own expense at any time.³ In addition, federal and state law provide parents with a procedure for obtaining public funding of an IEE if they disagree with the school district's evaluation.⁴ This IEE is to be conducted by a qualified examiner who is not employed by the responsible school district.⁵ If the parent requests an IEE at public expense, the school district must either pay for the IEE or, within five days, request a determination from the Bureau of Special Education Appeals (BSEA) that the district's evaluation was comprehensive and appropriate. If the BSEA hearing officer decides the district's evaluation was comprehensive and appropriate, the parent still has the right to obtain an IEE but not at public expense.⁶

Massachusetts law elaborates on the basic rules for IEEs. In 2000, the state special education statute (M.G.L. c. 71B, § 3) was amended to allocate costs for IEEs between the district and the parent on a sliding fee basis for income eligible families.⁷ For example, if the student is eligible for free or reduced cost lunch, or is a state ward, or the family's income is equal to or less than 400% of the federal poverty guidelines, the district must pay the entire cost of the IEE. The right to *this* publicly

funded IEE applies for up to 16 months from the date of the evaluation with which the parent disagrees.⁸ If a parent does not wish to provide the necessary financial information to the school district or does not meet the income eligibility standards, the parent may still request an IEE, but the request is governed by the federal standard. The federal rules on IEEs include a provision that prohibits Massachusetts from imposing a limit of 16 months on the parent's right to request an IEE.⁹ Consistent with the federal standard, the school district shall either agree to pay for the IEE or within five school days proceed to the BSEA to show that its evaluation was comprehensive and appropriate.¹⁰

Within 10 school days from the time the school district receives the report of the IEE, the Team shall reconvene and consider the IEE and whether a new or amended Individualized Education Program (IEP) is appropriate.¹¹

The Department has been asked to clarify an issue related to the timing of a publicly funded IEE. Generally, a parent requesting an IEE will do so well within 16 months of the date of the evaluation with which the parent disagrees. If more than 16 months have elapsed since the school district evaluated the student, the original assessment information may be out of date. In that case, if a parent requests an IEE, the best practice would be for the district to seek consent from the parent to conduct its own updated assessments and evaluation of the student first, within the timelines required by the special education regulations.¹² If the parent consents to the evaluations by the district, then once the district has completed an up-to-date evaluation, if the parent disagrees with it, then the parent has the right to request an IEE, and the district's obligations with respect to payment for the IEE are as set forth in the regulations.

Another issue the Department has been asked to clarify concerns a request by a parent for an IEE in an area of suspected disability that has not been assessed by the school district. Generally, a parent who disagrees with a school district's evaluation will indicate the reason for the disagreement, although the school district may not require the parent to do so.¹³ If the parent says the district's evaluation was deficient not because of disagreement with particular assessments, but because the district did not conduct one or more additional assessments the parent believes are warranted, the question is whether the school district may complete the additional assessment(s) itself, before the IEE.

There is some ambiguity in state regulation 603 CMR 28.04(5)(d), which says: "If the parent is requesting an evaluation in an area not assessed by the school district...the school district shall respond in accordance with the requirements of federal law." The federal law premises the right to a publicly funded IEE on the parent's disagreement with the school district's evaluation.¹⁴ While one could view this situation as a disagreement between the parent and the school district about the evaluation, it is also an opportunity for the district and the parent to work together to identify and address the student's needs. Under these circumstances, the best practice would be for the school district to review its evaluation and determine whether the requested assessment(s) would provide needed additional or new information about the student's disability and if so, offer to conduct the additional assessment(s) itself with the parent's consent. Once the district has completed the additional assessment(s), the Team may develop or modify the student's IEP based on the expanded evaluation and the dispute may be resolved. If, however, the parent disagrees with the district's proposal to conduct the evaluation or with the now-expanded evaluation, then the parent still has

the right to request an IEE, and the district's obligations with respect to payment for the IEE are as set forth in the regulations.

SUMMARY

The special education evaluation process requires the school district to assess the student in all areas related to the suspected disability as well as conducting a comprehensive educational assessment. Parents have an opportunity to request publicly funded independent educational evaluations (IEEs) of their child if they disagree with the results of an evaluation by the school district. If the parent requests an IEE at public expense, the school district must either pay for the IEE or, within five days, request a determination from the Bureau of Special Education Appeals (BSEA) that the district's evaluation was comprehensive and appropriate. The federal standard for IEEs is not time limited.

Under Massachusetts law, school districts are required to provide publicly funded IEEs on a sliding fee scale for students whose families meet certain income criteria. This sliding fee scale provision applies to requests for an IEE made within 16 months of a contested evaluation. The application of the sliding fee scale is detailed in Administrative Advisory SPED 2001-3, available at http://www.doe.mass.edu/sped/advisories/01_3.html.

Within 10 school days from the time the school district receives the report of the IEE, the Team shall reconvene and consider the IEE and whether a new or amended Individualized Education Program (IEP) is appropriate.

If a parent requests an IEE more than 16 months after the school district evaluated the student, the best practice would be for the district to seek consent from the parent to conduct its own updated assessments and evaluation of the student first, within the timelines required by the special education regulations.

If a parent requests an IEE in an area not assessed by the school district, the best practice would be for the school district to review its evaluation and determine whether the requested assessment(s) would provide needed additional or new information about the student's disability and if so, offer to conduct the additional assessment(s) itself with the parent's consent.

Parents may obtain an IEE at their own expense at any time.

Thank you for your attention to this memorandum and for assuring that students with disabilities receive appropriate services. If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700).

Appendix: Federal and State Regulations on Independent Educational Evaluations

Federal regulation (IDEA): 34 CFR 300.502

Sec. 300.502 Independent educational evaluation.

(a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section. (3) For the purposes of this part-- (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.301.

(b) Parent right to evaluation at public expense. (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either-- (i) Initiate a hearing under Sec. 300.507 to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under Sec. 300.507 that the evaluation obtained by the parent did not meet agency criteria. (3) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. (4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation-- (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and (2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) Agency criteria. (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. (2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415(b)(1))

State regulation: 603 CMR 28.04(5):

28.04(5) Independent education evaluations. Upon receipt of evaluation results, if the parent disagrees with an initial evaluation or re-evaluation completed by the school district, then the parent may request an independent educational evaluation.

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

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

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

(i) If the student is eligible for free or reduced cost lunch or is in the custody of a state agency with an Educational Surrogate Parent appointed in accordance with federal law, then the school district shall provide, at full public expense, an independent educational evaluation that is equivalent to the types of assessments done by the school district. No additional documentation of family financial status is required from the parent.

(ii) If the family financial status is not known, the district shall offer the parent information about the sliding fee scale and the opportunity to provide family income information to determine if the family may be eligible for public funding of all or part of the costs of an independent educational evaluation. Provision of financial information by the family is completely voluntary on the part of the family. The lack of financial information provided by the family will disqualify the family from such additional public funding of all or part of the costs of an independent educational evaluation under 603 CMR 28.04(5)(c) but shall not limit the rights of parents to request public funding under 603 CMR 28.04(5)(d).

(iii) If the family agrees to provide financial information, such information shall include anticipated annual income of the family, including all sources of income and verifying documents. Financial information shall be reviewed by the district, shall be kept confidential during review by the district, shall not be copied or maintained in any form at the district except to note that information was provided and reviewed and met or did not meet sliding fee scale standards. Financial documents shall be promptly returned to the parent(s) upon the district's determination of financial income status.

(iv) The district shall consider family size and family income information in relation to Federal Poverty Guidelines and shall contribute public funds to the costs of the independent educational evaluation according to the following standards:

aa. If the family income is equal to or less than 400% of the federal poverty guidelines, the district shall pay 100% of the costs of an independent educational evaluation.

bb. If the family income is between 400% and 500% of the federal poverty guidelines, the district shall pay 75% of the costs of an independent educational evaluation.

cc. If the family income is between 500% and 600% of the federal poverty guidelines, the district shall pay 50% of the costs of an independent educational evaluation

dd. If the family income is over 600% of the federal poverty guidelines, the district shall have no obligation to cost-share with the parent.

(v) When the parent seeks and receives public funding for an independent educational evaluation under these provisions, the parent may request independent assessments in one, more than one, or all of the areas assessed by the school district.

(vi) The right to this publicly funded independent educational evaluation under 603 CMR 28.04(5)(c) continues for sixteen (16) months from the date of the evaluation with which the parent disagrees.

(d) If the parent is requesting an evaluation in an area not assessed by the school district, the student does not meet income eligibility standards, or the family chooses not to provide financial documentation to the district establishing family income level, the school district shall respond in accordance with the requirements of federal law. The district shall either agree to pay for the independent educational evaluation or within five school days, proceed to the Bureau of Special Education Appeals to show that its evaluation was comprehensive and appropriate. If the Bureau of Special Education Appeals finds that the school district's evaluation was comprehensive and appropriate, then the school district shall not be obligated to pay for the independent educational evaluation requested by the parent.

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

(f) Within ten (10) school days from the time the school district receives the report of the independent educational evaluation, the Team shall reconvene and consider the independent educational evaluation and whether a new or amended IEP is appropriate.

¹603 CMR 28.04(2)(a) and (b), 34 CFR 300.532.

²34 CFR 300.532.

³603 CMR 28.04(5)(b).

⁴20 USC 1415(b)(1); 34 CFR 300.502(b)(1), 603 CMR 28.04(5).

⁵603 CMR 28.04(5), 34 CFR 300.502(a)(3)(i).

⁶603 CMR 28.04(5)(d), 34 CFR 300.502(b).

⁷The application of the sliding fee scale is detailed in Administrative Advisory SPED 2001-3 available at http://www.doe.mass.edu/sped/advisories/01_3.html.

⁸603 CMR 28.04(5)(c)(vi).

⁹34 CFR 300.502(e)(2)

¹⁰603 CMR 28.04(5)(d).

¹¹603 CMR 28.04(5)(f).

¹²If the parent refuses consent to the evaluation(s) proposed by the district, then the district must respond in accordance with the federal rules for IEE.

¹³34 CFR 300.502(b)(4).

¹⁴34 CFR 300.502(b).

Special Education

Administrative Advisory SPED 2001-3

Guidance on Using a Sliding Fee Scale for Public Payment of Independent Education Evaluations (IEEs) in Special Education

To: Special Education Administrators, Directors of Charter Schools, Other Interested Parties

From: Marcia Mittnacht
State Director for Special Education

Date: October 2, 2000

On September 26, 2000, the Board of Education promulgated emergency regulations in several areas of special education in response to outside sections of the FY2001 Budget that required such changes. One of the areas now in regulation is the use of a sliding fee scale for parents requesting public funding of Independent Education Evaluations (IEEs). The new regulatory language may be found at 603 CMR 28.04(5)(c). The [Section 28.00 regulations](#) are available by request from the Department at 781-338-6203.

Key provisions of the sliding scale requirements related to publicly funded IEEs

1. **General:** All IEEs that are publicly funded, in whole or in part, must meet state requirements using qualified evaluators who abide by the requirements detailed in 603 CMR 28.04(5)(a). The publicly funded IEE described in #1-9 of this section is an "equivalent" IEE, that is, equivalent to the types of assessments done by the school district.
2. **Funding based on eligibility for free or reduced cost lunch:** Any student eligible for free or reduced cost lunch is entitled to receive an equivalent IEE at public expense. No additional financial information is required.
3. **Sliding fee program information:** School districts must offer parents seeking public funding for IEEs information about the sliding fee program.
4. **Provision of financial documentation:** Participation in the sliding fee program other than for students who are eligible for free or reduced cost lunch requires the parents to provide financial documentation. Providing financial documentation to the school district is **completely voluntary** on the part of the parents. If, however, the parents do not agree to provide such documentation, participation in the sliding fee program will not be available to such students.
5. **Federal Poverty Guidelines:** Current Federal Poverty Guidelines are listed [below](#). On or before February of each year, school districts must update the Federal Poverty Guideline figures that they are using. Federal Poverty Guidelines are updated each year, published in the Federal Register in their entirety, and may be found on the internet at <http://aspe.hhs.gov/poverty/>
6. **400% of Federal Poverty Guidelines:** Any student whose family income is 400% or less of the federal poverty guidelines is entitled to receive an equivalent IEE. Parents must provide financial documentation to show eligibility.

7. **400-500% of Federal Poverty Guidelines:** Any student whose family income is more than 400% and equal to or less than 500% of federal poverty guidelines is entitled to have the district pay for 75% of the costs of an equivalent IEE. Parents must provide financial documentation to show eligibility.
8. **500-600% of Federal Poverty Guidelines:** Any student whose family income is more than 500% and equal to or less than 600% of federal poverty guidelines is entitled to have the district pay for 50% of the costs of an equivalent IEE. . Parents must provide financial documentation to show eligibility.
9. **Over 600% of Federal Poverty Guidelines:** Any student whose family income is more than 600% of federal poverty guidelines is not eligible for public funding under the sliding fee program.
10. **Other options:** Students who are not income-eligible, whose parents do not wish to provide financial documentation, or who are requesting an evaluation in an area not assessed by the school district may still request public funding of an IEE. Upon such request, the school district can either agree to pay for the IEE or must proceed within five school days to the Bureau of Special Education Appeals (BSEA) to show that the evaluation done by the school district is appropriate.

Federal Poverty Guidelines - [Current Figures](#)

2000 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Family Size	Poverty Guideline Base Amount	= /< 400% = full public funding of IEE	= />400% & = /<500% = 75% public funding of IEE	= />500% & = /< 600% = 50% public funding of IEE
1	8,350	33,400	41,750	50,100
2	11,250	45,000	56,250	67,500
3	14,150	56,600	70,750	84,900
4	17,050	68,200	85,250	102,300
5	19,950	79,800	99,750	119,700
6	22,850	91,400	114,250	137,100
7	25,750	103,000	128,750	154,500
8	28,650	114,600	143,250	171,900

For family units with more than 8 members, add \$2,900 for each additional member for the base amount.

What the school district should do

1. Whenever a parent seeks public funding for an IEE, if the student is eligible for free or reduced cost lunch, the school district must inform the parent(s) of the right to an equivalent evaluation at full public expense. If no information is available on the status of the student in relation to the free or reduced cost lunch program, the school district must inform the parent(s) of the option to participate in the sliding fee program.
2. The school district must show the parent(s) the poverty guidelines and explain the requirement for public funding at each level and must describe financial documentation that could be used to demonstrate income eligibility. Appropriate documentation includes tax returns, pay stubs, or other reasonable documentation.
3. The school district must ensure that the parent(s) understands that providing documentation of family financial status is **totally voluntary** on the part of the family.
4. If the parent(s) elects to participate, the district must promptly evaluate provided documents and inform the parent(s) of their status in relation to the sliding fee program and, if appropriate, work with the parent(s) to arrange an IEE that meets state requirements. If the financial documentation indicates the parent(s) is eligible for the sliding fee program, the district must note in the student's record that financial documentation was received, reviewed, and found eligible; the level of eligibility; the date of the review; and the signature of the person who reviewed the documents. No copies should be made of the financial documents and the district should return the financial documents immediately to the parent(s).
5. If the parent(s) does not participate in the sliding fee program, or requests an evaluation in an area not assessed by the school district, the school district must inform the parent(s) promptly either
 - that either the district will pay for the requested evaluation; or
 - that the district believes it has done an appropriate evaluation.

If the district declines to pay for the requested evaluation, it must further inform the parent::

- that the district intends to proceed within the next five school days to the BSEA to show that the district evaluation is appropriate;
- that if the BSEA agrees that the evaluation done by the district was appropriate, the district will not be obligated to publicly fund the IEE; and
- that the parent will be offered the option to provide information to the BSEA and, regardless of whether or not the parent participates at the BSEA hearing, will be informed of the results of the district's appeal.

The Bureau of Special Education Appeals has indicated that the request for a hearing to show that a district evaluation is appropriate will be conducted in the same manner as any other hearing. However, both parties may agree to accept an advisory process conducted by a hearing officer in an expedited manner as long as both parties agree in advance to accept the final written decision of the hearing officer as binding.

We hope this guidance is helpful. If you have any questions or require additional information, please call Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700) for assistance.

Frequency of Reevaluations

The Weston Public Schools follows the federal mandate, which requires the reevaluation of students with disabilities every three years or sooner. Parental consent must be secured in writing in order to proceed. Staff is available to discuss the process with parents, either by telephone or in a meeting. The timely mailing and return of the consent form is critical in ensuring that the reevaluation process is not inordinately delayed. Diligence with follow-up calls, emails and notes will prevent any unnecessary problems and allow staff to plan testing schedules within established special education timelines.

IDEA-Reauthorized Statute CHANGES IN INITIAL EVALUATIONS AND REEVALUATIONS

IDEA 2004:

1. Adds provision for parental consent for initial evaluation for children who are wards of the state.

If the child is a ward of the state and not residing with the child's parent, the agency must make reasonable efforts to obtain the informed consent from the parent of the child for an initial evaluation to determine whether the child is a child with a disability. The agency shall not be required to obtain informed consent from the parent for an initial evaluation if:

- Despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;
- The rights of the parents of the child have been terminated in accordance with state law; or
- The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

[614(a)(1)(D)(iii)]

Definition of "Ward of the State:"

The term "word of the state" means a child, who, as determined by the state where the child resides, is a foster child, is a ward of the state or is in the custody of a public child welfare agency. The term does not include a foster child who has a foster parent who meets the definition of a parent in Section 602(23).

[602(36)]

2. Absence of consent for an initial evaluation.

If the parent of a child does not provide consent for an initial evaluation, or the parent fails to respond to a request to provide the consent, the LEA may use the due process hearing procedures described in Section 615 to obtain authority for evaluation, except to the extent inconsistent with state law relating to such parental consent. [614(a)(1)(D)(ii)(I)]

3. Procedures for reevaluation.

An LEA must ensure that a reevaluation for each child with a disability is conducted in accordance with Sections 614(b) and 614(c) if:

- The LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
- The child's parents or teacher requests a reevaluation

However, a reevaluation shall occur not more frequently than once a year, unless the parent and the LEA agree otherwise; and at least once every three years, unless the parent and the LEA agree that a reevaluation is unnecessary. {614(a)(2)}

4. Exception to requirements of reevaluation before a change in eligibility.

An evaluation is not required before the termination of a child's eligibility if the termination of eligibility is:

- Due to graduation from secondary school with a regular high school diploma; or
- Because the child exceeds the age of eligibility for a free appropriate public education under state law.

For a child whose eligibility under IDEA terminates under circumstances described above, an LEA must provide the child with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals.

5. Adds a requirement to evaluate the child's present levels of academic achievement and the related developmental needs of the child.

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the Individual Education Program (IEP) team and other qualified professionals, s appropriate, shall, on the basis of that review, and input from the child's parents, identify what additional data, are needed to determine:

- Whether the child is a child with a disability as defined in Section 602(3);
- The educational needs of the child, or, in the case of a reevaluation of the child, whether the child continues to have such a disability and such educational needs; and
- The present levels of academic achievement and related developmental needs of the child.... [614©(1)(B)(i) and (ii)]

Child Find

Each September the SPED Placement Specialist coordinates the “Child Find” notification process with the SPED secretary. A letter is sent to all private schools located within the town of Weston as well as to all nursery schools and day care centers. Pediatricians and early intervention program staff are also notified annually about preschool screening and are well versed in Weston’s child identification procedures. There exists a long-standing relationship among all personnel who work with Weston students due to the small size of the community. Included in the Child Find process is consultation between the district and private schools at private expense.

Weston’s PAC is very active and accessible to parents and the system’s newsletter is available to every citizen in Weston. All information pertaining to special education is available in those venues as well as electronically through the Weston Public Schools website. Periodic notices are also placed in the local newspaper, “The Weston Town Crier.”

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089

Fax 781-529-8098

Office of Special Education

Mrs. Dianna Mullen
Assistant Director of Student Services

Date

Dear Colleague:

I am writing to inform you of the Weston Public School's Child Find procedures which are mandated by state and federal law.

In accordance with Federal law IDEA (formerly PL 94-142) the Weston Public Schools provides special education programs designed to meet the needs of children who are attending public schools as well as to support children who are attending private school at private expense and whose parents reside in Weston.

The Weston schools will arrange for the provision of a screening and evaluation of children ages 16-21 who have not graduated from high school and who are not now attending school. A screening and/or evaluation is provided to children ages 3 through 21 who are unable to progress effectively in a regular education program due to a suspected disability consisting of a developmental delay or an intellectual, sensory, neurological, emotional, communication, physical, specific learning, or health impairment or combination thereof.

Please contact me at 781-529-8089 if you would like more information about our identification procedure.

Sincerely,

Dianna Mullen
Assistant Director of Student Services

RCM: kd

Screening

1. Kindergarten Screening:

Kindergarten children are screened by their classroom teachers during the third or fourth week of school. The instrument used is the Early Screening Inventory – Revised. Each classroom teacher then meets with the Special Services Team (SST) to review and discuss children who require some monitoring or assistance. The Early Childhood Coordinator attends the review meetings to provide any information available from the children's preschool years including IEP services, pre-referral activities, screenings or observations. The Team develops pre-referral plans for those children as needed and follows-up in weekly SST meetings.

1. Preschool Screening:

Preschool screening is available from October through April as requested by parents. While a pediatrician, preschool teacher, family member or friend may suggest a screening, the process is only initiated at the formal request of the parent. They typically call the Early Childhood Coordinator who does a phone intake and sends out a release form and a developmental questionnaire. Once returned, she visits the child in his/her preschool (or in his/her normal environment) just to observe and talk with caregivers about their observations. Parents then bring their youngster to the public preschool area for 1 half-hour to one hour informal and formal screening activities during which time parents are invited to stay. If it is believed that this would not be effective, the screening may take place in the child's home or preschool.

The parents schedule a time to meet with the Coordinator to review the findings of the screening process. During this meeting, information gathered from family, the child's preschool, observations and formal screening are brought together to help decide on a course of action.

Outcomes include:

- The youngster is within normal range, but we take the time to understand what we learned about his/her learning style and to appreciate and enjoy him/her. If there were areas of vulnerability, we talk about how to know when to worry and give home activities to support development.
- If weaknesses are apparent, but the youngster is not eligible, home activities may be given and a follow-up appointment is scheduled. We would also offer to consult to the child's preschool program.
- Pre-referral activities could include a bit more diagnostic work in a particular area and/or "skills" groups for a limited time to see how things progress. Additionally, the family and preschool are offered consultation services. Sometimes the Coordinator will schedule a few visits to work in the preschool to assess additional modifications/strategies/services.
- In addition to consultation, we may decide it is time to evaluate, with the written consent of the family.

Extended Evaluation

There may be times when the Weston IEP Team finds the student eligible for special education services; however the information gleaned from the testing is insufficient to develop a full or partial IEP. With the parents' consent, the IEP Team may consider an extended evaluation. The Team documents their findings and determines what evaluation time is necessary and the types of information needed to develop an IEP. The Team may choose to meet at intervals during the extended evaluation but definitely meets promptly at the conclusion of the extended evaluation to complete the IEP.

The following elements are important when considering an extended evaluation:

- The extended evaluation cannot be used to deny programs or services recommended by the Team;
- A partial IEP may be written, provided there is sufficient information, and if signed by the parent, must be implemented immediately;
- The extended evaluation period is not used to extend the time to complete the required assessments;
- The extended evaluation may extend longer than one week, but does not exceed eight school weeks;
- The extended evaluation is not considered a placement

School District Name:

School District Address:

School District Contact Person/Phone #:

Extended Evaluation Form

Evaluation Dates: from _____ to _____

Student Name: _____ DOB: _____ ID#: _____ Grade/Level: _____

Why is an extended evaluation period being recommended? (Check one)

- The Team found the student eligible for special education and developed a partial IEP/ full IEP but recommended further assessment. *(Check one box within the sentence itself.)*
- The Team found the student eligible for special education but recommended further assessment before developing an IEP.

Important Details from State Regulation — §603 CMR 28.00: An extended evaluation should be used when evaluation information is inconclusive and should not be used to deny programs or services determined necessary by the Team. If the Team has determined eligibility and some necessary objectives and services, then the Team should write a partial IEP and, with parent acceptance, immediately implement the partial IEP while the extended evaluation is occurring. The evaluation may extend from one to eight school weeks but no longer than eight school weeks. The Team may meet at intervals during this period and should reconvene promptly when the evaluation is complete to make any final decisions about IEP services. The extended evaluation should not be used to allow extra time to complete required assessments and is not considered a placement.

1. What are the current evaluation findings?	2. What type(s) of additional information is needed?
3. How will the additional information be obtained? Identify personnel, specific evaluators and assessments, if known, and locations for assessments.	4. What time period (<i>longer than one week but not to exceed eight school weeks</i>) is needed to complete the necessary evaluation(s)?
5. Should the Team meet at intervals during the extended evaluation period? If yes, please specify meeting dates and times.	6. What date will the Team reconvene to complete an IEP? Please specify meeting date and time.

Extended Evaluation Form

Evaluation Dates: from _____ to _____

Student Name: _____ DOB: _____ ID#: _____

Additional Information

Response Section

School Assurance

I certify that the evaluation(s) in this Extended Evaluation are those recommended by the Team and that the indicated evaluation(s) will be provided.

Signature and Role of LEA Representative

Date

Parent Options / Responses

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district. Thank you.

- I accept the recommended Extended Evaluation. I reject the recommended Extended Evaluation.
- I reject the following portions of the Extended Evaluation with the understanding that any portion(s) that I do not reject will be considered accepted and implemented immediately. Rejected portions are as follows:

- I reject the offer of an Extended Evaluation and wish to have an IEP immediately developed.
- I request a meeting to discuss the rejected Extended Evaluation or rejected portion(s).

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over*

Date

**Required signature once a student reaches 18 unless there is a court appointed guardian.*

Parent Comment: I would like to make the following comment(s) but realize any comment(s) made that suggest changes to the proposed Extended Evaluation will not be implemented unless the Extended Evaluation form is amended.

Parent and Community Involvement

Weston Public Schools is committed to the timely referral and evaluation of students suspected of having a special need. As a first step, however, every effort is made to accommodate the student in the regular education classroom. At anytime a parent may choose to bypass the Curriculum Accommodation Plan process and request that the school proceed with an evaluation. Parental consent for an evaluation is sent within five (5) school days from the date of referral. Classroom teachers and SPED staff collaborate on determining how to proceed and which evaluations will be completed. All school initiated referrals are brought to the immediate attention of the parents. They are invited to come in to school for a meeting if they require additional information, whether they or school personnel initiate the referral.

Weston's regular and special education staff members work diligently to guide parents throughout the referral decision-making process. It is Weston's position that all SPED referrals will be honored if a parent insists on proceeding with the process. The position of the staff continues to be consistent regarding maintaining positive relationships with parents at all times.

School District Letterhead

To: *[Name of Parent, Guardian, Educational Surrogate Parent, Student 18 and over]*

Re: *[Name of Student and other identifying information (i.e. DOB, ID#)]*

Subject: **The school district proposes the following:** *[Check all that apply.]*

- An Evaluation
- An IEP/Amendment
- A Placement
- Other: _____
(please specify)

Notice Date: *[Date notice is to be mailed.]*

The school district has recently discussed this student and, with your input, has developed a proposal. We have described our actions and our reasons for these actions on page two of this memo.

As you know, special education regulations provide protection to you and your child. You will find specific information about your legal rights within the *Interim Notice of Procedural Safeguards*, including sources that you may contact for help in understanding your rights. This notice is enclosed for initial evaluations. You should have received your *Interim Notice of Procedural Safeguards* on _____ if you will be attending an IEP/Amendment or Placement meeting during this school year. We will also disseminate the notice at your request and upon disciplinary removal to an interim alternative education setting. You should carefully review this brochure and the enclosed material before making any decisions.

The school district staff is available to speak to you or meet with you about your rights and the school district's proposal. We strongly encourage you to call us if you have any questions. Please contact us through the district contact person listed below. Thank you.

An Evaluation Consent Form, an IEP or an IEP Amendment must be signed and returned, as we are required by law to have a signed copy on file regardless of your decision. Please return a copy as soon as possible but no later than the date listed below. Thank you.

Document Return Date: *[Date or non-applicable]*

District Contact Person: *[Name and Role]*

Contact Information: *[Address, Telephone Number, Fax Number and Email Address (if not on letterhead)]*

Enclosures:

Interim Notice of Procedural Safeguards [for initial evaluations, parent request or disciplinary removal]

Other: [Specify: Evaluation Consent Form, Extended Evaluation Form, IEP, IEP Amendment, etc.]

Re: *[Name of Student and other necessary identifying information from page 1]*

Notice Date: *[Date]*

Directions to School Staff:

This notice must be sent to parents in their native language or other mode of communication used by the parent. School district must ensure that parents understand the content of this notice. (Federal Regulation §300.503)

*Describe one or more of the following actions: Initial Evaluation, Reevaluation, Emergency Evaluation, Extended Evaluation Period, IEP, IEP Amendment, Placement (**include the specific placement location and transportation requirements, if any**), Graduation or any other proposal used to initiate or change the identification, evaluation, educational placement or the provision of special education services by answering the following questions:*

- 1. What action is the school district proposing to take?*
- 2. Why is the school district proposing to act?*
- 3. What rejected options were considered and why was each option rejected?*
- 4. What evaluation procedure, test, record or report was used as a basis for the proposed action?*
- 5. What other factors were relevant to the school district's decision*
- 6. What next steps, if any, are recommended?*

Narrative Description of School District Proposal

Massachusetts Department of Education / Notice of Proposed School District Action

N1

School District Letterhead

To: *[Name of Parent, Guardian, Educational Surrogate Parent, Student 18 and over]*

Re: *[Name of Student and other identifying information (i.e. DOB, ID#)]*

Subject: **The school district does not intend to act:** *[Check all that apply.]*

- Finding of No Eligibility
- Refusal of Requested Services
- Other: _____
[Please specify.]

Notice Date: *[Date notice is to be mailed.]*

The school district has recently discussed this student with you. We now write to tell you of our intention not to act on a request. We have described our reasons for refusing on page two of this memo.

As you know, special education regulations provide protection to you and your child. You will find specific information about your legal rights in the *Interim Notice of Procedural Safeguards*, including sources that you may contact for help in understanding your rights. You should have received this brochure prior to the initial evaluation. If you would like another copy, please contact the school district staff. You should carefully review this brochure and the enclosed material.

The school district staff is available to speak to you or meet with you about your rights and the school district's refusal to act. We strongly encourage you to call us if you have any questions. Please contact us through the district contact person listed below. Thank you.

District Contact Person: *[Name and Role]*

Contact Information: *[Address, Telephone Number, Fax Number and Email Address (if not on letterhead)]*

Enclosures:

Other: *[specify]*

Massachusetts DOE / Notice of School District Refusal to Act – Revised (6/11/01)
N2

Re: *[Name of Student and other necessary identifying information]*
from page 1]

Notice Date: *[Date*

Directions to School Staff:

This notice must be sent to parents in their native language or other mode of communication used by the parent. School districts must ensure that parents understand the content of this notice. (Federal Regulation §300.503)

Describe any refusal to initiate or change the identification, evaluation, educational placement or the provision of special education services by answering the following questions:

- 1. What action is the school district refusing to take?*
 - 2. Why is the school district refusing to act?*
 - 3. What rejected options were considered and why was each option rejected?*
 - 4. What evaluation procedure, test, record or report was used as a basis for the refusal to act?*
 - 5. What other factors were relevant to the school district's decision?*
- 1. What next steps, if any, are recommended?*

Narrative Description of School District Refusal To Act

Massachusetts DOE / Notice of School District Refusal to Act – Revised (6/11/01) N2

School Name
Weston Public Schools
School Address
Weston, MA 02493

PARENT REFERRAL

To: Building Principal
Re: Request for Individual Education Plan (IEP) Evaluation.

IEP Evaluation

Review Current IEP

Student's Name

Age

Date of Birth

School

Grade

Reason for Referral:

Please state below your specific reason(s) for this request. Please mail this form to your child's school principal. You should receive a written response to your referral no later than 5 school days after this form is received.

Is your child currently under an IEP? Yes No

Is your child enrolled under the METCO Program? Yes No

Parent/Guardian Signature

Date

FOR OFFICE USE ONLY

Date Received: _____
IEP Chairperson Assigned: _____

Referral #2 5/06

Weston Public Schools - Weston, MA

Section II

Identification of Students with Specific Learning Disabilities

Prior to the referral of any student to special education, efforts are made to ensure that all curriculum accommodations are implemented for six to eight week intervals. Weston employs a Support Services Team (SST) model as a first step. This is a problem-solving mechanism for designing a Curriculum Accommodation Plan (CAP) to ensure that a student's learning difficulties are addressed within the general education environment. Once proposed interventions have been determined to be ineffective, a decision is made to refer a student for a special education evaluation. The parent is contacted to discuss Weston's proposal prior to the mailing of an official parental consent form.

Evaluations are chosen based on the area of suspected special need. The classroom teacher completes an educational assessment and the school counselor fills out an educational history. The special education teacher conducts an observation (or the guidance counselor at middle school) and completes a formal Learning Assessment. The school psychologist is asked to complete a detailed psychological evaluation and, on occasion, a speech/language, physical therapy and/or occupational therapy evaluation may also be recommended. Completed evaluations are sent to the parent at least forty-eight hours prior to the scheduled IEP meeting.

At the IEP meeting, the Team, including the student's parents, discusses the observation and evaluation results. Careful consideration is given to the classroom teacher's report and the special education assessments to determine the existence of a specific learning disability. The Team discusses the forms for determining a specific learning disability carefully, fills out every item and then requires each member to sign off indicating agreement or disagreement with the evaluation findings. A severe discrepancy between ability and achievement that cannot be rectified without special education services is the criterion used to move to the IEP development process. An "eligibility determination" is also completed.

ENTER DISTRICT NAME HERE
SPECIFIC LEARNING DISABILITY
TEAM DETERMINATION OF ELIGIBILITY

Student _____ SASID # _____ Grade _____ Date _____

Component 1

All requirements for historical information and educational assessment have been addressed:

- | | | |
|---|-----|--|
| <input type="checkbox"/> Historical Review | and | <input type="checkbox"/> Performance History |
| <input type="checkbox"/> Participation Skills | | <input type="checkbox"/> Medical Information |

Attach completed SLD 1.

Component 2

The Team has identified the Area(s) of Concern and has evidence that:

- The student is not making effective educational progress for his/her age or to meet ELA or Math Curriculum Framework standards when using a process based on the student's response to scientific, research-based intervention.

Attach completed SLD 2.

and/or

- There is a severe discrepancy between IQ and achievement and the student exhibits a pattern of strengths and weaknesses in performance, achievement or both, relative to age or ELA or Math Curriculum Framework standards, or intellectual development.

Attach completed SLD 2.

Component 3

- The Team has determined that the lack of achievement in the area of concern is not a result of cultural factors; environmental or economic disadvantage; limited English proficiency; visual, hearing, or motor disability; mental retardation; or an emotional disturbance.

Attach completed SLD 3.

Component 4

- Relevant behavior has been observed and the relationship of that behavior to the student's academic functioning has been noted.

Attach completed Observation form(s).

Findings

The Team¹ has reviewed Components 1-4 and the Eligibility Flow Chart and has determined that the student has a Specific Learning Disability and requires Special Education services.

Yes **No**

Sign and check if you agree or disagree with the findings above².

_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree	_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree
Name and Title		Name and Title	
_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree	_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree
Name and Title		Name and Title	
_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree	_____	<input type="checkbox"/> agree <input type="checkbox"/> disagree
Name and Title		Name and Title	

¹ The Eligibility Team must include the parent of the student, the student's general education teacher or a general education teacher qualified to teach a student of his or her age, and at least one person qualified to conduct individual diagnostic examinations of students.

² If a Team member disagrees with the conclusions of the Team report, the Team member must submit, and attach to this documentation, a separate statement presenting his or her conclusions.

ENTER DISTRICT NAME HERE
SPECIFIC LEARNING DISABILITY
Required documentation for Component 1

Student SASID # Grade

Historical Review

When evaluating a student for a Specific Learning Disability, the Team must ensure that the student's underachievement is not due to lack of appropriate instruction in reading or math. Therefore, the Team has considered that:

- A. the student has been provided appropriate instruction in general education settings and that instruction has been delivered by qualified personnel;
- B. there is data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the student's progress and this documentation was provided to the student's parents.

Have the above requirements been met?

- Yes, both A and B have been met.
- Some, but not all of the requirements in A and B have been met. The Team must determine what additional information is needed and how they will obtain the information within the evaluation timeframe. See SLD TA 3.
- No, the requirements have not been met and therefore the referral for special education evaluation should not go forward until the school has sufficient information to determine that the student has been given appropriate opportunities to learn in the general education environment. See SLD TA 4.

Participation Skills

- Assessments of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults have been collected.

Performance History

Supporting evidence shows that the student has:

- consistently performed within the range of performance of same-age peers; or
- consistently performed better than same-age peers; or*
- consistently performed less well than same-age peers; or*
- demonstrated inconsistent performance throughout his/her educational history.

Medical Information

Educationally relevant medical findings are noted.

NA

Findings:

Completed by _____ Date _____

ENTER DISTRICT NAME HERE
SPECIFIC LEARNING DISABILITY
Required documentation for Component 2

Student _____ SASID # _____ Grade _____

A. If using a scientific, research-based intervention as an eligibility determination procedure, complete this section.

A.1. Based on assessment data*, the student is not making effective educational progress for his/her age or to meet ELA or Math Curriculum Framework standards when using a process based on the student's response to scientific, research-based intervention in one or more of the following areas:

- | | |
|--|--|
| <input type="checkbox"/> Oral Expression | <input type="checkbox"/> Written Expression |
| <input type="checkbox"/> Basic Reading Skills | <input type="checkbox"/> Reading Comprehension |
| <input type="checkbox"/> Reading Fluency Skills | <input type="checkbox"/> Listening Comprehension |
| <input type="checkbox"/> Mathematics Problem Solving | <input type="checkbox"/> Mathematics Calculation |

*Assessment data includes classroom performance information as well as data related to visual and auditory processing of information.

A.2. Has the scientific, research-based intervention method that was implemented provided sufficient information so that a responsive, data-driven IEP can be developed for the student?

- Yes, sufficient evidence exists regarding how the student learns and what is impeding learning so that a responsive, data-driven IEP can be developed.
- No (If no, attach additional diagnostic assessments that will determine how the student learns and what is impeding learning, that will assist in the writing of a responsive, data-driven IEP and designing specialized instruction based on the student's needs.)

A.3. Attach documentation of the instructional strategies used and the student-centered data collected that shows evidence that

- the student has been instructed using research-based instructional strategies;
- repeated, student-centered assessment data has been collected at reasonable intervals; and
- the student's parents have been notified regarding the amount and nature of assessment data that is collected based on the student's instruction and academic progress, strategies implemented to increase the student's learning, and the parent's right to request and evaluation.

Completed by _____ Date _____

B. If using the IQ/achievement discrepancy model as an eligibility determination procedure,

complete this section.

B.1. Based on a finding of a severe discrepancy between IQ and achievement, the student exhibits a pattern of strengths and weaknesses in performance, achievement or both, relative to age or ELA or Math Curriculum Framework standards, or intellectual development, in the areas of

- | | |
|--|--|
| <input type="checkbox"/> Oral Expression | <input type="checkbox"/> Written Expression |
| <input type="checkbox"/> Basic Reading Skills | <input type="checkbox"/> Reading Comprehension |
| <input type="checkbox"/> Reading Fluency Skills | <input type="checkbox"/> Listening Comprehension |
| <input type="checkbox"/> Mathematics Problem Solving | <input type="checkbox"/> Mathematics Calculation |

B.2. Technically sound instruments have been used that assess cognitive and behavioral factors as well as physical or developmental factors.

- Yes
 No

B.3. More than one measure or assessment has been implemented.

- Yes
 No

B.4. Attach the IQ/achievement assessment report that supports statements B.1-3.

Completed by _____

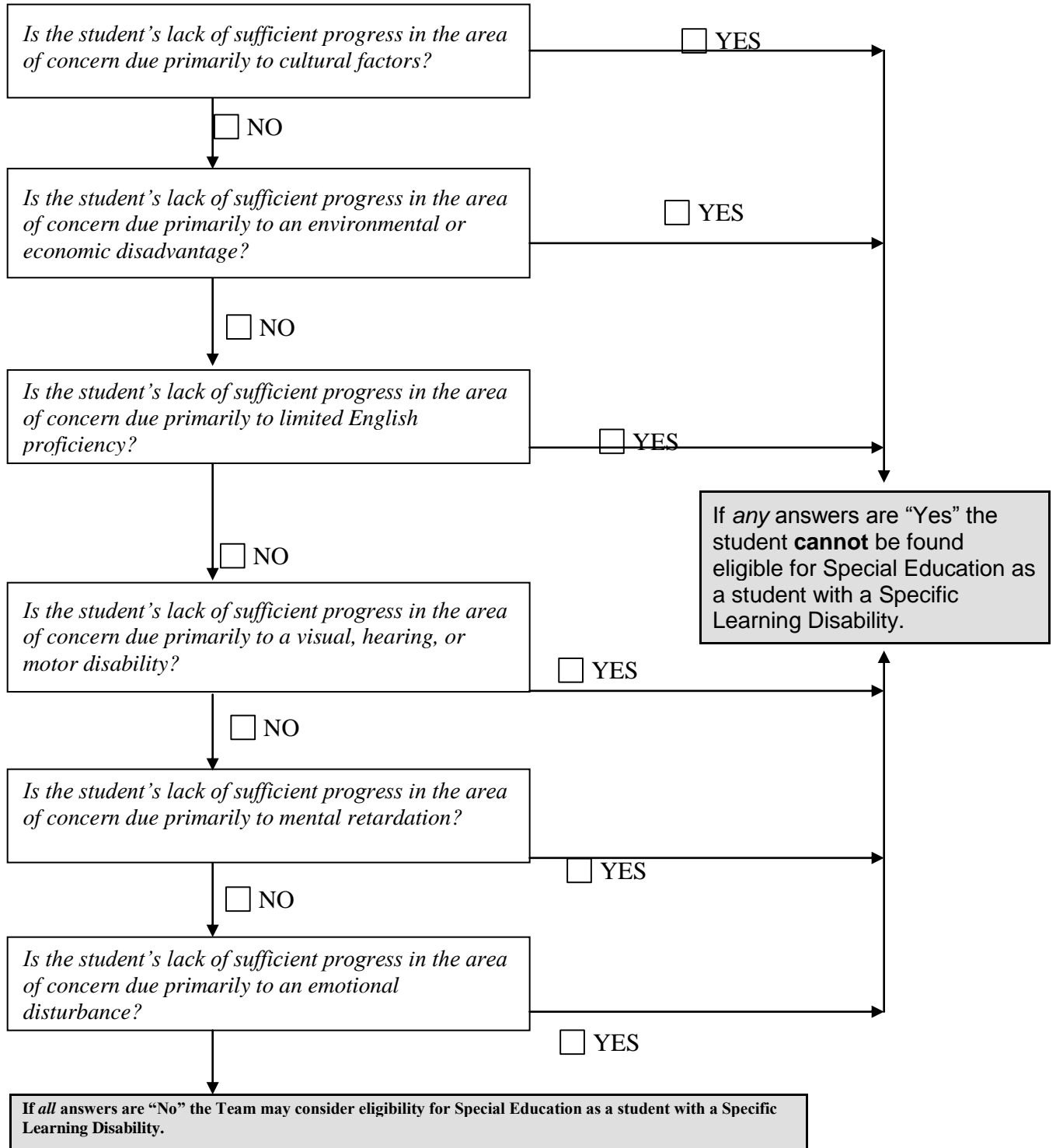
Date _____

Specific Learning Disability Exclusionary Factors

Required documentation for Component 3

Student _____ SASID # _____ Grade _____

In determining Special Education eligibility with a Specific Learning Disability, the Team must ensure that the identified area of concern is not primarily the result of one of the following. As you work through the flow-chart, keep the student's area of concern in mind and consider individual characteristics of the student as you answer Yes or No to each of the questions.



Classroom Observation Checklist
Pre-School/Kindergarten
Required documentation for Component 4

Student _____

Grade _____

Class/location observed (include teacher name)

Observer name and title _____

Date of observation _____

This tool is designed for use as a guide during a student observation. You may not see all domains addressed, however, the student should be observed during times when you will be able to monitor behaviors related to the area of concern. If the child is 3-5 years old and not yet in school the observation should be conducted in the child's natural environment or early intervention program.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings and at different times of the day. Multiple observation forms may be included in the evaluation documentation.

Directions: First identify the area(s) of concern for the student. Behavior around each identified area is where you will focus your observation. During the observation place a check mark next to the behaviors that are observed within each domain that correlates with the noted areas of concern. Note, however, these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern as identified in SLD 2.	
___ Oral Expression	___ Written Expression
___ Basic Reading Skills	___ Reading Comprehension
___ Reading Fluency Skills	___ Listening Comprehension
___ Mathematics Problem Solving	___ Mathematics Calculation

Language (Oral Expression, Basic Reading Skills, Reading Comprehension, Listening Comprehension)

- Age Appropriate
- Has difficulty modulating voice (i.e. too soft, too loud)
- Has trouble naming people or objects
- Has difficulty staying on topic
- Inserts invented words into conversation
- Has difficulty re-telling what has just been said
- Demonstrates slow and halting speech, using lots of fillers (i.e., uh, um, and, you know)
- Mispronounces words frequently
- Has difficulty rhyming

- Has limited interest in books or stories
- Has difficulty understanding instructions or directions

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- Age Appropriate
- Confuses similar-looking letters and numbers
- Demonstrates poor memory for printed words
- Has trouble naming letters
- Has problems associating letters and sounds, understanding the difference between sounds in words or blending sounds into words
- Has poor retention of new vocabulary
- Dislikes and avoids reading or reads reluctantly

Notes: _____

Written Language (Written Expression)

- Age Appropriate
- Dislikes and avoids writing and copying
- Has difficulty remembering shapes of letters and numerals
- Frequently reverses letters, numbers and symbols

Notes: _____

Math (Math Calculation, Math Problem Solving)

- Age Appropriate
- Has difficulty with simple counting and one-to-one correspondence between number symbols and items/objects

Notes: _____

Social Emotional (All Areas)

- Age Appropriate
- Has difficulty 'joining in' and maintaining positive social status in a peer group
- Has difficulty with self-control when frustrated

Notes: _____

Attention (All Areas)

- Age Appropriate
- Has difficulty sustaining attention in work tasks or play activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- Age Appropriate
- Appears awkward and clumsy, dropping, spilling, or knocking things over
- Has trouble with buttons, hooks, snaps, zippers and trouble learning to tie shoes
- Creates art work that is immature for age
- Demonstrates poor ability to color or write ‘within the lines’
- Grasps pencil awkwardly, resulting in poor handwriting
- Experiences difficulty using small objects or items that demand precision (i.e., Legos, puzzle pieces, tweezers, scissors)

Notes: _____

Other notes or observed behavior

Classroom Observation Checklist
Grades 1-4
Required documentation for Component 4

Student _____

Grade _____

Class/location observed (include teacher name)

Observer name and title _____

Date of observation _____

This tool is designed for use as a guide during a student observation. You may not see all domains addressed, however, the student should be observed during times when you will be able to monitor behaviors related to the area of concern.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings and at different times of the day. Multiple observation forms may be included in the evaluation documentation.

Directions: First identify the area(s) of concern for the student. Behavior around each identified area is where you will focus your observation. During the observation place a check mark next to the behaviors that are observed within each domain that correlates with the noted areas of concern. Note, however, these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern as identified in SLD 2.	
<input type="checkbox"/> Oral Expression	<input type="checkbox"/> Written Expression
<input type="checkbox"/> Basic Reading Skills	<input type="checkbox"/> Reading Comprehension
<input type="checkbox"/> Reading Fluency Skills	<input type="checkbox"/> Listening Comprehension
<input type="checkbox"/> Mathematics Problem Solving	<input type="checkbox"/> Mathematics Calculation

Language (Oral Expression, Basic Reading Skills, Reading Comprehension, Listening Comprehension)

- Age Appropriate
- Has difficulty modulating voice (i.e., too soft, too loud)
- Has trouble naming people or objects
- Has difficulty staying on topic
- Inserts invented words into conversation
- Has difficulty re-telling what has just been said
- Uses vague, imprecise language and has a limited vocabulary
- Demonstrates slow and halting speech, using lots of fillers (i.e., uh, um, and, you know)
- Uses poor grammar or misuses words in conversation
- Mispronounces words frequently
- Confuses words with others that sound similar

- Inserts malapropisms ('slips of the tongue') into conversation (i.e., a rolling stone gathers no moths; he was a man of great statue)
- Has difficulty rhyming
- Has limited interest in books or stories
- Has difficulty understanding instructions or directions
- Has difficulty with pragmatic skills (i.e., understands the relationship between speaker and listener, stays on topic, gauges the listener's degree of knowledge, makes inferences based on a speaker's verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- Age Appropriate
- Confuses similar-looking letters and numbers or similar-looking words (i.e., beard, bread)
- Has difficulty recognizing and remembering sight words
- Frequently loses place while reading
- Reverses letter order in words (i.e., saw/was)
- Demonstrates poor memory for printed words
- Reads slowly
- Has trouble naming letters
- Has problems associating letters and sounds, understanding the difference between sounds in words or blending sounds into words
- Guesses at unfamiliar words rather than using word analysis skills
- Substitutes or leaves out words while reading
- Has poor retention of new vocabulary
- Dislikes and avoids reading or reads reluctantly

Notes: _____

Written Language (Written Expression)

- Age Appropriate
- Writing is messy and incomplete, with many cross-outs and erasures
- Has difficulty remembering shapes of letters and numerals
- Frequently reverses letters, numbers and symbols
- Uses uneven spacing between letters and words, and has trouble staying 'on the line'
- Copies inaccurately (i.e., confuses similar-looking letters and numbers)
- Spells poorly and inconsistently (i.e., the same word appears differently other places in the same document)
- Has difficulty proofreading and self-correcting work

Notes: _____

Math (Math Calculation, Math Problem Solving)

- Age Appropriate
- Has difficulty with simple counting and one-to-one correspondence between number symbols and items/objects
- Has difficulty learning strategic counting principles (i.e., by 2, 5, 10, 100)
- Has difficulty estimating quantity (i.e., quantity, value)
- Has difficulty with comparisons (i.e., less than, greater than)
- Has trouble telling time
- Has trouble conceptualizing the passage of time
- Has difficulty counting rapidly or making calculations

Notes: _____

Social Emotional (All Areas)

- Age Appropriate
- Does not pick up on other people’s mood/feelings (i.e., may say the wrong things at the wrong time)
- May not detect or respond appropriately to teasing
- Has difficulty ‘joining in’ and maintaining positive social status in a peer group
- Has trouble knowing how to share/express feelings
- Has trouble ‘getting to the point’ (i.e., gets bogged down in details in conversation)
- Has difficulty with self-control when frustrated
- Has difficulty dealing with group pressure, embarrassment and unexpected challenges

Notes: _____

Attention (All Areas)

- Age Appropriate
- Has difficulty sustaining attention in work tasks or play activities
- Has difficulty organizing tasks and activities
- Loses things consistently that are necessary for tasks/activities (i.e., toys, school assignments, pencils, books, or tools)
- Is easily distracted by outside influences
- Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- Age Appropriate
- Appears awkward and clumsy, dropping, spilling, or knocking things over
- Has limited success with games and activities that demand eye-hand coordination (i.e., piano lessons, basketball, baseball)
- Has trouble with buttons, hooks, snaps, zippers and trouble learning to tie shoes

- Creates art work that is immature for age
- Demonstrates poor ability to color or write ‘within the lines’
- Grasps pencil awkwardly, resulting in poor handwriting
- Experiences difficulty using small objects or items that demand precision (i.e., Legos, puzzle pieces, tweezers, scissors)

Notes: _____

Other notes or observed behavior

- Confuses left and right
- Often loses things
- Is slow to learn new games and master puzzles
- Has difficulty generalizing (applying) skills from one situation to another

Notes: _____

Student _____

Grade _____

Class/location observed (include teacher name)

Observer name and title _____

Date of observation _____

This tool is designed for use as a guide during a student observation. You may not see all domains addressed, however, the student should be observed during times when you will be able to monitor behaviors related to the area of concern.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings and at different times of the day. Multiple observation forms may be included in the evaluation documentation.

Directions: First identify the area(s) of concern for the student. Behavior around each identified area is where you will focus your observation. During the observation place a check mark next to the behaviors that are observed within each domain that correlates with the noted areas of concern. Note, however, these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern as identified in SLD 2.	
___ Oral Expression	___ Written Expression
___ Basic Reading Skills	___ Reading Comprehension
___ Reading Fluency Skills	___ Listening Comprehension
___ Mathematics Problem Solving	___ Mathematics Calculation

Language (Oral Expression, Basic Reading Skills, Reading Comprehension, Listening Comprehension)

- Age Appropriate
- Has difficulty modulating voice (i.e., too soft, too loud)
- Inserts invented words into conversation
- Has difficulty re-telling what has just been said
- Uses vague, imprecise language and has a limited vocabulary
- Demonstrates slow and halting speech, using lots of fillers (i.e., uh, um, and, you know)
- Uses poor grammar or misuses words in conversation
- Mispronounces words frequently
- Confuses words with others that sound similar
- Inserts malapropisms ('slips of the tongue') into conversation (i.e., a rolling stone gathers no moths; he was a man of great statue)
- Has limited interest in books or stories
- Has difficulty understanding instructions or directions

- Has difficulty with pragmatic skills (i.e., understands the relationship between speaker and listener, stays on topic, gauges the listener’s degree of knowledge, makes inferences based on a speaker’s verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- Age Appropriate
- Frequently loses place while reading
- Confuses similar-looking words (i.e., beard, bread)
- Reverses letter order in words (i.e., saw/was)
- Demonstrates poor memory for printed words
- Has weak comprehension of ideas and themes
- Guesses at unfamiliar words rather than using word analysis skills
- Reads slowly
- Substitutes or leaves out words while reading
- Has poor retention of new vocabulary
- Dislikes and avoids reading or reads reluctantly

Notes: _____

Written Language (Written Expression)

- Age Appropriate
- Writing is messy and incomplete, with many cross-outs and erasures
- Uses uneven spacing between letters and words, and has trouble staying ‘on the line’
- Copies inaccurately (i.e., confuses similar-looking letters and numbers)
- Spells poorly and inconsistently (i.e., the same word appears differently other places in the same document)
- Has difficulty proofreading and self-correcting work
- Fails to develop ideas in writing so written work is incomplete and too brief

Notes: _____

Math (Math Calculation, Math Problem Solving)

- Age Appropriate
- Has difficulty learning strategic counting principles (i.e., by 2, 5, 10, 100)
- Poorly aligns numbers resulting in computation errors

- Has difficulty estimating quantity (i.e., quantity, value)
- Has difficulty with comparisons (i.e., less than, greater than)
- Has trouble telling time
- Has trouble conceptualizing the passage of time
- Has difficulty counting rapidly or making calculations
- Has trouble interpreting graphs and charts

Notes: _____

Social Emotional (All Areas)

- Age Appropriate
- Does not pick up on other people’s mood/feelings (i.e., may say the wrong things at the wrong time)
- May not detect or respond appropriately to teasing
- Has difficulty ‘joining in’ and maintaining positive social status in a peer group
- Has trouble knowing how to share/express feelings
- Has trouble ‘getting to the point’ (i.e., gets bogged down in details in conversation)
- Has difficulty dealing with group pressure, embarrassment and unexpected challenges

Notes: _____

Attention (All Areas)

- Age Appropriate
- Fails to pay close attention to details or makes careless mistakes in schoolwork or other activities
- Has difficulty sustaining attention in work tasks or play activities
- Has difficulty organizing tasks and activities
- Loses things consistently that are necessary for tasks/activities (i.e., toys, school assignments, pencils, books, or tools)
- Is easily distracted by outside influences
- Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- Age Appropriate

- Has limited success with games and activities that demand eye-hand coordination (i.e., piano lessons, basketball, baseball)
- Grasps pencil awkwardly, resulting in poor handwriting
- Dislikes and avoids writing and drawing tasks

Notes: _____

Other notes or observed behavior

- Age Appropriate
- Confuses left and right
- Finds it hard to judge speed and distance (i.e., hard to play certain games, drive a car)
- Trouble reading charts and maps
- Is disorganized and poor at planning
- Often loses things
- Is slow to learn new games and master puzzles
- Has difficulty listening and taking notes at the same time
- Has difficulty generalizing (applying) skills from one situation to another

Notes: _____

Required documentation for Component 4

Student _____

Grade _____

Class/location observed (include teacher name)

Observer name and title _____

Date of observation _____

This tool is designed for use as a guide during a student observation. You may not see all domains addressed, however, the student should be observed during times when you will be able to monitor behaviors related to the area of concern.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings and at different times of the day. Multiple observation forms may be included in the evaluation documentation.

Directions: First identify the area(s) of concern for the student. Behavior around each identified area is where you will focus your observation. During the observation place a check mark next to the behaviors that are observed within each domain that correlates with the noted areas of concern. Note, however, these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern as identified in SLD 2.	
<input type="checkbox"/> Oral Expression	<input type="checkbox"/> Written Expression
<input type="checkbox"/> Basic Reading Skills	<input type="checkbox"/> Reading Comprehension
<input type="checkbox"/> Reading Fluency Skills	<input type="checkbox"/> Listening Comprehension
<input type="checkbox"/> Mathematics Problem Solving	<input type="checkbox"/> Mathematics Calculation

Language (Oral Expression, Basic Reading Skills, Reading Comprehension, Listening Comprehension)

- Age Appropriate
- Has difficulty modulating voice (i.e., too soft, too loud)
- Uses vague, imprecise language and has a limited vocabulary
- Demonstrates slow and halting speech, using lots of fillers (i.e., uh, um, and, you know)
- Uses poor grammar or misuses words in conversation
- Confuses words with others that sound similar
- Inserts malapropisms ('slips of the tongue') into conversation (i.e., a rolling stone gathers no moths; he was a man of great statue)
- Has difficulty understanding instructions or directions
- Has difficulty with pragmatic skills (i.e., understands the relationship between speaker and listener, stays on topic, gauges the listener's degree of knowledge, makes inferences based on a speaker's verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- Age Appropriate
- Frequently loses place while reading
- Confuses similar-looking words (i.e., beard, bread)
- Demonstrates poor memory for printed words
- Has weak comprehension of ideas and themes
- Reads slowly
- Guesses at unfamiliar words rather than using word analysis skills
- Substitutes or leaves out words while reading
- Dislikes and avoids reading or reads reluctantly

Notes: _____

Written Language (Written Expression)

- Age Appropriate
- Writing is messy and incomplete, with many cross-outs and erasures
- Uses uneven spacing between letters and words, and has trouble staying ‘on the line’
- Copies inaccurately (i.e., confuses similar-looking letters and numbers)
- Spells poorly and inconsistently (i.e., the same word appears differently other places in the same document)
- Has difficulty proofreading and self-correcting work
- Fails to develop ideas in writing so written work is incomplete and too brief

Notes: _____

Math (Math Calculation, Math Problem Solving)

- Age Appropriate
- Has difficulty learning strategic counting principles (i.e., by 2, 5, 10, 100)
- Poorly aligns numbers resulting in computation errors
- Has difficulty estimating quantity (i.e., quantity, value)
- Has difficulty with comparisons (i.e., less than, greater than)
- Has trouble telling time
- Has trouble conceptualizing the passage of time
- Has difficulty counting rapidly or making calculations
- Has trouble interpreting graphs and charts

Notes: _____

Social Emotional (All Areas)

- Age Appropriate
- Does not pick up on other people's mood/feelings (i.e., may say the wrong things at the wrong time)
- May not detect or respond appropriately to teasing
- Has difficulty 'joining in' and maintaining positive social status in a peer group
- Has trouble 'getting to the point' (i.e., gets bogged down in details in conversation)
- Has difficulty dealing with group pressure, embarrassment and unexpected challenges

Notes: _____

Attention (All Areas)

- Age Appropriate
- Fails to pay close attention to details or makes careless mistakes in schoolwork or other activities
- Has difficulty sustaining attention in work tasks or play activities
- Has difficulty organizing tasks and activities
- Loses things consistently that are necessary for tasks/activities (i.e., toys, school assignments, pencils, books, or tools)
- Is easily distracted by outside influences
- Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- Age Appropriate
- Has limited success with games and activities that demand eye-hand coordination (i.e., piano lessons, basketball, baseball)
- Grasps pencil awkwardly, resulting in poor handwriting

Notes: _____

Other notes or observed behavior

- Age Appropriate
- Confuses left and right
- Finds it hard to judge speed and distance (i.e., hard to play certain games, drive a car)
- Trouble reading charts and maps
- Is disorganized and poor at planning
- Often loses things
- Is slow to learn new games and master puzzles
- Has difficulty listening and taking notes at the same time
- Has difficulty generalizing (applying) skills from one situation to another

Notes: _____

IDEA-2004

Key Points – Specific Learning Disabilities

1. Definition of a Specific Learning Disability (SLD)

IDEA-2004 maintains the definition of SLD found in IDEA 97, and earlier versions of the law.

2. Evaluation for Specific Learning Disabilities

- IDEA-2004 broadens the criteria for SLD evaluation
- As part of the evaluation process, districts now have the authority to use:
 - A discrepancy model or
 - A research-based intervention model
- Please note that the evaluation process to determine eligibility in Massachusetts continues to include all required assessments. [603 CMR 28.04: Referral and Evaluation]

3. The use of IQ testing for SLD identification and eligibility

IDEA-2004 does not restrict LEAs from administering IQ tests and using the results of such testing in eligibility decision-making. However, no single test may be used for eligibility determinations. Such determinations should take into consideration all relevant tests and other evaluation materials compiled as part of the evaluation process.

4. Research-based Intervention

- Components include:
 - Empirical, scientific research studies
 - Explicit, systematic instruction
 - Targeted areas of need
 - Intense intervention
 - Implementation by trained personnel
- School's instructional support programs should be based upon research-based interventions
- Response to Intervention (RTI) models are examples of instructional support programs

5. Resources

And Miles to Go...: State SLD Requirements and Authoritative Recommendations
<http://www.ncid.org/index.html>

Responsiveness to Intervention Symposium
<http://ncid.org/html/symposium2003/index.html>

Understanding Responsiveness to Intervention in Learning Disabilities Determination
<http://ncid.org/html/information/staff/papers/mellard.html>

R & D Alert: When special Education and General education Unite, Everyone Benefits
<http://www.wested.org/nerrc/Acrobat%20Files/WestEdRTI.pdf>

Mountain Plain Regional Resource Center: Responsiveness to Intervention
<http://www.wested.org/nerrc/Acrobat%20Files/MPEECrti.pdf>

Journal of Education: Response to Intervention: empirically based special service decisions from single-case designs of increasing and decreasing intensity
http://www.findarticles.com/articles/mi_m0HDF/is_2_38/ai_n6143641

Reporting Assessment Results

When a student is evaluated to determine eligibility in the Weston Public Schools, the professional completing the assessment shares in writing the results obtained, his/her diagnostic impressions, defines the student's area(s) of need, and offers a specific means by which the need can be met. The assessor may recommend an appropriate type of placement/program, but cannot recommend a specific location.
(e.g. a specific school name)

All assessments are completed prior to the IEP Team meeting and are written in educationally relevant terms using common language. Parents can retrieve the assessments at their student's school two days in advance of the IEP Team meeting or the school will mail the assessments home so that parents have an opportunity to thoroughly review all of the assessments before attending the meeting.

Transfer of Parental Rights at Age of Majority, Student Participation and Consent at Age of Majority

A year before a student turns eighteen, the student's IEP Team informs the student of his/her rights to make all decisions related to special education services upon their eighteenth birthday. This is documented in the student's IEP. When the student reaches the age of 18, Weston Public Schools obtains, in the presence of witnesses, consent from the student to maintain special education services. At that time, it is the student who signs the IEP. Parents continue to receive copies of the IEP and other written notices.

Additionally, upon the student's eighteenth birthday, the parent no longer has decision making authority except in the following circumstances:

- The parent has sought and received guardianship;
- The student agrees to share decision making with the parent or guardian (this is documented in written form);
- The student chooses to delegate continued decision making to the parent (this decision is made in the presence of at least one school representative and one witness and is documented in writing and placed in the student's record).

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089

Fax 781-529-

8098
Weston High School
Skills Center

[name/address]

Date

Dear:

On _____, you will turn 17. This is to inform you that once you turn 18, you have the right to make all decisions related to special education services.

Upon turning 18, your parent no longer has decision-making authority except in the following circumstances:

- The parent has sought and received guardianship;
- The student agrees to share decision making with the parent or guardian (this is documented in written form);
- The student chooses to delegate continued decision making to the parent (this decision is made in the presence of at least one school representative and one witness and is documented in writing and placed in the student's record).

If you have any questions concerning this, I will be glad to answer them.

Sincerely,

Chairperson

WESTON HIGH SCHOOL

Skills Center

Consent at Age of Majority
28.07 (5)(b)(c)

Upon reaching the age of majority (age 18), pertinent to Special

Education Regulations, _____

(Student)

Selects the following options.

- _____ A. Student chooses to make all decisions in relation to Special Education program and services.
- _____ B. Student chooses to share decision-making with his/her parent or other willing adult, including allowing the parent to co-sign the IEP.
- _____ C. Student chooses to delegate continued decision-making to his/her parent or other willing adult.

Student Signature _____

Witness _____

Date _____

Weston's Monitoring Practices That Insure Required Participation at All Team Meetings

The evaluation Team is composed of the following members:

- The student's parents and any other individuals the parent choose to invite
- The student , if he/she is fourteen years old or older and chooses to come
- The Learning Specialist, who acts as the Chairperson, and has the authority to commit the resources of the district
- A Grade Level Teacher, who works directly with the student and is knowledgeable about the general curriculum and available resources in the district
- Any other evaluators who have assessed the student in the area(s) of suspected special need
- Ay individuals the Special Education Administrator deems appropriate to assist the IEP team in writing the IEP
- If transition services are going to be discussed at this meeting, the student (age 14 or older) and a representative of the public agency that may be responsible to provide or pay for the transition services will also be invited
- If vocational education needs will be discussed at this meeting, a person knowledgeable about vocational education placement will be invited,

Parents and Team members are notified by telephone with at least two options for times that the team can convene to discuss the testing results. Once a mutually agreed upon time has been established that will accommodate the parents' schedule, all team members are notified in writing via an invitation, which highlights an attendance sheet, the time, date and purpose of the meeting. Two days prior to the meeting, parents are sent copies of all of the assessments so they can read them in advance of the meeting

Attendance at Team Meetings

In Weston, it is expected that all members of the Team attend Team meetings. If a member is unable to attend, the following usually occurs:

- The district informs the parent that a Team member is not able to attend the meeting and the parent is offered another meeting date; or
- The parents and school district agree that the member's attendance is not necessary or consent to the member's absence;
 - When this occurs, the parent's agreement is noted in writing and filed in the student's special education folder;
 - Additionally, when the above occurs, the absent Team member submits in writing any input he/she has related to the IEP's development

WESTON PUBLIC SCHOOLS

Team Member Participation in IEP Meetings

I understand that Team member, _____, will not attend my child's IEP meeting for the following reason (please check one):

____ Attendance from this Team member is not necessary because the member's area of the curriculum or related service is not being modified or discussed in the meeting.

____ The member is not able to attend the meeting and will submit to me and the IEP Team, in writing, input into the development of the IEP prior to the meeting.

We agree to the absence of the Team member identified above.

Parent Date

IEP Chairperson Date

Encouraging Parent Participation at Meetings

Parents are considered valuable members of the IEP Team. The district ensures that one or both parents of a student will be members of a team that makes placement decisions about their student. Parent feedback is critical throughout this process.

The IEP chairperson notifies the parent through telephone conversation about all Team meetings. These meetings are scheduled at the parent's convenience in an effort to encourage their attendance and input. The parent is also notified again several days prior to the meeting about the location, time and Team members who will participate.

Protocol When Parents are Unable to Attend a Meeting

If all efforts to include the parent fail, the district may consider other methods to ensure parent participation such as a conference telephone call. If the district, after reasonable efforts, is not able to obtain the parent participation in the Team meeting and decision-making process, the meeting will take place and documentation will be provided regarding the attempts made to facilitate the parent's participation.

Eligibility Determination/IEP Timelines

Weston Public Schools special education staff has been well trained regarding the IEP process and accompanying timelines. Within forty-five school working days after receiving the signed consent form for the initial evaluation, unscheduled evaluation, or reevaluation, the school district completes the necessary procedures and activities to determine a student's eligibility for specialized instruction. Certified and qualified staff conducts evaluations in the areas of suspected special need. Parents are provided with these evaluations at least forty-eight hours prior to the IEP meeting.

It is the responsibility of the IEP Team to determine if a disability exists and if this disability is preventing the student from making effective progress in the general education classroom. If a student does require specialized instruction an Individual Education Plan (IEP) is developed with parental input. The student's needs are discussed, instructional and/or related services are identified, and a placement determination is made. The completed IEP is then forwarded to the parent within two to three school days. For students found to be ineligible for services, a written explanation is provided to the parent within two or three days of the IEP meeting.

For some students with disabilities, the Team may determine eligibility for accommodations and develop a 504 Accommodation Plan. The school adjustment counselor or school guidance counselor who is present at the IEP meeting and who also serves on the school's 504 Team, communicates this recommendation to the 504 Team. This process falls under the auspices of regular education. A finding of no eligibility, however, does not preclude the need for a student having difficulties to be provided with supports and services within the general education program. Weston has an array of excellent services within general education for those students found ineligible for specialized instruction and/or related services under special education.

Provisions Made When a Student is Eligible for an IEP

After reviewing the entire student's testing results at the IEP meeting, if the student is deemed eligible to receive special education services, a proposed IEP is developed and two copies are given to the parents. The parents are encouraged to review this proposed plan and provide feedback to the chairperson should they have any questions or concerns. Within two to three school days of the IEP meeting, a final copy of the student's IEP will be mailed home to the parents.

Protocol for Students Who Do Not Qualify for Special Education Services

If after reviewing the testing result the student does not qualify for special education services, the IEP Team will brainstorm ways to help the student through regular education support (e.g. prepare a student accommodation plan). Parents will also receive in writing an explanation of the finding of no eligibility for special education together with the required notice of procedural

safeguards and parent's rights. An Appendix A will also provide to the parents a detailed summary of the discussion and recommendations that took place at the IEP.

Administrative Advisory SPED 2002-2:
Requirement to Review Refusals to Evaluate for Special Education Eligibility

To: Charter School Leaders, Special Education Administrators, Parent Advisory Councils, Parent/Teacher Organizations, and Other Interested Parties

From: Marcia M. Mittnacht, State Director of Special Education

Date: December 10, 2001

This Administrative Advisory provides you with updated requirements regarding initial evaluations. As you know, a school district may not delay or refuse to evaluate a student referred for an evaluation to determine special education eligibility solely because the school district wishes to try an instructional support program or any other type of intervention. (Please refer to Administrative Advisory #2001-5, issued in June 2001.) If the parent or person making a referral has concerns about the student's development or a suspicion that the student may have a disability, school districts **must promptly send notice to the parent and seek permission** to conduct an initial evaluation to determine if the student is eligible for special education. Therefore, school districts **rarely** will have occasion to refuse to conduct an initial evaluation for students so referred and may do so only if the parent or other individual making the referral has no suspicion of a disability and is not concerned about the student's development.

Unfortunately, evidence has been provided to us indicating that school districts, in some cases, have refused to conduct an evaluation of a referred student based solely upon some pre-referral practice or an instructional support activity. Therefore, pursuant to a recently negotiated settlement agreement, the Department of Elementary and Secondary Education is requiring the following actions on the part of all school districts:

1. Districts must develop and implement a procedure to immediately review all requests for an initial evaluation that have occurred since April 1, 2000. Districts must identify all cases since that date where an initial evaluation was requested and the student has not yet received an evaluation.
2. Districts must review all such cases identified based upon the procedure in paragraph number 1; immediately notify parents that any previous refusal to evaluate or failure to proceed with an evaluation was inappropriate; and notify parents that the district is, therefore, seeking written consent for an evaluation to determine eligibility for special education. The district must provide full written notice to the parents using form N-1 of the [mandated Massachusetts forms](#). A copy of this memorandum may be enclosed with the request for consent as a partial response to meeting the notice requirements. The only exception to this requirement is for cases where the documentation clearly indicates that the parent or other individual making the referral had no concern about the student's development and no suspicion of a disability.

3. If and when the parent consents to such evaluation, the Department recommends that the school district expedite the evaluation and the initial Team meeting for such students. If an expedited evaluation would plainly compromise the quality of the evaluation, however, the school district should complete the evaluation within the time frame provided in the Department's regulations. The regulations require school districts to complete the evaluation within 30 school working days of the date that consent for the evaluation is received, with the Team meeting to discuss the evaluation results within 45 school working days of that same date. **See** 603 CMR 28.04(2) and 28.05(1).
4. In every case where the student is evaluated and found to be eligible for special education under the procedures indicated in paragraph numbers 1 and 2, the school district, together with the parent, should consider whether it is appropriate to provide compensatory services for the period of time between the original request for an evaluation and the subsequent finding of eligibility. If the parent requests such compensatory services and the school district declines to provide such services, the school district must provide full written notice using form N-2 of the mandated Massachusetts forms (available as noted above in paragraph number 2). The written notice, in this instance, must include documentation regarding the reasons for not providing compensatory services and must explicitly state that the parents may file a complaint, seek mediation, and/or request a hearing before the Bureau of Special Education Appeals ("BSEA") if the parent so chooses.

The Department will monitor and enforce these activities and compliance with this Administrative Advisory through its monitoring and complaint systems. Questions regarding the contents of this advisory may be addressed to Program Quality Assurance Services at (781)338-3700.

**NOTICE OF PARENT AND STUDENT RIGHTS
UNDER SECTION 504, THE REHABILITATION ACT OF 1973**

The Rehabilitation Act of 1973, commonly referred to as “Section 504”, is a non-discrimination statute enacted by the United States Congress. One purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who (a) currently has, or (b) has a record of having, or (c) is regarded as having a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working or performing manual tasks.

DUAL ELIGIBILITY: Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (IDEA/PL 94-142). Students who are eligible under the IDEA/PL 94-142 have many specific rights that are not available to students who eligible solely under Section 504. It is the purpose of this notice form to set out the rights assured by Section 504 to those disabled students who do not qualify under the IDEA/PL 94-142.

The enabling regulations for Section 504 as set out in CFR 104 provide parents and/or students with the following rights:

1. You have a right to be informed by the school district of your rights under Section 504. (The purpose of this notice form is to advise you of those rights.) 34 CFR 104.32.
2. Your child has the right to a free appropriate public education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33.
4. Your child has a right to placement in the least restrictive environment. 34 CFR 104.34.
5. Your child has a right to facilities, services and activities that are comparable to these provided for non-disabled students. 34 CFR 104.34.
6. Your child has a right to an evaluation prior to an Initial Section 504 placement and any subsequent significant change in placement. 34 CFR 104.35.
7. Testing and other evaluation procedures must conform with the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider, as appropriate, information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, anecdotal reports, and other sources. 34 CFR 104.35.
8. Placement decisions must be made by a group of persons (i.e., the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the

placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.

9. If eligible under Section 504, you child has a right to a periodic formal or informal re-evaluations, generally every three years. 34 CFR 104.35.
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. 34 CFR 104.35.
11. You have the right to examine relevant records. 34 CFR 104.36.
12. On Section 504 matters you have a right to file a complaint with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.
13. If you wish to challenge the actions of the district's Section 504 Committee in regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the district's Section 504 Coordinator after you receive written notice of the Section 504 Committee's action (s).
14. You may also request a hearing directly from the Massachusetts Bureau of Special Education Appeals in Malden (781) 338-6407. Specifically, you have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
15. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR 104.36.
16. You also have a right to file a complaint with the Office for Civil Rights. The address of the Regional Office which covers Massachusetts is:

Peter Chan, Regional Manager
Office of Civil Rights, Region 1
U.S. Department of Health & Human Services
Government Center
J.F. Kennedy Federal Building – Room 1875
Boston, MA 02203

Section 504 Team

“Minutes”

Student's Name: _____ Grade: _____

Initial Review: _____ Re-Evaluation: _____

Date of 504 Team Meeting: _____

To the counselor:

Has all the required documentation been provided and communicated to the team at review? (Check all the apply)

- _____ State the specific disability as diagnosed
- _____ Be current (within two years) and must be updated/re-affirmed by the evaluator on a yearly basis
- _____ Describe the comprehensive testing and techniques used to arrive at the diagnosis
- _____ Establish the professional credentials of the evaluators
- _____ Provide relevant educational, developmental and medical history
- _____ Describe how the disability significantly limits the student's ability to learn and/or access his/her education
- _____ Describe the functional limitations supported by the test results
- _____ Describe the recommended accommodations including the amount of extended time required, if applicable
- _____ Present student progress (schedule of courses, report cards, special reports)

Notes (relating to above checklist):

504 Team Decision:

_____ Qualifies for 504 Plan

Accommodations to be provided:

_____ Does not qualify for 504 Plan

Reason(s) why the team believed the student did not meet the criteria for eligibility under Section 504:

_____ Defer for further information

Reason(s) why the team believed more information was needed before a decision could be reached:

A. Goldberg 7/06

Guide to Section 504 for Students and Parents

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8081
Fax 781-529-

8097
Ms. Amber Bock
Assistant Superintendent

**Weston Public Schools
Section 504 Accommodation Plan**

Name of Student:
Address:
Parent(s) or Guardian(s) if different from student:
School:
Grade:
DOB:

Summary of Meeting to Discuss Student's Disability and Requested Accommodations

Meeting date(s):
Participants:
Date(s) of any evaluations:
Evaluative data considered at this meeting:
Student's disability:

How does the disability affect one or more of the student's life activities in and around school?

Accommodations requested by Parent(s), Guardian(s), student and/or school:

Accommodations to be provided with responsible personnel noted and implementation date for accommodations:

Physical:
Instructional:

Signature of Parent(s)/Guardian(s) / Date
Or student (if 18 years or older)

Signature of 504 Chairperson / Date

IEP Development and Content

School Teams in Weston usually choose to develop a draft IEP before the IEP meeting is held. This draft is presented at the IEP meeting. However, the IEP chairperson makes it clear to the parents and other Team members that it is just a draft and will not be adopted without careful consideration by all Team members. Ideas of all Team members, including the parents, are genuinely considered by Weston before the IEP is proposed.

The content of the IEP includes measureable, annual goals and objectives/benchmarks for the student, specially designed instruction to meet the individual needs of the Weston student as well as any appropriate related services. It is understood, that, per the reauthorization of IDEA 2004, benchmarks are only necessary for students with severe disabilities. However, it is also understood that all school Teams in Weston will continue to write objectives/benchmarks for students who do not have intensive special needs.

An IEP can also include only related services without specially designed instruction. The IEP may contain information pertaining to restraint procedures if appropriate.

If there is a disagreement among the Team members regarding the elements in the IEP, the Team chairperson articulates the elements of the IEP proposed by Weston Public Schools. Additionally, it is clearly understood that at least one person with authority to commit to the resources of the district will be present at the IEP meeting to approve any services that are described in the proposed IEP and that the IEP will not be changed at a higher administrative level within Weston.

After the IEP has been fully developed, the Team determines the appropriate placement to deliver the services included in the IEP. The placement recommended by the Team is the Least Restrictive Environment (LRE) and, unless the student's IEP requires some other arrangement, the student is educated in the Weston school that he/she would attend if the student did not require special education.

At the conclusion of the Team meeting, the parent is provided with a complete draft of the IEP. Then, within 2-3 school days following the meeting, the parent receives a copy of the IEP and two (2) signature pages including the proposed placement form with the required notice. Within 45 school working days after receipt of the parents' written consent to testing, Weston provides an IEP to the parents should the child be found eligible.

Annual Review Team Meeting Procedure in the Weston Public Schools

Prior to the expiration date of a student's IEP, the IEP Team, which includes the major service providers, the parent, and school counselor, meet to review the student's progress? If a student is fourteen years or older he/she is invited to become part of the IEP Team. In this meeting, teacher feedback, report cards, progress reports, special reports, student feedback and parent feedback are reviewed and discussed. At the Annual Review, the Team develops an IEP and the parents receive a draft copy of the proposed plan. The proposed plan is discussed and any edits that are agreed upon are made. The final copy of the proposed plan is mailed to the parents within two to three school days of the meeting. If this is a reevaluation meeting (3 yr.) the IEP Team then determines whether the student is eligible to continue to receive specialized instruction through special education or whether he/she has made effective progress and no longer needs special education support.

If the student continues to be eligible to receive special education support, an IEP is developed and the parents receive the final copy of the proposed plan in the mail within two to three school days of the meeting.

Amending the IEP

The IEP is a fluid document and Weston Public Schools recognizes that changes to the IEP can occur at any time. IN between IEP meetings, Weston Public Schools and the parent may agree to make changes to the IEP. On occasion, these changes can be made without the reconvening of the Team. The parent and the school may have a conference or a phone call and document, in writing, the changes that are made. The parent is sent a copy of the revised IEP incorporating the changes, and the amendment forms for signature.

Key Points for IDEA-2004 Team Meetings

1. Required Team Membership:

- The following membership roles must be filled at Team meetings:
 - Parent(s) of the student with a disability;
 - The student with a disability from the age of 14 - 22;
 - Not less than one general education teacher (if the child is, or may be, participating in the regular education environment);
 - Not less than one special education teacher;
 - A representative of the Local Education Agency (LEA) who has the authority to commit resources;
 - An individual who can interpret evaluation results; and
 - At the parent or agency's discretion, other individuals who have knowledge of the student

Implementation Guidance:

- Team members may fill multiple roles at the meeting. (For example, the special education teacher may also be able to interpret evaluation results.)

2. Attendance not Necessary:

- A required member of the IEP Team (by role) does not have to attend an IEP meeting, in whole or in part, if the parent(s) and the LEA agree in writing that the Team member's attendance is unnecessary because the member's area of curriculum or related services is not being modified or discussed.

3. Excusal:

- When the IEP meeting involves a modification or discussion of a required Team member's area of curriculum or related services (by role, most likely the general education or special education teacher), that member may be excused, in whole or in part only if:
 - The parent(s) and the district representative agree to the excusal in writing; and
 - The individual who is filling that role submits written input into the development of the IEP to the parent(s) and IEP Team **prior** to the meeting.

4. Team Meetings and Amendments to the IEP:

- In making changes to a student's IEP after the annual meeting, the parent and district may agree not to convene a meeting, and instead, develop a written document to amend or modify the student's IEP
- Parents shall be provided with a revised copy of the IEP with amendments incorporated

5. Alternative Means of Participation for Team Meetings:

- Parents and the district may agree to use alternative means of participation, such as video conferencing and conference calls, to conduct the Team meeting.

Special Education

Administrative Advisory SPED 2001-5: Updating of IEP Process Guide and IEP Form and Notices

To: Charter School Leaders, Special Education Administrators, and Other Interested Parties

From: Marcia M. Mittnacht, State Director of Special Education

Date: June 11, 2001

During the first year of use of the new *IEP Forms and Notices*, we have found occasion to revise directions, guidance, and forms. Therefore, the two documents entitled *IEP Process Guide* and *IEP Forms and Notices* have been updated. The Department will be sending multiple copies of each of these documents to school districts. We request that these new copies replace the original documents provided in the Spring of 2000 in the 3-ring binder entitled "Special Education Reference Manual." Please discard previously disseminated copies of the [IEP Process Guide](#) [PDF] and [IEP Forms and Notices](#) dated April 2000 or June 2000. These documents or forms may also be downloaded from the Department's website <http://www.doe.mass.edu/sped/iep/>.

These two documents have been updated to clarify school district responsibilities and practices and to conform to changes in Massachusetts Special Education Law and Regulation. School districts have previously been made aware of the majority of the changes through earlier advisories and/or memos. The Department, however, is issuing this memorandum and reissuing these documents not only to capture previous changes and clarifications but also to highlight further explanations in regard to district implementation of the revised IEP process in compliance with current statute and regulation.

Clarification of School District Responsibilities and Practices:

Two important areas of practice that warrant revised information and forms are detailed below. Other areas where information or forms have been revised are reflected in the charts found at the end of this document. The Department recommends a thorough rereading of each document to ensure full understanding and accurate implementation of required practices.

1. Referral:

School districts must ensure a responsive school environment that meets the needs of all students and should implement and document the use of attempted instructional strategies on a case by case basis. A parent's right to refer for a special education evaluation, however, is not limited and should **never be delayed** because the school district has not fully explored and/or attempted some or all of the available instructional support programs or any other type of interventions. In any case where the parent or person making a referral has concerns about the student's development or a suspicion that the student may have a disability, school districts **must promptly send notice and seek permission** to conduct an initial evaluation to determine if the student is eligible for special education.

The Department has become aware that some school districts are routinely refusing to complete initial evaluations because they have not had the opportunity to fully implement instructional support strategies. This practice must stop immediately and has never complied with either the Department's directives or the law.

The Department emphasizes that the school district will **rarely** have occasion to refuse to conduct an initial evaluation and may do so only if the individual circumstances of the student make clear that there is no suspicion of a disability and that there is no concern about the student's development. Under all other circumstances, a referral must be considered as the first step in actually obtaining an initial evaluation. To ensure that the mandated forms are not used inadvertently to support incorrect practice, the [Notice of School District Refusal to Act, N 2](#), has been revised to ensure that refusal to evaluate is not a "standard" practice. The line that read "Refusal to Evaluate" has been removed. School district personnel should carefully read page 6 of the *IEP Process Guide*, which reviews state statutory and regulatory language in this area, and download an updated copy of form N 2 for immediate use.

2. Educational Placement Determination and Specific Program Location(s):

Educational placement (e.g., the actual location where the student will receive the services on the IEP) is determined **after** the Team has fully developed the IEP. The Team makes a decision regarding educational placement after appropriate services are identified to ensure that Team members select an educational placement able to deliver the IEP services. The Team must ensure that the specific program location complies with the IEP, least restrictive environment requirements, and requirements related to giving preference to approved programs and programs in Massachusetts.

The school district then works cooperatively with the Team to implement the educational placement determination. We again emphasize that the IEP is developed by the Team to meet the needs of an individual student, that the placement identification **follows** the development of the IEP, and that it is absolutely inappropriate to write an IEP to fit a specific placement.

We have noted during the past year that confusions exist as to (a) whether the placement decisions of other entities (for example, the Department of Social Services) should be reflected on the placement form, and (b) how to use the form to reflect changes in schools or classrooms but not changes in programs or services during the period of the IEP. We have, therefore, revised the form for [Team Determination of Educational Placement, PL 1](#), to emphasize that this form specifies the educational placement, that is, the placement that the Team has determined is most appropriate to deliver the services on the student's IEP.

In most cases where the student is making effective progress, the educational type of placement of a student will not change during the IEP period. In some cases, however, the specific program location may change. For instance, the Team, at a February annual review meeting, recommends the general education classroom as an educational placement for a fourth grader whose IEP period covers the remainder of the student's fourth grade year and a substantial portion of the student's fifth grade year, the first year in middle school. In this case, the IEP remains the same and the educational placement (e.g., general education classroom) remains the same but the specific program location (e.g., a classroom in the district elementary school to a classroom in the regional

middle school) will change. Under these circumstances, the school district needs to indicate both specific program locations on the Team Determination of Educational Placement, PL 1, providing the expected dates for each specific program location, and should not rewrite the IEP to fit new specific program locations. PL 1 has been revised to allow additional space to record multiple specific program locations.

Another example arises for a student who is in the care and custody of the Department of Social Services (DSS) and DSS has placed the student in a residential school for care or custody reasons. The placement in a residential school by DSS should **not** be reflected as the educational placement on the PL 1 form because it is **not an educational placement** made by the Team. The PL 1 form should reflect the type of educational placement that the Team has identified as necessary to implement the student's IEP and which will then correspond to the Federal Child Count Settings on Administrative Placement Information form, PL 2. In cases like this, however, the Team must recognize that its authority to identify a specific program location is limited because the Team may not make determination of a specific location that results in a physical relocation of the residence of a student in the care or custody of DSS.

For additional clarification related to the relationship of an IEP, an IEP amendment, an educational placement and a specific program location, please read the following:

IEP Process Guide - pages 12 and 26

IEP Forms and Notices - pages 7 and 8

3. Other Revisions to Information or Forms:

School district personnel should pay specific attention to the following sections of the updated *IEP Process Guide* and *IEP Forms and Notices*. Wording changes have been made in response to multiple requests for further information from the Department.

Issue:	Document:	Page #:
Other Educational Need: Vocational Education	<i>IEP Process Guide</i>	16
Appropriate Number of IEP Goal Statements	<i>IEP Process Guide</i>	18
Annual Review Meetings and Progress Reporting	<i>IEP Process Guide</i>	21
Extended School Day / Year Services	<i>IEP Process Guide</i>	22
Use of IFSP or IEP	<i>IEP Forms and Notices</i>	6
Use of IEP Amendment	<i>IEP Forms and Notices</i>	7

Earlier Disseminated Materials:

School districts are also recommended to review these previously disseminated advisories and memorandums that discuss previous changes in Massachusetts Special Education Law and Regulation and earlier clarifications of the revised IEP process in conjunction with the updated *IEP Process Guide* and *IEP Forms and Notices*:

- [Administrative Advisory SPED 2001 -1 \(09/01/00\): Changes to Massachusetts Special Education Law](#)

- [Memorandum \(9/26/00\): Changes in Extended Evaluation](#)
- [Administrative Advisory SPED 2001-4 \(03/15/01\): Finding of No Eligibility for Special Education](#)

Changes in Forms and Notices:

Six of the fifteen forms found within *IEP Forms and Notices* have been changed since first being posted on the Department web site in June 2000. The following chart lists all of the forms and notices found within this document and indicates the most current version that school districts should be using.

Form:	Form Code:	Revised:	Reason(s) for Change(s):
SPED Eligibility Determination	ED 1	9/01/00	State law change
Administrative Data Sheet	ADM 1	-----	No changes
Extended Evaluation Form	EE 1-EE 2	11/16/00	State regulation change
Annotated IEP Checklist	CKL 1- CKL 5	4/23/01	Updated state regulation citations
Individualized Education Program	IEP 1-IEP 8	-----	No changes
Progress Report	PR 1	-----	No changes
IEP Amendment	IEPA 1- IEPA 2	-----	No changes
Team Determination of Educational Placement	PL 1	6/11/01	State law change / further clarification of educational placement
Administrative Placement Information	PL 2	6/11/01	State law change / additional directions for determining level of need
Notice of Proposed School District Action	N1	-----	No changes
Evaluation Consent Form	N1A	-----	No changes
Notice of School District Refusal to Act	N2	6/11/01	Updated
Meeting Invitation	N3	-----	No changes
Attendance Sheet	N3A	-----	No changes
Chapter 688 Student Referral Form	Ch1	-----	No changes

If a form or notice was revised, the date of revision is found within the footer of the form or notice. If no revision was made, then the form or notice is not dated.

Revisions have been or will soon be made in the corresponding foreign language versions of these forms and notices. Please ensure that school district personnel are using updated English and foreign language forms and notices when communicating with parents.

In closing, this memorandum provides an outline of key changes within the *IEP Process Guide* and *IEP Forms and Notices*. School districts immediately should review their current practices and realign their district practices as needed. Staff and parent training are necessary and required components of ensuring correct district practice. Questions regarding the contents of these documents may be addressed to Program Quality Assurance Services at 781.338.3700.

All in all, the first year of implementation of the new *IEP Forms and Notices* has been very successful and we thank you for taking this important step seriously. We additionally thank you in advance for your careful reading, thorough dissemination, and effective training on the revisions and clarifications contained within these materials.

Last updated: June 11, 2001

School Day and School Year Requirements

Weston Public Schools recognizes that it is often necessary to adjust the school day of a student in special education. Lengthening or shortening the school day may be appropriate for some students and this is depicted on the student's IEP.

Any decision to alter the student's school day or placement (e.g., day versus residential) is made by the IEP Team and the reason for the decision is specified in the IEP. If a residential program is recommended, the IEP includes the reason for such a determination. Annual goals and services for the student in a residential program reflect the comprehensive nature of the specified program. Likewise, specialized transportation services are also delineated on the IEP.

If a student is at risk for substantial regression or will have substantial difficulty recouping skills learned over the school year, an extended year is recommended. Weston Public Schools currently offers extended year services in a number of environments to include integrated programs at the preschool level, substantially separate programs preschool through grade 5, and integrated programs kindergarten through grade 12. Students participating in out-of-district programs usually attend out-of-district extended year programs as decided by their IEP Teams. However, students in out-of-district programs are always welcome to participate in in-district programs.

Camping or recreational programs are only recommended for students in special education if there are corresponding goals on the student's IEP. For example, a student with severe social issues may participate in a recreational program with special education support to address the student's social skill deficits.

Least Restrictive Environment

Every effort is made to ensure that all students with disabilities are educated in the least restrictive environment (LRE). Weston is strongly committed to a full inclusion model, which involves designing instruction and support services to supplement the regular education program. Only students unable to make effective progress in the least restrictive environment are considered for additional specialized instruction and related services outside of the general education setting. All administrators, teachers, and related service personnel have been well trained in the LRE regulations.

Students in Weston are placed in programs outside of the district **only** when their education cannot be delivered satisfactorily within a local school, despite the addition of supplementary aids and services. For students placed out-of-district, the retrieval process is ongoing. Students are monitored through progress reports, site visits, and parental contact. Each year at the IEP meeting, a discussion is initiated by the SPED Placement Specialist to determine the readiness of each student to return to the district or to a less restrictive setting. The IEP serves as the basis for this discussion and careful consideration is given to the student's need for a select type of environment, specialized instruction, and related services as well as to the achievement of the IEP goals and benchmarks. Safety can also be a major factor in determining a student's ability to return to a less restrictive setting. It has been the experience of Weston's SPED Placement Specialist that students placed outside of the district are there because their current placements **are** the least restrictive settings necessary for them to make effective educational progress.

For students ready to move to LRE, a careful transition process is developed at the IEP Team meeting. Some students participate in a gradual transition, while others return to the district on full-time basis on a targeted date. The SPED Placement Specialist is the major facilitator in this process and implements weekly monitoring visits and communication to ensure success. Transition planning is always completed collaboratively and in great detail with the parent, outside placement staff, and the student, if appropriate.

Procedure for Parent Consent for an Evaluation to Occur and Notice of Team Meeting

The district will seek the consent of a parent for an evaluation of their student that the district deems necessary based upon the performance of the student. The parent will be encouraged to express any concerns they may have or provide information to the IEP Team about the student's skills or learning profile. The parent can consult with the IEP Team regarding the evaluators who will be used and can meet with these individuals upon request. Parents are notified of Team meetings several days in advance and at a time that is convenient for them. The time, location, participants and purpose of the meeting are shared through telephone conversation and are put in writing to the parents prior to the meeting.

The IEP Team completes as thorough an evaluation as possible on each student. If further evaluations are necessary, the Team will make every effort to conduct these evaluations in a timely manner.

Obtaining Parental Consent

Written parent consent must be obtained for the following reasons:

- When conducting an Initial IEP evaluation
- When making an initial placement decision about a student in a special education program
- When conducting a reevaluation of a student who is currently receiving special education support
- When placing a student in a special education placement subsequent to the initial placement in special education
- When initiating extended evaluation services
- To obtain consent to the services proposed on a student's IEP before providing the services
- All parent consent forms are thoroughly reviewed with parents by the Learning Specialist, who acts as the Chairperson and has the authority to commit the resources of the district.

Procedure When Parents Refuse to Participate in this Process

When the consent of a parent is required and the parent refuses to participate the following will take place:

- Attempts to obtain consent will be made through written communication to the parents including certified letters. All communication is documented.
- The chairperson may call the parents to discuss any concerns they may have, to review the student's current progress and to review the reasons why the Team believes an evaluation should take place.
- Electronic mail (e-mail) may be sent to the parent
- A home visit by school personnel may be scheduled at the parent's convenience
- Involvement of other school personnel (e.g. Principal, Metco Coordinator, School Psychologist) may be necessary to ensure parent participation

- Assistance from outside community service agencies or the town truancy officer, with parent consent, may be necessary

*If the school district is unable to obtain parent consent after attempting to follow the above procedures, and the IEP Team feels that the parent's failure or refusal to consent has resulted in the denial of a free and appropriate education (FAPE) to the student, the district may seek a resolution through Special Education Appeals.

School District Name:

School District Address:

School District Contact Person/Phone #:

Placement Consent Form - PL1: 3-5 year olds

IEP Dates: from to

Student Name:

DOB:

SASID:

Use either section 1, 2 or 3 as appropriate to the child's educational placement.

1. The child attends an inclusive early childhood program that includes children with and without disabilities.

The child attends an early childhood program and special education services are provided:	<input type="checkbox"/>	In the early childhood program
	<input type="checkbox"/>	Separate from the early childhood program
	<input type="checkbox"/>	Both in and out of the early childhood program
Hours per week in the early childhood program: _____	<input type="checkbox"/>	Enrolled by the parent
	<input type="checkbox"/>	Placed by the Team
All together the child will be participating in an inclusive environment (taking into account the early childhood program and special education services):	<input type="checkbox"/>	80% of the time or more
	<input type="checkbox"/>	40 – 79% of the time
	<input type="checkbox"/>	0 – 39% of the time

2. The child does not attend an inclusive early childhood program.

The Team identified that the child should attend a special education class that only serves children with disabilities.	<input type="checkbox"/>	Substantially Separate Class
The Team identified that the child should attend a full-day special education program in a public or private separate day school that only serves children with disabilities.	<input type="checkbox"/>	Separate Day School <input type="checkbox"/> Public or <input type="checkbox"/> Private
The Team identified that the child should attend a special education program in a residential facility that only serves children with disabilities.	<input type="checkbox"/>	Residential Facility
The Team identified IEP services to be provided in a program in the home for a child who is 3 to 5 years of age.	<input type="checkbox"/>	Home
The Team identified IEP services to be provided outside the home in a clinicians office, school office, hospital facility, or other community location.	<input type="checkbox"/>	Service Provider Location

3. Other Authority Required Placements

Note: These non-educational placements are not determined by the Team and therefore service delivery may be limited.

The placement has been made by a state agency to an institutionalized setting for non-educational reasons.	<input type="checkbox"/>	The Department of Mental Health has placed the child in a hospital psychiatric unit or residential treatment program.
	<input type="checkbox"/>	The Department of Public Health has placed the child in the Massachusetts Hospital School. <input type="checkbox"/> Day or <input type="checkbox"/> Residential
A doctor has determined that the child must be served in a home setting.	<input type="checkbox"/>	Home-based Program
A doctor has determined that the child must be served in a hospital setting.	<input type="checkbox"/>	Hospital-based Program

Placement Consent Form

Location(s) for Service Provision and Dates:

Parent Options / Responses

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district along with your response to the IEP. Thank you.

- I consent to the placement.
- I refuse the placement.
- I request a meeting to discuss the refused placement.

Signature of Parent, Guardian, Educational Surrogate Parent

Date

School District Name:

School District Address:

School District Contact Person/Phone #:

Placement Consent Form – PL1: 6-21 year olds

IEP Dates: from _____ to _____

Student Name:

DOB:

SASID:

Team Recommended Educational Placements

Corresponding Placement

The Team identified that IEP services are provided outside the general education classroom less than 21% of the time (80% inclusion).	<input type="checkbox"/> Full Inclusion Program
The Team identified that IEP services are provided outside the general education classroom at least 21% of the time, but no more than 60% of the time.	<input type="checkbox"/> Partial Inclusion Program
The Team identified that IEP services are provided outside the general education classroom for more than 60% of the time.	<input type="checkbox"/> Substantially Separate Classroom
The Team identified that all IEP services should be provided outside the general education classroom and in a public or private separate school that only serves students with disabilities.	<input type="checkbox"/> Separate Day School <input type="checkbox"/> Public or <input type="checkbox"/> Private
The Team identified that IEP services require a 24-hour special education program.	<input type="checkbox"/> Residential School
The Team has identified a mix of IEP services that are not provided in primarily school-based settings but are in a neutral or community-based setting.	<input type="checkbox"/> Other:

Other Authority Required Placements

Note: These non-educational placements are not determined by the Team and therefore service delivery may be limited.

The placement has been made by a state agency to an institutionalized setting for non-educational reasons.	<input type="checkbox"/> The Department of Youth Services has placed the student in a facility for committed or detained youth.
	<input type="checkbox"/> The Department of Mental Health has placed the student in a hospital psychiatric unit or residential treatment program.
	<input type="checkbox"/> The Department of Public Health has placed the student in the Massachusetts Hospital School. <input type="checkbox"/> Day or <input type="checkbox"/> Residential
	<input type="checkbox"/> The student is incarcerated in the county house of corrections or in a department of corrections facility.
A doctor has determined that the student must be served in a home setting.	<input type="checkbox"/> Home-based Program
A doctor has determined that the student must be served in a hospital setting.	<input type="checkbox"/> Hospital-based Program

Placement Consent Form

Location(s) for Service Provision and Dates:

Parent Options / Responses

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district along with your response to the IEP. Thank you.

- I consent to the placement.
- I refuse the placement.
- I request a meeting to discuss the refused placement.

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over*

Date

**Required signature once a student reaches 18 unless there is a court appointed guardian.*

Re: [Name of Student and other necessary identifying information]
 [Date from N 1]

Notice Date:

School District Name

EVALUATION CONSENT FORM

Attachment to N 1

TYPE OF ASSESSMENTS: <i>A variety of assessment tools and strategies should be used to gather information that determines the educational needs of this student. [Check yes or no for each assessment.]</i>	RECOMMENDED	
	YES	NO
Assessment in All Areas Related to the Suspected Disability(ies) – describes the student’s performance in any area related to the child’s suspected disability(ies). List recommended assessment(s): _____ _____ _____		
Educational Assessment – includes the history of the student’s educational progress in the general curriculum and includes current information on the student’s performance.		
Observation of the Student – includes the student’s interaction in the student’s classroom environment or in a child’s natural environment or an early intervention program.		
Health Assessment – details any medical problems or constraints that may affect the student’s education.		
Psychological Assessment – describes the student’s learning capacity and learning style in relationship to social/emotional development and skills.		
Home Assessment – details any pertinent family history and home situations that may affect the student’s education and, with written consent, may include a home visit.		

PARENT RESPONSE SECTION

Please indicate your response by checking at least one (1) box and returning a signed copy to the school district. Please keep one copy for your records. Thank you.

I accept the proposed evaluation in full. I reject the proposed evaluation in full.

I accept the proposed evaluation in part and request that only the listed assessments be completed:

_____.

I additionally request the following assessment(s): assessment(s) listed above: other
assessments: (specify)

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over*

Date

**Required signature once a student reaches 18 unless there is a court appointed guardian.*

PARENT INPUT

We strongly encourage you to share your knowledge of this student with us. If you choose, please provide a written statement (use back of form) or call the indicated contact person. Thank you.

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089
Fax 781-529-8098

Office of Special Education

Mrs. Dianna Mullen
Assistant Director of Student Services

Date

Address of BSEA

Re: Student Name

Dear:

Enclosed is a copy of the IEP for _____. Documented attempts to obtain a parental signature have continued to result in the lack of a parental decision.

By copy of this letter, the family is informed that they have the option of mediation and/or an administrative hearing at the Bureau of Special education Appeals, as described in the Parent's Rights Brochure. Weston Public Schools remains committed to working out any unresolved issues on behalf of _____ through an optional school-home conference with _____ Team. The family may initiate this conference by calling my office (781-529-8089) or _____ IEP Chairperson.

Sincerely,

Regis C. Miller

RCM/dlm

CC: Mr. and Mrs. _____ with Parent's Rights Brochure
Ms. _____, Mediator, Department of Elementary and Secondary Education
_____, Chairperson

Continuum of Alternative Services and Placements – Including Vocational

Weston Public Schools offers a continuum of services for students with disabilities who gain admission to select vocational-technical schools. In-district job sites are available for students based on their strengths, needs, preferences, and interests. Through the IEP Team process, vocational options and staff are identified to enable students to explore work opportunities before graduation.

One way this is accomplished is through Weston High School GOAL (Getting Organized for Academics and Life) Program. Students with intellectual disabilities participating in this program are afforded multiple opportunities for employment within and outside of the school district. Job opportunities outside of the district include work at neighboring supermarkets, the American Cancer Society, and the Stamp Museum. In district, students work at the Attendance Office, the Stockyard, and the library. Often times, students complete clerical work provided from several school departments in their classrooms. The Weston community has been very receptive to offering students with disabilities the opportunity to experience the world of work.

In addition to the GOAL program, Weston High School offers Senior Internship Program for all students. This provides students with an opportunity to explore various work sites before their graduation. Weston Public Schools has employed students with disabilities in its Integrated Preschool Program.

Students with disabilities also participate in out-of-district vocational programs when appropriate. Weston Public Schools has publicly funded students to attend vocational programs at the LABBB Collaborative, the TEC Collaborative, ACCEPT Collaborative and Protestant Guild School.

Continuum of Alternative Services and Placements

The district ensures that a continuum of services and alternative placements are available to meet the needs of all students eligible for special education services from the ages of three through twenty-one. Steps are taken to ensure compliance with all elements of the student's IEP, including vocational education.

*Because of the small enrollment and low percentage of students with severe disabilities, the Weston Public Schools does not have a sufficient number of students to warrant a substantially separate classroom at this time. However, Weston uses the collaborative environment to meet the needs of students who require this type of educational environment.

Continuum of Services – Vocational

Weston offers a continuum of services for disabled students who do not gain admission to select vocational-technical schools. In-district job sites are available for students based on their strengths, weaknesses, preferences, and interests. Through the IEP Team process, vocational options and staff are identified to enable students to explore work opportunities prior to graduation. Historically, Weston employees have willingly mentored SPED students under the supervision of SPED tutors who serve as job coaches. Finally, Weston staff has been able to identify and place students in supervised internships as another career alternative. The Weston community has been very receptive to offering students with disabilities the opportunity to experience the world of work.

Weston also has contracted with Collaboratives to provide students with vocational opportunities. Both paid work and internship opportunities are available for students. The Bridges Program, under the auspices of the TEC Collaborative, offers job placement, job development, and job coaching for disabled students. The LABBB and ACCEPT Collaboratives offer vocational programs and services for disabled students, also.

Special Education

Administrative Advisory SPED 2002-3:

Vocational Educational Services for Students with Disabilities

To: Superintendents, Charter School Leaders, Special Education Administrators, Directors of Career and Technical Education, and other Interested Parties

From: Marcia Mitnacht, State Director for Special Education and Francis Kane, Director of School to Career Services

Date: March 8, 2002

Purpose:

The following advisory clarifies required practice in the provision of vocational educational services and programs for students with disabilities and provides detail on the following major concepts:

1. Vocational education is not exclusively the responsibility of vocational schools.*
2. Individualized Education Programs (IEPs) for students with disabilities must address vocational education needs and services based solely on the individual needs of the student.
3. IEP Teams do not have authority to make placements in vocational schools.
4. Public school districts must address needs related to vocational preparation or experience.
5. Vocational schools must provide appropriate education and special education services.

1. Vocational Education is Not Exclusively the Responsibility of Vocational Schools.

Each school district must ensure that students with disabilities have "available to them the variety of educational programs and services available to nondisabled children, including art, music, industrial arts, consumer and homemaking education, and **vocational education**." (34 CFR §300.305 - emphasis added).

In Massachusetts, the Department's School to Career Cluster approves vocational programs using criteria in Chapter 74 and the Perkins Act definition of vocational and technical education. Yet, the federal special education regulations contain a more expansive definition of vocational education that includes, but is not limited to, these Department-approved vocational programs. Vocational education was specifically included as part of the special education law to ensure that students with disabilities receive, if needed, appropriate, individually-designed vocational educational services to assist them in transitioning from school to adult life and work.

Definitions of Vocational Education:

Perkins Vocational and Technical Education Act	Individuals with Disabilities Education Act
<p>"The term vocational and technical education means organized educational activities that (A) offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than for careers requiring a baccalaureate, master's or doctoral degree) in current or emerging employment sectors; and (B) includes competency-based applied learning that contributes to the academic knowledge, higher order reasoning and problem solving skills, work attitudes, general employability skills, technical skills, and occupational specific skills, of an individual".</p>	<p>"Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree." (34 CFR §300.26(b)(5))</p>

The Massachusetts Special Education regulations also require all school districts to have a variety of program options available specifically for older student with disabilities in order to prepare these students for adult life. "Such options shall include continuing education; developing skills to access community services; developing independent living skills; developing skills for self-management of medical needs; and developing skills necessary for seeking, obtaining, and maintaining jobs. Such programs may have an educational and/or vocational focus . . ." (603 CMR §28.06(4)).

In short, the requirement for students with disabilities to participate in vocational educational experiences is not a requirement related solely to vocational schools in Massachusetts, but rather, is part and parcel of including students with disabilities in the full life of the school.

2. Individualized Education Programs (IEPs) for students with disabilities must address vocational education needs and services based solely on the individual needs of the student.

When considering skill development related to vocational preparation or experience for students with disabilities, IEP Teams do not use the Perkins Act definition for vocational education. The IEP Team does not limit its consideration to Department-approved vocational programs. In fact, IEP Teams, when developing the IEP, are not considering standard approved vocational programs at all, rather, IEP Teams consider the types of skills needed by the student to prepare for vocational activities or experience needed for independence in seeking adult career or work opportunities.

Vocational needs, like needs for math instruction or for reading instruction, should not automatically result in services solely because the student has reached a certain age. For students with disabilities, the IEP is intended to address needs that arise because of the student's disability(ies). Any, all, or perhaps none of the following career exploration and career skill

development activities could, therefore, be considered as necessary educational services depending upon the nature of the student's disability and resultant educational needs:

Career awareness Career exploration Career guidance and counseling
Career development Cooperative education Internships or apprenticeships
Job shadowing On-the-job training Work experience

Many students with disabilities will participate in vocational offerings in the same manner their nondisabled peers do because their disabilities do not affect their progress in this area of the general program. In these cases, skill development related to vocational preparation or experience is not identified as an educational need area and these students should continue to have access to vocational or vocationally related programs as appropriate to their interests and needs just as non-disabled students do.

3. IEP teams do not have authority to make placements in vocational schools.

For older students (usually starting at age 14), the IEP Team will consider if the student's disability(ies) affects participation in areas of education directly related to preparation for adult life. The IEP Team may identify that vocational educational services are an area of need by checking "Skill development related to vocational preparation or experience" under Other Educational Needs on IEP page 3. By doing so, IEP Teams are asserting that the student's disability(ies) has an effect in this area. Then, based on assessment information, Teams must describe the impact of the disability and must indicate needed accommodation(s) and/or services. Identification of this educational need is *unrelated* to admissions to vocational schools.

IEP Teams have no authority to make educational placements to vocational schools. As in all other circumstances, once the IEP is developed, the educational placement should be chosen to implement the identified IEP services required and should be chosen from a full continuum of educational placement options. Placement options include the general education classroom, a resource room, a substantially separate classroom, a separate special education day school or a separate special education residential school (none of these options are synonymous with a vocational school).

If the student is subsequently admitted to a vocational school, that vocational school serves as the "school district" for the student and provides the services in the placement that the Team has identified. If the student is not admitted to a vocational school, then the public school district provides the services and placement identified by the Team.

4. Public school districts must address needs related to vocational preparation or experience.

When students have not been admitted to a vocational school, then the public school district must provide any needed vocational educational services that are identified on the student's IEP. School districts must not rely solely on programs and services available within vocational schools to meet the vocational educational needs of students with disabilities.

For instance, if, in a comprehensive high school, an internship program is available to any interested students in grades 11 and 12, and a student's IEP has identified "work experience" as an IEP goal for the student, that student should be considered for participation in the internship program. If supplementary aids and services are necessary for such participation, they should be provided. If, however, no existing programs and services meet the students' unique needs, secondary school personnel will need to create new service options to fulfill the student's need for "work experience." The secondary school is not obligated to create the same work experience program that is present in a vocational school, but rather must consider how to give the student access to *meaningful* work experience. Work experience may be obtained through working in a school office or in a community program or may be simulated in classroom environment or through any number of other options. It is not permissible; however, to simply ignore this vocational educational need because the student is not enrolled in a vocational school.

5. Vocational schools must provide appropriate education and special education services.

Vocational schools must fully and carefully consider the provision of supplemental aids and services to ensure that students with disabilities have access to the same program options available to students without disabilities. The vocational school must ensure that students with disabilities are not removed or excluded from programs within the school solely because of needed curriculum modifications. *This requirement under federal special education regulation pertains to any part of the student's program whether vocational or academic in nature.*

Vocational schools may not assume that a student with a disability must "earn" the right to participate in all of the schools programs and services, rather, the school must assume that the student with a disability participates in the same manner as students without disabilities. It is the responsibility of the IEP Team to determine how the disability affects the student's participation and when or if supplementary aids or services are necessary to assist the student to participate effectively or if removal from one or more of the vocational offerings is necessary.

In closing, we hope this information is helpful to districts and vocational schools in ensuring that local practices are consistent with special education requirements for the provision of vocational education services to eligible students with disabilities. If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700).

Thank you for your attention to this memorandum and for assuring that students with disabilities receive appropriate services.

* The term "vocational schools" will be used throughout this advisory to refer to vocational schools, technical schools, and other public selective secondary schools providing vocational education services.

last updated: March 8, 2002

**Weston Public Schools
Instructions/Notes for
Extended School Year Forms**

1. **You must fill out a “Student Recommendation Form” and an “Extended School Year Documentation Form” for each child for whom you are recommending the summer program.** No student can be recommended for the summer program without these completed forms.
2. If you are not the chairperson, **it is your responsibility to provide the chairperson (most likely the special educator) with a completed copy of your section** of the Extended Year form before the deadline(s) noted below as they are responsible for submitting the entire Extended School Year Form to Central Office by this date. Please keep a copy for your records. (Please note: If you are the only person recommending services for a particular student, then it is your responsibility to send the form directly to Central Office and provide copies to the chairperson for their summer services file.)
3. You need to fill out the form for all areas in which you are concerned that the student will regress (e.g. Reading and Math, or OT, Reading, and Other). This information should be used to determine what program/services the student will need. You must complete information for **at least two time periods**. For example, you could collect data in September (after summer break) and November (after Thanksgiving break), or a long weekend and February break.
4. The **definition of substantial regression** we are using is: requiring an equal number of days following the break as there were days in the break for the students to demonstrate skills at the level they were able to demonstrate on the day before the beginning of the break (i.e. after summer break, students should be at their June levels of performance by mid to late October).
5. Information will be **collected once** during the school year. The “Student Recommendation Form” and the “Extended School Year Documentation Form” will be collected on February 26, 2010. The next date of collection will be on May 14, 2010.

EXAMPLE

	January	February
Skill Description:	Sight word vocabulary	Aggression to Peers
Level Prior to Vacation:	Max was able to identify 78/100 grade level sight words the week before the holiday break.	In the weeks prior to vacation, Max hit or pinched students on average 1 time a week.
Level After Vacation:	The day he returned from vacation he was only able to identify 28/100 words	The week he returned from vacation he hit and pinched students 5 times.
Date Which Child Reached Previous Level:	Max was able to identify 80/100 words on January 15 th .	Max’s behavior returned to once a week levels the week of January 20 th .

Weston Public Schools
Extended School Year Student Recommendation Form

Name of Student:

Local Assigned Student Identification Number (LASID):

School (Check One): PK Woodland Country Field Middle School High School

Current Program: Integrated Preschool Learning Center Support Inclusion Support
GOAL

Grade (Check One): PK K 1 2 3 4 5 6 7 8 9 10 11 12

Classroom Teacher:

Chairperson:

Please check which services you are recommending:

- Preschool Program: 4 days x 3 hours
- Preschool Program: 4 days x 5 hours
- Bridges: 5 days x 3 hours
- Bridges/Town Recreation: 5 days x 5.5 hours
- LINK: 2 x 90 min/ tutorial (check all that apply)
 - Wilson
 - Reading Comprehension
 - Mathematics
 - Writing
- Speech and Language Services
Summer Service Delivery (i.e. 1 x30): _____
- Occupational Therapy Services
Summer Service Delivery (i.e. 1 x30): _____
- Physical Therapy Services
Summer Service Delivery (i.e. 1 x30): _____
- Other Services: _____
Summer Service Delivery (i.e. 1 x30): _____

Was the student recommended for summer services last year?

Yes No If Yes, did the student attend? Yes No

Are there any services that you are considering recommending that are not included in this IEP. If so, please identify the services and when you will reconvene to discuss eligibility for these services:

Is this student eligible for transportation over the summer?

Yes No

This form should be sent to the Student Services Office, Attention: Dianna Mullen with every IEP that Includes Summer Services See Attached Data form

Special Education
Weston Public Schools

Special Education Services: Preschool through Grade 12+

Introduction

Weston Public Schools provides a wide range of services to eligible students aged 3 – 22 years with varying diagnoses. These services include, but are not limited to: assessment, eligibility determination, special education services, related service/therapies, and re-evaluation. This document will describe the special education services available to eligible Weston School students.

Assessment and Re-evaluation

When a student is referred for a special education evaluation, the student is assessed in all areas related to the suspected disability. Additionally, an educational assessment is administered. Included in this assessment is a history of the student's educational progress in the general curriculum. Optional assessments include but are not limited to a comprehensive health assessment, a psychological assessment, and a home assessment. With parental consent a student is evaluated every three years or sooner if deemed necessary by the Team.

Eligibility determination

The Team shall examine the evaluative data, including information provided by the parent, and make a determination if the student is eligible or ineligible for special education services. If the Team finds the evaluation information insufficient to develop an IEP, the Team, with the parent's consent, may agree to an extended evaluation period. The extended evaluation period shall not be used to deny programs or services determined to be necessary by the Team nor shall an extended evaluation period be used to allow additional time to complete the required assessments.

Therapy Services

The following list is an example of available services for Weston Public Schools students in special education. It should be noted that this is not considered to be an exhaustive array of the therapies offered to students.

- Speech and Language Services
- Counseling Services
- Occupational Therapy
- Physical Therapy
- Orientation and Mobility Services
- Vision Services
- Audiological Services
- ABA Service

Consultants – The consultants routinely provide consultative services to teachers and staff working with students in special education. This is not an exhaustive list of consultants:

Behaviorist Consultant

ABA Consultant

Autism Consultant

Assistive Technology Consultant

Nonverbal Learning Disabilities Consultant

Early Childhood

Federal and State special education legislation stipulates that public school districts are responsible for providing special education services to eligible preschool children. The level of support provided to preschool children varies depending on their special needs. In Weston, the majorities of preschool children on IEPs present with developmental delays and require related services such as speech and language therapy, occupational therapy, and physical therapy. These populations of children usually attend community preschools and come to Weston Public Schools for their therapy services. Other children with more intensive special needs require a separate, publicly funded educational program and are enrolled in Weston's integrated preschool program, Weston Windows, or may attend an out-of-district collaborative or private placement.

Weston Windows Integrated Preschool

In Weston Windows a teacher and three teaching assistants teach five children with special needs and ten typically developing children. Developmentally appropriate activities are offered in a schedule that provides both structure and opportunities for open-ended play. Unique to this preschool is the creation of a classroom that supports both children with special needs and children who are developing at a typical pace. By recognizing each child's special skills, goals can be set to challenge the individual child in order to address his or her learning potential.

Currently allocated spaces for this program consist of two classrooms in each of the two lower elementary schools, Woodland and Country, an office for the Early Childhood Coordinator at Country School, and space for the related services as described above in the Therapy Services section.

Early Intervention and Community Preschools

Some children in need of special education services are referred to Weston Public Schools from federally mandated early intervention agencies. Weston's Early Childhood Coordinator works with these early intervention agencies to coordinate their efforts with Weston's to plan the transition of this population of children into special education services on their third birthday. The ECC also works closely with private community preschools, providing consultation to the teachers and teaching assistant on strategies for maximizing the participation of Weston preschool children with disabilities in their programs.

K – Grade 5

Learning Centers

Each elementary school has a Learning Center staffed with special education certified teachers and certified tutors. Specialized instruction is provided to eligible students and these services may take place in a regular education classroom and/or in a Learning Center. Most students work with special education staff in small groups where they receive support and strategies that enable them to access and progress in the regular education curriculum. These centers provide services to students with a wide range of special education needs and varying disabilities.

Language Based Classroom

The Language Based Classroom is for students whose academic functioning is well below grade level by at a minimum of 1.5 years. The student profile also consists of students who may receive multiple related services and would otherwise be pulled from their general education classroom for a significant portion of their school day. The Lead Teacher is the IEP Chairperson for these students and will Co-teach in the general education classroom for Science and Social Studies. Related Services may be provided in the Language Based Classroom and/or as a pull out model in the therapy room.

Co-Teaching

Co-teaching is offered in grades 3-5 in the area of mathematics. In this program children on IEPs who need support in mathematics are integrated with children who are not on IEPs. Two classroom teachers, a general educator and a special educator, instruct the class. In this program students are provided with additional scaffolding and increased individualization due to the support of two teachers. Occasionally, a special educator may co-teach in additional subject areas.

Middle School: Grades 6-8

Co-Teaching

Co-teaching is offered at every grade level in English. In this program children on IEPs who need support in English are integrated with children who are not on IEPs. Two classroom teachers, a general educator and a special educator, instruct the class. In this program students are provided with additional scaffolding and increased individualization due to the support of two teachers.

Tutor Monitoring

Tutor monitoring programs provide specialized instruction to eligible students who require varying degrees of skill development and academic support. The goal of tutor monitors is to assist students to become independent learners in the regular education setting. Students are fully enrolled in mainstream classes and attend tutor monitoring sessions in lieu of study halls.

Students attending tutor monitoring receive small group remedial instruction. The time spent in tutor monitoring varies for each student. Tutor monitoring staff are supervised by special education teachers and work collaboratively with regular education teachers to individualize or supplement the curriculum to meet the needs of students. Areas of emphasis are reading comprehension, written expression, mathematics, and study skills such as note taking, outlining, report writing and test preparation.

As part of the tutor monitoring program special education staff offers support in many regular education classrooms. By participating in mainstream classrooms, tutor monitoring staff personnel are better able to provide specific curriculum support in the tutor monitor sessions.

GOAL Program

The GOAL (Getting Organized for Academics and Life) Program provides a life skills curriculum for Middle School students in grades 6-8 who have intellectual disabilities. This program helps to prepare students for independent living with a focus on meal preparation, consumer math, and community awareness, use of public transportation, social skills, and activities of daily living. Students also participate in mainstreamed middle school classes, as determined by their IEP Teams.

Resource Lab

Resource Lab is offered to students requiring more intensive curriculum support. Students meet in small groups with a special education teacher who previews and reviews general education curriculum. Occasionally, students take a reduced course load and attend Resource Lab in place of another academic subject.

High School: Grades 9-12

Co-Teaching

Co-teaching is offered in various academic courses throughout the High School program of studies. Each year, special educators co-teach in two high school academic courses (e.g. mathematics, science, English, history). Classes are integrated with students on IEPs and typical learners. Students are provided with additional scaffolding and increased individualization due to the support of two teachers.

Skills Center

The Skills Center program provides specialized instruction to eligible students who require varying degrees of skill development and academic support. The goal of the Skills Center is to assist students to become independent learners in the regular education setting. Students are fully enrolled in mainstream classes and attend Skills Center sessions in lieu of study halls.

Students attending the Skills Center receive small group remedial instruction. The time spent in Skills varies for each student. Skills Center staff work collaboratively with regular education teachers to individualize or supplement the curriculum to meet the needs of students. Areas of emphasis are reading comprehension, written expression, mathematics, and study skills such as note taking, outlining, report writing and test preparation. As students progress in the High School curriculum Skills Center sessions may decrease, as students become more independent learners.

As part of the Skills Center program special education staff offers support in many regular education classrooms. By participating in mainstream classrooms Skills Center staff is better able to provide specific curriculum support in the Skills Center sessions.

GOAL Program

The GOAL (Getting Organized for Academics and Life) Program provides a life skills curriculum for High School students in grades 9-12 who have intellectual disabilities. This program helps to prepare students for independent living with a focus on meal preparation, consumer math, and community awareness, use of public transportation, social skills, and activities of daily living. Students also participate in mainstreamed high school classes, as determined by their IEP Teams. Currently this program has two students attending from the Wayland Public Schools on a tuition status.

Collaborative and Private Special Education Programs

Students with severe disabilities, who cannot be educated in Weston Public Schools even with the provision of supplementary aids and services, are served in special education programs located outside of the Weston Public Schools. This population of students may attend Collaboratives, private day school, or residential programs. The Weston Public Schools is currently a member of the EDCO Collaborative. Currently we do not have any students participating in an EDCO Collaborative program. An out-of-district Placement Specialist closely monitors each student attending an out-of-district school. This Specialist is actively involved in the re-integration process as out-of-district students transition back into Weston Public Schools.

Inclusion Program: Students aged 3 years to 22 years

Weston Public Schools continues to develop and implement educational programs for children with severe disabilities. Students in Weston's inclusion program receive specialized instruction throughout their day from inclusion tutors who are supervised by special educators and the classroom teachers. Some students with severe special needs have one-to-one tutors, while other students share tutors, depending upon the students' individual needs and the nature of their disabilities. Instructional and curricular modifications are implemented to accommodate the students' disabilities. Teachers and tutors structure the school day around the students' needs, although the students' day is quite similar to their classmates as they enjoy a typical school experience. Students with intensive special needs are achieving success and progressing as a result of their individually designed educational programs, specialized instruction, and full or partial participation in regular education classroom

Technology

In Weston, children with disabilities are deriving great benefit from adaptive technology, particularly in the areas of new computer hardware and software. Currently, 15 children with severe disabilities utilize some form of adaptive technology. WEEFC grants are utilized to expand the adaptive technology options available to students with severe disabilities. The Teacher of Inclusion works with outside consultants (e.g. Schools With Adaptive Technology) to ensure that Weston is on the cutting edge in terms of technology for students with severe disabilities. Consultants with expertise in the area of adaptive technology regularly visit Weston classrooms, observe and assess children working with adaptive technology, and make recommendations to improve the children's performance. These consultants also train occupational therapists, speech and language teachers, and tutors to utilize adaptive technology and accompanying software. Students' access to the general education curriculum is enhanced by hardware such as adapted keyboards, Braille printers, and touch screen monitors. Additionally, children are learning to use a wide-array of software to expand their opportunities to access the general education curriculum.

Section III

Participation of disabled Students in MCAS

Participation of students with disabilities in state and local testing programs is determined by the IEP Team. It is the policy of the Weston Public Schools that every student with disabilities will be afforded the right to participate in all state and local testing programs. This mandate of universal participation ensures that students with disabilities have access to the general education curriculum and the learning standards established by the school system in concert with the Massachusetts Curriculum Frameworks.

The specific provisions for testing accommodations or alternative assessment are also determined by the student's IEP Team. Guidance is provided to the Team via DESE advisories addressing standard and non-standard testing accommodations as well as through the Massachusetts Department of Elementary and Secondary Education "Educator's Manual for MCAS-Alternative". Every effort is made to ensure that each disabled student has the opportunity to be tested in the same manner as his/her non-disabled peers. Testing accommodations or alternative testing is only utilized to ensure equal access and non-discrimination due to the existence of a disability.

Students placed outside of the district in Massachusetts approved private schools or in Collaboratives are subject to the same rules and regulations as students who attend the Weston Public Schools. The SPED Placement Specialists, who monitors out-of-district placements, is responsible for ensuring that the student's IEP adequately addresses the testing issues based on disability and identified grade level. She also works closely with the Office of Curriculum and Instruction to ensure that all of Weston's out-of-district students participate in MCAS and have results placed on file. Parent notification is also a major focus of Weston's reporting system for all students, including those who attend school outside of the district.

For guidance regarding the method of determining any needed testing accommodations and/or alternate assessment for disabled students please see the attached Special Education Advisories. (Administrative Advisory SPED 2002-4-Revised and Advisory SPED 2004-2-AYP and Students with Disabilities.)

Special Education

Administrative Advisory SPED 2004-2: AYP and Students with Disabilities

To: Special Education Administrators, Charter School Leaders, and Other Interested Parties

From: Marcia Mittnacht
State Director of Special Education

Date: December 26, 2003

The recent release of "Mid-cycle AYP Determinations" for Massachusetts schools and districts has prompted a renewed discussion of the implications of *No Child Left Behind* (NCLB), and the complexity of serving students with disabilities. A central goal of NCLB is for all students to attain proficiency in English language arts (ELA) and mathematics by the year 2014. Schools and districts are expected to meet specific annual performance goals and to demonstrate *Adequate Yearly Progress* (AYP) for all student subgroups, including students with disabilities.

Generally: AYP determinations, made separately for ELA and mathematics, are based on meeting targeted goals in each of the following areas:

- MCAS participation rates
- MCAS performance (standard form tests and MCAS Alternate Assessments)
- Changes in MCAS performance results compared to prior years
- Attendance rates for elementary and middle schools and for districts, and graduation rates (competency determination attainment rates until 2006) for high schools.

This advisory will focus on the MCAS performance aspect of AYP for students with disabilities and some of the unique features in the law that may affect AYP for your school or district.

Other informational materials related to the 2003 mid-cycle AYP determinations for schools and districts are available on the ESE website at: <http://www.doe.mass.edu/sda/ayp/cycleIII/mid/>

The "1% Rule"

On December 9, 2003, the federal government released final regulations related to inclusion of students with *significant cognitive disabilities* (SWCDs) in the calculation of school and district AYP determinations. This new rule allows the state to accommodate SWCDs in their AYP calculations by setting different performance expectations for up to 1% of the student population.

The achievement of SWCDs must continue to reflect challenging academic goals that are aligned with the same goals that we hold for "typical" students. Massachusetts accomplishes this through the

MCAS Alternate Assessment program (MCAS-Alt) and the alignment of the MCAS-Alt with state learning standards.¹

The MCAS-Alt Index

In calculating AYP, schools and districts are awarded points based on each student's MCAS results in a given content area. Massachusetts has developed an alternate "index" for the awarding of points for students taking MCAS-Alt that parallels the index for students taking standard MCAS tests. The two tables below show the comparable award of points for students taking the standard MCAS tests and the MCAS-Alt for the purposes of calculating AYP in relation to performance. The MCAS-Alt index will allow schools to receive recognition for the progress and achievements of SWCDs, even if these students do not reach "proficiency" as defined for a typical student.

At this time, all SWCDs performing at the Awareness, Emerging, and Progressing performance levels on the alternate assessment are considered eligible to be included in the alternate award of points described in Table 2. For district level calculations, when the number of students achieving these performance levels exceeds 1% of the district population, calculations for AYP will be adjusted. District level calculations may reflect up to a maximum of 1% of the district population using the MCAS-Alt Index, with the remainder awarded points according to the MCAS Index shown in Table 1.²

Table 1: MCAS Proficiency Index

For students taking standard MCAS tests (and MCAS-Alt for students who do <i>not</i> have significant cognitive disabilities)	
MCAS SCALED SCORE (or MCAS-Alt equivalent)	POINTS AWARDED
<i>Failing/Warning - Low</i>	0
<i>Failing/Warning - High</i>	25
<i>Needs Improvement - Low</i>	50
<i>Needs Improvement - High</i>	75
<i>Proficient/Advanced</i>	100

Table 2: MCAS-Alt Index

For students with significant cognitive disabilities taking MCAS-Alt (up to 1% of all assessed students in a district)	
MCAS-ALT SCORE	POINTS AWARDED
Portfolio not submitted	0
<i>Incomplete</i>	25
<i>Awareness</i>	50
<i>Emerging</i>	75
<i>Progressing</i>	100

Point totals are reflected in a *Composite Performance Index (CPI)* for each school and district using indices shown in Tables 1 and 2. A school's or district's *Composite Performance Index* is calculated by:

1. determining the number of students who took either the standard **MCAS test** or **MCAS-Alt**, and those who took MCAS-Alt considered to be SWCDs, up to 1% of the district's student population;
2. multiplying the number of students who took each assessment by the number of points associated with each performance level in the corresponding proficiency index (Table 1 or 2 above);
3. adding together the point totals from step two, then dividing that sum by the total number of students assessed through both standard MCAS tests and the MCAS-Alt.

The result is a number between 0 and 100 that constitutes the school's or district's *Composite Performance Index*.

The federal "1% rule" allowing states to include SWCDs in making local AYP determinations, and to recognize the progress and performance of these students, represents a significant policy shift for Massachusetts. Previously, students taking the MCAS-Alt and performing at the levels reflected in Table 2 had been counted only as *Warning/Failing* in the state's accountability system. It is our belief that this policy and the flexibility for calculating AYP will ensure that schools are appropriately acknowledged for their efforts on behalf of SWCDs, as well as continuing to ensure high standards and high expectations for all students.

We hope this information is helpful. Additional information on NCLB and AYP can be found on the Department's website at: <http://www.doe.mass.edu/nclb/>

Thank you in advance for your careful reading of this advisory and for ensuring that students with disabilities receive appropriate services.

¹ The Department publication titled the *Resource Guide to the Massachusetts Curriculum Frameworks for Students with Significant Disabilities (2001)* has been widely disseminated in Massachusetts, and outlines a "continuum of learning" along which students can address the state's learning standards at appropriately challenging levels.

² The US Department of Education has placed a **1% cap on the number of students in each district (though not in individual schools) that can be counted for AYP using the "MCAS-Alt Index"** (shown in Table 2). The 1% cap does not restrict the number of students who can take the MCAS-Alt, as determined by their IEP Teams. The MCAS-Alt Index does not apply to students who are able to demonstrate at or above grade level using the alternate assessment, or to students who do not appear to have disabilities affecting their cognitive skills.

last updated: December 26, 2003

Special Education

Administrative Advisory SPED 2002-4 - REVISED: Special Education Students in Out-of-District Placements - Participation in MCAS Testing and High School Graduation Standards

To: Superintendents, Charter School Leaders, Special Education Administrators, Directors of Educational Collaboratives, Directors of Approved Public and Private Special Education Schools and other Interested Parties

From: David P. Driscoll, Commissioner of Education

Date: October 7, 2002

This advisory relates to all Massachusetts students who are receiving a publicly funded education in an out-of-district day or residential school, having been placed in the school by a Massachusetts school district under the special education law. The purpose of this advisory is to clarify the responsibility for these students' participation in the MCAS (Massachusetts Comprehensive Assessment System) testing program and the standards for award of a high school diploma starting with the class of 2003.

Participation in the MCAS Assessment Program

All publicly funded students at the grade levels being tested, including students in charter schools, in institutional school programs, in educational Collaboratives and in private special education schools, participate in the MCAS program. This requirement of universal participation ensures that all students will have the opportunity to learn the material covered by the academic learning standards in the Massachusetts curriculum frameworks.

The Department of Elementary and Secondary Education has made an effort to identify all schools, including those out of state, that are providing publicly funded education to Massachusetts students, so that the students may be included in the MCAS program. The Department of Elementary and Secondary Education asks Massachusetts school districts to identify the students they have placed in out-of-district programs and the location of the programs. The Department then arranges for the out-of-district schools to receive testing materials and administer the MCAS tests.

Beginning in FY 2001, the MCAS test results for students in out-of-district programs have been included in the results for the sending Massachusetts school districts as well as provided to each out-of-district program. In accordance with the Special Education Regulations, 603 CMR 28.06(3) and 28.09, the sending school district is responsible for ensuring that each student it has placed in an out-of-district program participates in MCAS, as follows:

1. The school district monitors the provision of services to and the programs of individual students placed out-of-district. 603 CMR 28.06(3)(b).
2. The school district enters into a written contract with each out-of-district placement to ensure that the student(s) the school district has placed in the program receive all appropriate services, including assessment services. 603 CMR 28.06(3)(f).

3. Day and residential school programs approved by the Department under 603 CMR 28.09 are required to have "written procedures outlining how such schools will ensure that enrolled students also participate in state assessment programs in accordance with the assessment participation information provided on the student's IEP." 603 CMR 28.09(9)(d). The sending school district may obtain a copy of the school's written procedures for student assessment.
4. The school district's authority and responsibility covers not only approved day and residential special education schools, but also unapproved programs for which the district has met the requirements of 603 CMR 28.06(3)(e) for placement of publicly funded students. The district may choose to delegate the task of ensuring participation in the MCAS program to the unapproved program using the written contract required under 603 CMR 28.06(3)(f).

Award of the High School Diploma

Under the special education law, a student with a disability who requires special education is entitled to receive publicly funded special education until s/he turns twenty-two or "attains a high school diploma or its equivalent," whichever comes first. General Laws c. 71B, s.1. Starting with the high school graduating class of 2003, satisfaction of the requirements of the competency determination - performance at the level of 220 or better on the grade 10 MCAS in English language arts and mathematics - is a condition for high school graduation or receipt of a high school diploma. General Laws c. 69, s. 1D. These two laws provide the framework for the award of the high school diploma to students who are receiving publicly funded education in an out-of-district special education program, as follows:

1. At least one year in advance of a probable graduation date, the sending public school district has the responsibility to convene a Team meeting for annual review of the IEP. At this meeting, the public school must indicate whether the student is expected to meet high school graduation standards and communicate the likelihood of graduation to the parent at the meeting and in the IEP that is proposed for the student. For students in out-of-district placements, the Team meeting at which this discussion takes place should include a representative of the out-of-district program so that there is a common understanding among the public school, the out-of-district program, the parent, and the student, of the likelihood of graduation.
2. The standards for award of the high school diploma include requirements set by the district and state standards including, as of 2003, the competency determination standard. However, by choosing to send a student to an out-of-district program, the public school district is accepting the out-of-district program as sufficient to meet local requirements that are necessary for graduation in addition to the competency determination.
3. For programs approved by the Massachusetts Department of Elementary and Secondary Education in accordance with 603 CMR 28.09 (the "approved" private and public day and residential programs), the sending public school district shall assume that the approved special education school has aligned the school curriculum with the state curriculum frameworks consistent with 603 CMR 28.09(9)(b).
4. For unapproved programs, the sending public school district is responsible to ensure that the curricular program of the unapproved school is sufficient to allow the student to make effective progress toward Massachusetts state standards.
5. Beginning with the high school graduating class of 2003, the granting of a "high school diploma" for students served in out-of-district placements signifies, at a minimum, the

successful completion of the state competency determination through the MCAS grade 10 testing program in English language arts and mathematics.

6. All students who receive a publicly funded special education program must be provided with an opportunity to participate in the MCAS testing program (or alternate assessment) according to the federal special education law and MCAS administration guidelines published by the Department of Elementary and Secondary Education.
7. As in the past, any school, including a public school, an educational collaborative, a private special education school, or other out-of-district education agency may issue a *certificate* to a publicly funded student. The certificate may recognize achievement, attendance, course completion, or participation.
8. A publicly funded student who receives a certificate from a private special education school or other out-of-district education program in 2003 or thereafter, but who has not received a high school diploma or its equivalent, is entitled to continue receiving publicly funded special education services as long as the student continues to meet the eligibility criteria for such services. The right to continued services ends when the student turns 22 or receives a high school diploma or its equivalent, whichever comes first.
9. Beginning with the high school graduating class of 2003, a certificate issued to a publicly funded student by an out-of-district program may only be called a "diploma" and indicate "high school graduation" **if** the student has met the state MCAS competency determination standard.
 - a. In these circumstances, either the sending school district or the out-of-district program, or both jointly, may award a high school diploma to the student.
 - b. If the high school diploma is awarded by the out-of-district program, then the diploma shall indicate that the student has met state standards for high school graduation, and that the diploma is awarded "by the [Name of out-of-district School or Program,] according to the standards of the Commonwealth of Massachusetts."
 - c. A student who earns the high school diploma from the out-of-district placement is also entitled, upon request, to receive a diploma from the sending school district indicating that the student met state and local graduation standards under the auspices of the school district.

In closing, we hope this information is helpful to public and private special education school administrators in ensuring that local practices are consistent with requirements for the participation in MCAS testing and high school graduation standards for eligible students with disabilities. If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700). Thank you for your attention to this memorandum and for assuring that students with disabilities receive appropriate services.

last updated: October 7, 2002

Screening

Kindergarten Screening:

Kindergarten children are screened by their classroom teachers during the third or fourth week of school. The instrument used is the Early Screening Inventory – Revised. Each classroom teacher then meets with the Special Services Team (SST) to review and discuss children who require some monitoring or assistance. The Early Childhood Coordinator attends the review meetings to provide any information available from the children's' preschool years including IEP services, pre-referral activities, screenings or observations. The Team develops pre-referral plans for those children as needed and follows-up in weekly SST meetings.

Preschool Screening:

Preschool screening is available from October through April as requested by parents. While a pediatrician, preschool teacher, family member or friend may suggest a screening, the process is only initiated at the formal request of the parent. They typically call the Early Childhood Coordinator who does a phone intake and sends out a release form and a developmental questionnaire. Once returned, she visits the child in his/her preschool (or in his/her normal environment) just to observe and talk with caregivers about their observations. Parents then bring their youngster to the public preschool area for 1:1 half-hour formal screening activities during which time parents are invited to stay. If it is believed that this would not be effective, the screening may take place in the child's home or preschool.

The parents schedule a time to meet with the Coordinator to review the findings of the screening process. During this meeting, information gathered from family, the child's preschool, observations and formal screening are brought together to help decide on a course of action.

Outcomes include:

- The youngster is within normal range, but we take the time to understand what we learned about his/her learning style and to appreciate and enjoy him/her. If there were areas of vulnerability, we talk about how to know when to worry and give home activities to support development.
- If weaknesses are apparent, but the youngster is not eligible, home activities may be given and a follow-up appointment is scheduled. We would also offer to consult to the child's preschool program.
- Pre-referral activities could include a bit more diagnostic work in a particular area and/or "skills" groups for a limited time to see how things progress. Additionally, the family and preschool are offered consultation services. Sometimes the Coordinator will schedule a few visits to work in the preschool to assess additional modifications/strategies/services.
- In addition to consultation, we may decide it is time to evaluate, with the written consent of the family.

Kindergarten Screening

Screen Date
Teacher
Review Date

Total # Weston
Total # Boston

Child Information	Screening Results	Comments	Action/Recommendation
Name: DOB: Age: ____yrs. ____mos.	_Ok _Teacher Monitor _Observe/Follow-up Entered with: _IEP _504 Overall Score:		
Name: DOB: Age: ____yrs. ____mos.	_Ok _Teacher Monitor _Observe/Follow-up Entered with: _IEP _504 Overall Score:		
Name: DOB: Age: ____yrs. ____mos.	_Ok _Teacher Monitor _Observe/Follow-up Entered with: _IEP _504 Overall Score:		
Name: DOB: Age: ____yrs. ____mos.	_Ok _Teacher Monitor _Observe/Follow-up Entered with: _IEP _504 Overall Score:		

**Office of Special Education
Weston Public Schools**

**Preschool Screening and Referral Form
Page 1**

I give permission for my child to participate in the Preschool Screening Program. I understand that I will be contacted regarding scheduling the screening.

Parent Signature and Date

Child's Name: First Middle Last Date of Birth: _____
Child's Race: _____ City of Birth: _____
Home Address: _____ Home tel. #: _____
Email: _____

1. What are your concerns regarding your child's development?

2. Do you have specific questions you would like answered? If so, what are they?

3. Does your child attend preschool now? __Yes __No
If so, where? School name and address:

School tel. #: _____ Teacher's name: _____

Weston Public Schools has my permission to share information with my child's nursery school.
____ Yes ____ No

**Preschool Referral Form
Page 2**

Child attends preschool:	Days	Times
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____

Parent Information:	Parent	Parent
First Name:	_____	_____
Occupation:	_____	_____
Place of Work:	_____	_____
Work tel. #:	_____	_____
Highest grade Completed:	7 or less, 8, 9, 10, 11, 12	7 or less, 8, 9, 10, 11, 12
(Circle)	College: 1, 2, 3, 4, more	College: 1, 2, 3, 4, more
Marital Status:	married, separated, divorced	married, separated, divorced
(Circle)	widowed, partners	widowed, partners

Child's status in the family: (circle)
 Oldest Middle Youngest Only

List the names and ages of all your children:

First Name	Age	First Name	Age
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Do any of your children have difficulty in school? Yes No

If yes, please complete the information below:

Child's Name	Grade	Nature of Difficulty
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Preschool Referral Form
Page 3

Have you or any family member or close relative had significant difficulty in school?
___ Yes ___ No. If yes, please complete the information below.

Name/Relationship	Nature of Difficulty
_____	_____
_____	_____
_____	_____
_____	_____

Health History Survey

Has your child received all immunizations specified for his/her age? (see list)
___ Yes ___ No

Recommended Age / Immunizations

2 months	Diphtheria/pertussis/tetanus (DPT), oral polio
4 months	DPT, oral polio
6 months	DPT
15 months	Measles/mumps/rubella (MMR)
15-18 months	DPT, oral polio
18 months	Haemophilus influenza type B (Hb)
4-6 years	DPT, oral polio

Has your child received a TB (tuberculosis) skin test? ___ Yes ___ No

Has your child had the following illnesses?

Chicken Pox ___ Red or hard measles ___
German or three-day measles ___ Other: _____

Has your child's vision been checked? ___ Yes ___ No

When? _____ By whom? _____

Do they use glasses or corrective lenses? ___ Yes ___ No

Has your child's hearing been checked? ___ Yes ___ No

When? _____ By whom? _____

Preschool Referral Form
Page 4

Does your child have any of the following health problems?

- Chronic ear infections ___
- Tubes in ears ___
- Hearing aids ___
- Hearing loss ___
- Are there any other hearing problems? ___

If yes, what? _____

- Allergies ___

If yes, what? _____

- Asthma ___
- Heart problems ___

If yes, what? _____

- Epilepsy ___
- Hay fever ___
- Diabetes ___
- Hemophilia (free bleeding) ___
- Rheumatic fever ___
- Cystic fibrosis ___
- Cerebral Palsy ___
- Muscular Dystrophy ___
- Cancer ___

If yes, what type? _____

- Severe reaction to insect bites ___
- Physical disabilities ___

If yes, what? _____

- Neurological Disabilities (e.g. autism, developmental delay) ___

If yes, what? _____

- Other health problems ___

If yes, what? _____

Has your child ever seen, or is your child currently seeing, a medical specialist? (e.g. cardiologist, neurologist) ___

If yes, what type of specialist? _____

Has your child ever been hospitalized? _____

If yes, for what reason? _____

Has your child ever had a serious accident (e.g. broken bones, bad cuts, poisoning)? ___

If yes, what? _____

Has your child been seen by a physician in the last year? ___

Has your child been seen by a dentist in the last year? ___

Preschool Referral Form
Page 5

Does your child now have, or has your child had in the past, any of the following problems?

- Headaches ___
- Problems with eyes (e.g. squinting, crusting lids, wandering eye) ___
- Chronic colds (more than 6 in one year, or a cold lasting more than 3 wks) ___
- Shortness of breath ___
- Severe cough ___
- Throat infection ___
- Ear infection ___
- Tooth pain, cavities, mouth sores ___
- Swollen glands or lumps ___
- Stomach aches ___
- Eating or drinking too much ___
- Eating or drinking too little ___
- Weak urinary system (frequent urinations) ___
- Pain or burning upon urination ___
- Bed wetting ___
- Constipation ___
- Diarrhea ___
- Unusual difficulty standing or walking ___
- Trouble sleeping ___
- Tiring easily ___
- Joint pain ___
- Seizures, convulsions or fits ___
- Bleeding problems (e.g. bruising easily, frequent nose bleeds) ___
- Other: _____

Preschool Referral Form
Page 6

Pregnancy & Delivery

Please answer the following questions about the pregnancy, labor, and delivery of your child.

Did you have difficulties during the pregnancy, labor, or delivery of your child? Yes No
If yes, what? _____

Did you visit a physician or medical clinic during your pregnancy? Yes No

Was your child born at home or at any place other than a hospital or medical clinic? Yes No
If yes, where? _____

Did your child have difficulties at birth or shortly after (e.g. jaundice, breathing problems, infection, high fever, feeding problems)? Yes No
If yes, what? _____

Did your child weigh less than 5 ½ lbs. at birth? Yes No
If yes, how much did your child weigh? _____

Was your child born prematurely? Yes No
If yes, how many weeks? _____

Was your child placed in a neonatal intensive care nursery or high-risk nursery after birth? Yes No
If yes, for how many days? _____

Apgar Scores: at 1 minute _____ at 15 minutes _____

Present Difficulties: Please check all that are appropriate.

Age Onset:

- | | |
|--|-------|
| <input type="checkbox"/> Overactive | _____ |
| <input type="checkbox"/> Eye blinking | _____ |
| <input type="checkbox"/> Short attention span | _____ |
| <input type="checkbox"/> Mood swings | _____ |
| <input type="checkbox"/> Head rocking | _____ |
| <input type="checkbox"/> Head banging | _____ |
| <input type="checkbox"/> Nail biting | _____ |
| <input type="checkbox"/> Always hurts him/herself | _____ |
| <input type="checkbox"/> Unexplained temper tantrums | _____ |
| <input type="checkbox"/> Trips easily | _____ |
| <input type="checkbox"/> Runs into things | _____ |
| <input type="checkbox"/> Afraid of climbing | _____ |

Preschool Referral Form
Page 7

Age Onset:

- Climbs poorly
- No fear of climbing
- Lots of trouble with stairs
- Seems clumsier than others

Sleep Habits: Check all that apply.

- Hardly sleeps
- Never naps
- Up often
- Sleeps restlessly
- Frequent nightmares

Is there any family history of significant medical difficulties? Yes No

If yes, specify: _____

Please check that you have answered every item. Write in the space below any additional comments you have about your child's health history.

Preschool Referral Form
Page 8

Daily Living Skills

Does your child drink from a cup or glass with little spilling? __Yes __No

Can your child take care of all toileting needs including flushing the toilet and washing their hands?
__Yes __No

Can your child take off a front-opening coat, sweater, or skirt? __Yes __No

Can he/she open and close zippers? __Yes __No

Does your child put away toys and clothes in their proper places when asked? __Yes __No

Does your child dress him/herself? __Yes __No

Does your child select the clothes he/she puts on? __Yes __No

Does he/she show understanding that hot things are dangerous? __Yes __No

Does your child like to play with puzzles? __Yes __No

How long can your child play alone? _____, with a friend _____, with a sibling _____ with you

How much TV/video does your child watch each day? _____

Which hand does your child use for pencil or feeding? _____Right _____ Left _____ Both

When your child plays, he/she:

- ____ Needs someone present much of the time or gets into trouble
- ____ Occupies him/herself by finding or doing their own activity
- ____ Gets bored easily in any one activity
- ____ Spends little time in any one activity
- ____ Needs many things to keep occupies

How does your child react to various textures, sounds, or smells?

Preschool Referral Form
Page 9

Motor Skill Development

At what age did your child move in and out of a sitting position? _____

At what age did your child begin to crawl? _____

How would you describe your child's method of crawling?

____ hands and knees

____ scooted on bottom

____ bunny hopped (hitching on bottom)

____ dragged legs, pulling with arms

At what age did your child stand alone for at least one minute? _____

At what age did your child begin walking? _____

At what age did your child begin to run? _____

Can your child jump with two feet together? _____

Does your child walk up stairs alternating feet on the stair treads or placing both feet on each tread before taking the next step? _____

Does your child walk down stairs alternating feet or placing both? _____

Can your child ride a tricycle? _____

Can your child climb on and off equipment such as jungle gyms? _____

Can your child pump his/her feet while on a swing? _____

Can your child hop forward on one foot? _____

Can your child catch a big ball thrown from 5 feet? _____

Does your child feel secure on a slide or jungle gym? _____

Can your child complete a jigsaw puzzle of at least six pieces? _____

Does your child mark with pencils, crayons or chalk on an appropriate writing surface? _____

Can he/she draw at least two recognizable objects such as an animal or a house? _____

Preschool Referral Form
Page 10

Does your child use scissors to cut out complex items such as pictures from a magazine? _____

Communication

What is your child's primary language? _____

Are other languages spoken at home? _____ If so, what? _____

Does your child show an understanding of "yes" and "okay"? _____

Does your child show an understanding of at least 10 words? _____

Does your child like to be read to? _____

_____ Likes this a lot

_____ Just started to like this

_____ Doesn't like it

When did your child begin:

To coo (vowel-like sounds) _____

To babble (consonant-like sounds) _____

Using one word _____

Using two words together _____

Using sentences _____

Does your child talk about his/her experiences in detail; for example, does your child relate what he/she did during the day? _____

Does your child ask questions that begin with "what," "who," "when," "where," and "why?"

Does your child say his/her own first and last names when asked? _____

Does your child repeat short songs, poems, or nursery rhymes? _____

Can your child tell the main parts of a popular story or does he/she ask for certain stories by referring to a character or a general idea? _____

Does your child have difficulty saying words clearly? _____

Preschool Referral Form
Page 11

Is your child understandable to an unfamiliar listener?

_____ 100% of the time

_____ 50% of the time

_____ 75% of the time

_____ not at all

Programs for Young Children Three and Four Years of Age

General Requirements:

1. Weston provides a preschool program in the elementary schools that offers a continuum of services and settings. Most children are served in an inclusive setting with options for modifications as appropriate. We adhere to the Early Childhood Program Standards and the Guidelines for Preschool Learning Experiences. The Preschool Team has developed a packet of goals and objectives based on the preschool learning experiences. We have also developed Standards and Benchmarks accordingly that are posed on the Weston Public Schools website where families can view them.
2. We accept referrals from DPH or other agencies at 2.5 years old or sooner to ensure continuity of services. Transition activities are individualized for each child and family
3. Weston Public Schools is aware that it is possible to use the IDSP if that is the better choice for a child and family. We are more likely to develop an IEP for each child at transition.
4. Children may remain in the preschool program past the time they have turned five, including an additional preschool year (as is common practice in the community programs) if the Team deems this necessary.

Types of Settings:

1. Inclusionary:
 - Home: Weston Public Schools may provide home-based services for part, or all, of a child's program as determined by the Team. We develop goals for the home-based services based on what help the family needs and meet periodically to review
 - Public School: Weston Windows has 4 inclusive classrooms, 2 in each of the lower elementary schools.
 - Each class consists of 15-16 children, 5-6 with disabilities and 10 who are developing typically. Staffing includes a Lead teacher, one tutor and two Aides. There may be other children with disabilities who spend part of their day in a classroom, usually with their own 1:1.
 - There is no Head Start program in Weston
2. Substantially Separate:
 - The preschool operates a fifth space in which we have 4 cubicles for 1:1 direct instruction and a break, or common area. Youngsters who need a significant amount of direct instruction may spend part or all of their day here. They may begin to visit other classrooms for activities in which they can be successful. Pre-teaching each activity before attempting it in the larger classroom allows for a higher success rate and decreased behavioral difficulties. Out-of-district placements may also be used.

**Weston Public Schools
Home Training Agreement**

Name: _____ Date: _____
Teacher: _____ Home Trainer: _____
IEP Chairperson: _____

Objectives:

- 1. _____

- 2. _____

- 3. _____

- 4. _____

Methodology/Evaluation of Progress:

Objective #1:

Objective #2:

Objective #3:

Objective #4:

of Hours Needed: _____ **Anticipated # of Weeks:** _____

Schedule:
Monday: _____
Tuesday: _____
Wednesday: _____
Thursday: _____
Friday: _____

Next meeting date: _____

Signatures:

We agree to participate in the home training sessions:

Parent/Date

Parent/Date

IEP Chairperson/Date

Section V

Transition

Weston Public Schools begins considering transition and future goals for students ages fourteen and older. The course of study for each individual student is discussed and finalized at the IEP meeting. Post-secondary plans, activities, and transition services are discussed annually in great detail beginning with the first IEP in which the student turns fourteen. The IEP Team, with student input, considers the student's needs, interests, preferences, abilities, etc. The transition services and the student's course of study must be directly linked to the vision statement on IEP 1 and the appropriate goals on IEP 4. A state mandated Transition Form is also completed and included in the student's special education file.

For any student approaching graduation or the age of twenty-two, the IEP Team must consider the need for continuing services from adult human service agencies. Special education staff, in collaboration with the Administrator of Special Education, makes a 688 Referral to the Department of Developmental Services (DDS) for all students remaining in school until age twenty-two. Typically, this process is begun at the IEP meeting of the student's eighteenth year. The district also has procedures for providing a summary of the student's academic achievement and functional performance, including recommendations on assisting the student in meeting postsecondary goals, for students whose eligibility terminates because of graduation or because the student ages out. Please see the attached form on page 165.

Follow-up to secure adult services is a critical component of the transition process in order to ensure that each student is receiving the services determined by the adult agency. The IEP Team is required to reconvene if the identified agency fails to meet its obligation. It is the responsibility of the IEP Team to identify alternative strategies to meet the IE transition goals.

Weston also provides transition planning for students who are changing grade levels and /or schools. Students leaving the Early Childhood Program are carefully transitioned into kindergarten. There is also a process for transitioning Weston's primary grade students to the intermediate school for grade 4. Transition planning also occurs between elementary and middle school (grade 5 to 6) and from middle school to high school (grade 8 to 9).

Special Education

Technical Assistance Advisory SPED 2009-1: Transition Planning to Begin at Age 14

To: Middle and High School Principals, Administrators of Special Education, and Other Interested Parties

From: Marcia Mitnacht
State Director of Special Education

Date: September 3, 2008

The purpose of this advisory is to highlight a recent law passed by the Massachusetts Legislature. On August 6, 2008, the Massachusetts Legislature approved Chapter 285 of the Acts of 2008, which amends Section 2 of c.71B (the Massachusetts special education statute) by adding the following paragraph:

Beginning age 14 or sooner if determined appropriate by an individualized education program team, school age children with disabilities shall be entitled to transition services and measurable postsecondary goals, as provided under the federal Individual with Disabilities Education Act, 20 USC sec. 1400, et sec. [1](#)

The transition services that school districts are required to provide under Chapter 285 continue to be defined by the federal IDEA 2004. IDEA 2004 defines transition services as a "coordinated set of activities designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities."[2](#) Under IDEA 2004, transition planning must take place for the student who is 15 years of age and, if needed, the IEP Team must include appropriate goals related to postsecondary training, education, employment, and independent living skills in the student's IEP.[3](#)

However, with the passage of Chapter 285, in Massachusetts **transition planning must now begin when the student is 14 years of age**. Therefore, Massachusetts now requires that beginning when the eligible student is 14, the school district must plan for the student's need for transition services and the school district must document this discussion annually. School districts must use the *Transition Planning Form (28M/9)*[4](#) developed by the Department of Elementary and Secondary Education (Department). If needed, appropriate goals must be reflected in the IEP that is developed for the student who is 14 years of age. The student must be invited to all IEP meetings where the Team discusses the student's transition planning.

The Department has developed a training module[5](#) on the transition planning process that schools may use to assist staff in understanding this process. In particular, middle school staff may find the training module helpful.

The Department expects districts to conduct training as needed and to initiate transition planning for all 14 year olds eligible for special education during the course of the 2008-2009 school year. Therefore, by the end of this school year all students with disabilities aged 14 years or older should have a completed *Transition Planning Form* that will be updated annually. The Department will begin monitoring of transition planning for 14 year olds as of the 2009-2010 school year.

C: Superintendents of Schools Charter School Leaders

12008 Mass. Acts 285 at: <http://www.mass.gov/legis/laws/seslaw08/slo8o285.htm>

234 CFR. § 300.43 (2006).

3See Administrative Advisory SPED 2006-1 at:
http://www.doe.mass.edu/sped/advisories/06_1.html

4See   Transition Planning Form (TPF). For additional information, please see the Transition Planning Guide, available at: http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/iep.html.

5See Module Four at: <http://www.doe.mass.edu/sped/cspd/mod4.html>

TRANSITION PLANNING FORM (TPF)

Massachusetts requires that beginning when the eligible student is 15 for the IEP developed that year, the school district must plan for the student’s need for transition services and the school district must document this discussion annually. This form is to be maintained with the IEP and revisited each year.

Student:	SASID:	Age:
Date form completed:		
Anticipated date of graduation:	Current IEP dates from: _____	to: _____
Anticipated date of 688 referral, if applicable:		

POST-SECONDARY VISION

Write the student’s **POST-SECONDARY VISION** in the box below. In collaboration with the family, consider the student’s preferences and interests, and the desired outcomes for post-secondary education/ training, employment, and adult living. This section should correspond with the vision statement on IEP 1.

DISABILITY RELATED NEEDS

Write the skills (disability related) that require IEP goals and/or related services in the box below. Consider all skills (disability related) necessary for the student to achieve his/her post-secondary vision.

Student: _____

Date form completed: _____

Develop the **ACTION PLAN** needed to achieve the **POST-SECONDARY VISION** by outlining the skills the student needs to develop and the courses, training, and activities in which the student will participate. Include information on who will help the student implement specific steps listed below in the Action Plan.

- **Instruction: Is there a course of study or specific courses needed that will help the student reach his/her post-secondary vision?** *Consider the learning opportunities or skills that the student may need. This could include specific general education courses and/or special education instruction, career and technical education, and/or preparation for post-secondary outcomes such as vocational training or community college.*
- **Employment: Are there employment opportunities and/or specific skills that will help the student reach his/her post-secondary vision?** *Consider options such as part-time employment, supported job placement, service learning projects, participation in work experience program, job shadowing, internships, practice in resume writing/ interviewing skills, the use of a one-stop resource center and job specific skills in areas such as customer service, technology, etc.*
- **Community Experiences/ Post School Adult Living: Are there certain types of community and/or adult living experiences that will help the student reach his/her post-secondary vision?** *Consider options such as participation in community based experiences, learning how to independently access community resources, building social relationships, managing money, understanding health care needs, utilizing transportation options and organizational skills.*

ACTION PLAN

The ACTION PLAN should outline how the student can develop self-determination skills and be prepared both academically and functionally to transition to post-school activities in order to achieve his/her post-secondary vision. Indicate how Special Education/General Education, family members, adult service providers or others in the community will help the student develop the necessary skills. Disability related needs must also be stated on page 1.



Special Education

New Chapter 688 Referral Form



To: Special Education Administrators

From: Marcia Mittnacht, State Director of Special Education

Date: December 7, 2009

The Chapter 688 Referral form has been revised. The new referral form   is available on the ESE website for district use.

School systems must refer all students with severe disabilities, who may be eligible for adult services, through the Chapter 688 referral process. For this reason, use of the new referral form is mandatory and should begin immediately. All previous referral forms should be discarded.

I continue to encourage districts to use "A Guide to Chapter 688: Massachusetts' Transitional Planning" brochure   and the [Chapter 688 page](#) on the Department's website to aid in Team decision making and the referral process.

For more information, call the Bureau of Transitional Planning (BTP) at 617-573-1600.

Last Updated: December 14, 2009

EI Transition Procedures

The Early Childhood Coordinator cultivates a strong and mutually respectful working relationship with the two, primary referring EI providers, Riverside and Thom Charles River. She is in phone contact with the directors and asks them to notify their staff that referrals for children with more intensive needs who will need a program would be better served with earlier referrals and that she is available for early referrals for any family who prefers this service.

In some instances, the case managers contact the Coordinator directly to inform her if a referral is on the way and sometimes the parent calls directly. Once a referral is received, the Coordinator calls the family to let them know the information has arrived and to schedule a home visit and opportunity for them to meet. Typically the first visit is a home with the child's EI case manager. At that time a general transition plan is developed.

Before the child turns three, the Coordinator sees the child several times in different settings, and once the evaluation is formally initiated; other school staff is included as appropriate. Children may also visit the program transitionally, again, as deemed appropriate by the EI providers, family and school staff.

By the time the Team convenes for the IEP, the family appears more comfortable with the Team members, satisfied that the people around the table know their child and that when we say they are a part of the Team, we mean it.

We often accept EI or outside assessments as part of the initial evaluation and find it useful to reconvene the Team once the child has been in school for 6-8 weeks. The family is afforded an early sense of how things are going, the child's teacher and therapists will know the youngster well and we can fine-tune the IEP if needed.

If a family has refused or delayed an EI referral, there may be a gap in services and the child may enter the system through preschool screening and evaluation. When a child is referred late, we make every effort to complete the transition in time to ensure continuity of services with as little disruption as possible.

**Weston
Public Schools**

Weston, Massachusetts 02493 * Tel 781-529-8089
Fax 781-529-8098

Office of Special Education

Dr. Regis C. Miller
Director of Student Services

Dear Student (age 16-21),

You have made the decision to leave school before your anticipated graduation date of ___ and before receipt of a high school diploma. While your attendance at school is completely voluntary, please know that Weston Public Schools remains committed to providing you with an individualized education program to meet your specific needs. You have a right to an individualized education until such time that you turn 22. Specialized instruction, tutorial services, vocational schooling, and work-study programs are options available to you should you choose to remain in or return to school. Please call my office or have your parents do so to discuss these various program options available to you. My phone number is 781-529-8089. I look forward to hearing from you soon.

Sincerely,

Regis C. Miller
Director of Student Services

CC: Student's parents

WESTON

PUBLIC SCHOOLS WESTON, MASSACHUSETTS 02493 • TEL 781-529-8089

FAX 781-529-8098

Dr. REGIS C. MILLER

DIRECTOR OF STUDENT SERVICES

DATE

SAMPLE

Dear Mr. and Mrs.

The district is in receipt of your written request revoking/withholding your consent for your son/daughter, _____, to receive special education and related services pursuant to the IDEA and M.G.L.c.71B. Please be advised that the district intends to honor your request to withdraw _____ from special education services at the end of the school day on _____. Enclosed please find a copy of the notice of procedural safeguards. You should review this information as soon as possible to assist in your understanding of your son/daughter's withdrawal from special education. Should you wish to have a meeting to discuss your decision, the district is willing to hold such a meeting. Additionally, the Department of Elementary and Secondary Education is a useful resource in assisting parents with decisions related to special education. You may contact the Department of Elementary and Secondary Education's special education department at 781-338-3375 or by accessing the website at: <http://www.doe.mas.edu/sped>.

Please be advised that your decision to withdraw _____ from special education means that he/she will now be considered a regular education student for general school district and MCAS purposes. If your son/daughter will be taking MCAS this year, he/she will be considered a regular education student who has exited special education. As a regular education student, _____ will no longer be entitled to the special education procedures and rights afforded to students with disabilities under the IDEA.

Following your revocation of consent for special education and related services, this district is deemed not to have prior knowledge that _____ has a disability for disciplinary purposes. Further, your revocation of consent means that this school district will not be considered in violation of the requirement to make a free and appropriate public education (FAPE) available to your son/daughter due to any failure to provide special education and related services. Under these circumstances, this school district has no further obligation to convene a Team meeting or develop an IEP for your son/daughter.

In the future, should you determine that you would like to reconsider the provision of special education services; a parent referral form has been attached for you to initiate this process. Should you have any further questions about this process, please contact me at _____.

Sincerely,

IEP Chairperson

c: Dr. Regis C. Miller
Enclosures: Parent Referral form
Notice of Procedural Safeguards

Section VI

Weston's Procedure to Monitor the Content and Frequency of Progress Reporting

Progress reports are provided to parents to document their student's progress toward meeting the goals of the IEP. These progress reports are completed as often as progress is reported on regular education students. Thus, progress reports are sent home when report cards are sent home.

Progress report includes information about the student's progress toward attaining the annual goals/benchmarks of the student's IEP. If the goals have not been achieved, determination is made as to whether the student's progress is sufficient to enable the student to achieve the goals by the end of the IEP period.

Parents often request information about their child's progress throughout the school year through telephone conversations with school personnel. School personnel are always willing to accommodate parents by gathering data regarding their student's progress through telephone, email, or Grade Level Team meetings. Thus, parents can contact their student's school at any time to receive progress updates.

Progress Reports (Out of District)

Students with disabilities, who attend out of district placements, receive four progress reports each school year. The SPED Placement Specialist establishes a chart each September, which designates the names of the students, the out of district contact persons, and accompanying phone numbers. When received, progress reports are checked off, carefully reviewed to ensure growth in IEP goals and benchmarks, logged, and filed in each student's SPED folder. Typically, the out of district contact person sends home the parent's copy of the progress report. Follow-up with the outside placement contact person is completed if problems or concerns are noted. The Progress Report chart is carefully monitored on a regular basis and calls to out of district placement person are made if progress reports are delayed or missing.

School District Name:

School District Address:

School District Contact Person/Phone #:

Progress Report on IEP Dated: from _____ to _____

Student Name:

DOB:

ID#:

INFORMATION FROM CURRENT IEP

Goal	Specific Goal
------	---------------

Current Performance Level: *What can the student currently do?*

Measurable Annual Goal: *What challenging, yet attainable, goal can we expect the student to meet by the end on this IEP period? How will we know that the student has reached this goal?*

Benchmarks/Objectives: *What will the student need to do to complete this goal?*

PROGRESS REPORT INFORMATION

Progress Report Date: _____ Progress Report # _____ of _____

Progress Reports are required to be sent to parents at least as often as parents are informed of their nondisabled children's progress. Each progress report must describe the student's progress toward meeting each annual goal.

Use multiple copies of this form as needed.

IEP Implementation and Monitoring

Weston Public Schools is committed to the timely implementation of each special education student's IEP. If there is a delay or interruption of services, the Director of Student Services or the Assistant Director of Student Services will inform the parent in writing and offer compensatory services. Principals, the Director of Student Services, and the Assistant Director of Student Services sign off on each IEP attesting to Weston's commitment to the timely delivery of all special education services.

Should an IEP be accepted in whole, the entire IEP is then implemented upon receipt of consent. Should the IEP be accepted in part, the accepted components are implemented upon receipt of consent, however the IEP is sent into BSEA indicating the rejected components. The IEP chairperson will contact the family to reconvene the IEP Team to discuss the rejected components to see if a resolution can be made.

According to federal requirements, the school district must have an IEP in effect for each eligible student at the beginning of each school year.

Regular educators and all SPED service providers have copies of student's IEP's and/or daily access to them. Each school has a SPED office supported by an SST Aide, who is able to make IEP's and assessments readily available to staff. Confidentiality is carefully monitored and the Log of Access inside each SPED student's folder must be signed at all times.

IEP implementation is monitored by each chairperson and all service providers must write regularly scheduled progress reports to be sent to parents. Communication among all Team members is frequent and well documented. Weekly SST meetings, attended by both regular and special education personnel, are held to discuss students' needs. It is usually during this time that problems with student progress and /or IEP implementation would be discussed and remedied.

IEP Implementation, Accountability and Financial Responsibility

The district ensures that all IEP's, in-district and out-of-district, are fully implemented upon parent consent. A good faith effort is made to assist the student in achieving the goals and benchmarks of his/her IEP without expense to the student's program. However, if a student is referred to a local neurologist for an evaluation that the parents have consented to, the chairperson or Special education Administrator will ask the parents to access their private insurance for this service. If their private insurance does not cover this service, or the parents are reluctant to contact their insurance provider, the district will provide this service at no expense to the parents.

Procedure for the Evaluation of Special Education Programs and Services

Special education programs and services are evaluated on a regular basis to determine their effectiveness. The focus of these programs is to assist students with identified disabilities to achieve the goals of their IEP's in the least restrictive environment. The district uses information gathered at annual IEP review meetings, three-year reevaluation meetings and through supervised observations of teachers and tutors to measure the effectiveness of special education programs and identify programs, services and administrative areas that need improvement or need further development. As an additional evaluation method, the district reviews students' local and statewide testing results (e.g. MCAS and ERB testing), drop-out rates and graduation rates for special education students.

Section VII

Confidentiality of Personally Identifiable Information

Weston Public Schools protects the confidentiality of any personally identifiable information that is collected, used, or maintained in accordance with federal and state law. Specifically, the principal of each school insures that student records are under her/his supervision are kept physically secure, that authorized school personnel are informed of student and record issues of confidentiality, and that personnel are educated as to the importance of privacy and confidentiality. Additionally, Weston's web-based computerized IEP system is electronically secure.

Transfer of Student Records

Weston Public Schools recognizes the importance of obtaining/sending the school records of children who are transferring to new school districts. Our district makes every effort to obtain the school records, including the IEPs of children transferring to Weston Public Schools. Similarly, for students transferring to districts outside of the Commonwealth, Weston promptly responds to any requests for records from the receiving school district.

Education Laws and Regulations

603 CMR 23.00 Student Records

Section:

- [23.01:](#) Application of Rights
 - [23.02:](#) Definition of Terms
 - [23.03:](#) Collection of Data: Limitations and Requirements
 - [23.04:](#) Personal Files of School Employees
 - [23.05:](#) Privacy and Security of Student Records
 - [23.06:](#) Destruction of Student Records
 - [23.07:](#) Access to Student Records
 - [23.08:](#) Amending the Student Record
 - [23.09:](#) Appeals
 - [23.10:](#) Notification
 - [23.11:](#) Monitoring
 - [23.12:](#) Severance Clause
- [View All Sections](#)

Most Recently Amended by the Board of Education: August 15, 2006

23.01: Application of Rights

603 CMR 23.00 is promulgated to insure parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records and to assist local school systems in adhering to the law. 603 CMR 23.00 should be liberally construed for these purposes.

- (1) These rights shall be the rights of the student upon reaching 14 years of age or upon entering the ninth grade, whichever comes first. If a student is under the age of 14 and has not yet entered the ninth grade, these rights shall belong to the student's parent.
- (2) If a student is from 14 through 17 years of age or has entered the ninth grade, both the student and his/her parent, or either one acting alone, shall exercise these rights.
- (3) If a student is 18 years of age or older, he/she alone shall exercise these rights, subject to the following. The parent may continue to exercise the rights until expressly limited by such student. Such student may limit the rights and provisions of 603 CMR 23.00 which extend to his/her parent, except the right to inspect the student record, by making such request in writing to the school principal or superintendent of schools who shall honor such request and retain a copy of it in the student record. Pursuant to M.G.L. c. 71, section 34E, the parent of a student may inspect the student record regardless of the student's age.
- (4) Notwithstanding 603 CMR 23.01(1) and 23.01(2), nothing shall be construed to mean that a school committee cannot extend the provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered the ninth grade.

23.02: Definition of Terms

The various terms as used in 603 CMR 23.00 are defined below:

Access shall mean inspection or copying of a student record, in whole or in part.

Authorized school personnel shall consist of three groups:

- (a) School administrators, teachers, counselors and other professionals who are employed by the school committee or who are providing services to the student under an agreement between the school committee and a service provider, and who are working directly with the student in an administrative, teaching counseling, and/or diagnostic capacity. Any such personnel who are not employed directly by the school committee shall have access only to the student record information that is required for them to perform their duties.
- (b) Administrative office staff and clerical personnel, including operators of data processing equipment or equipment that produces microfilm/microfiche, who are either employed by the school committee or are employed under a school committee service contract, and whose duties require them to have access to student records for purposes of processing information for the student record. Such personnel shall have access only to the student record information that is required for them to perform their duties.
- (c) The Evaluation Team which evaluates a student.

Eligible student shall mean any student who is 14 years of age or older or who has entered 9th grade, unless the school committee acting pursuant to 603 CMR 23.01(4) extends the rights and provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered 9th grade.

Evaluation Team shall mean the team which evaluates school-age children pursuant to M.G.L. c. 71B (St. 1972, c. 766) and 603 CMR 28.00.

Parent shall mean a student's father or mother, or guardian, or person or agency legally authorized to act on behalf of the student in place of or in conjunction with the father, mother, or guardian. Any parent who by court order does not have physical custody of the student, is considered a non-custodial parent for purposes of M.G.L. c. 71, § 34H and 603 CMR 23.00. This includes parents who by court order do not reside with or supervise the student, even for short periods of time.

Release shall mean the oral or written disclosure, in whole or in part, of information in a student record.

School-age child with special needs shall have the same definition as that given in M.G.L. c. 71B (St. 1972, c. 766) and 603 CMR 28.00.

School committee shall include a school committee, a board of trustees of a charter school, a board of trustees of a vocational-technical school, a board of directors of an educational collaborative and the governing body of an M.G.L. c. 71B (Chapter 766) approved private school.

Student shall mean any person enrolled or formerly enrolled in a public elementary or secondary school or any person age three or older about whom a school committee maintains information. The term as used in 603 CMR 23.00 shall not include a person about whom a school committee maintains information relative only to that person's employment by the school committee.

The student record shall consist of the transcript and the temporary record, including all information recording and computer tapes, microfilm, microfiche, or any other materials regardless of physical form or characteristics concerning a student that is organized on the basis of the student's name or in a way that such student may be individually identified, and that is kept by the public schools of the Commonwealth. The term as used in 603 CMR 23.00 shall mean all such information and materials regardless of where they are located, except for the information and materials specifically exempted by 603 CMR 23.04.

The temporary record shall consist of all the information in the student record which is not contained in the transcript. This information clearly shall be of importance to the educational process. Such information may include standardized test results, class rank (when applicable), extracurricular activities, and evaluations by teachers, counselors, and other school staff.

Third party shall mean any person or private or public agency, authority, or organization other than the eligible student, his/her parent, or authorized school personnel.

The transcript shall contain administrative records that constitute the minimum data necessary to reflect the student's educational progress and to operate the educational system. These data shall be limited to the name, address, and phone number of the student; his/ her birthdate; name, address, and phone number of the parent or guardian; course titles, grades (or the equivalent when grades are not applicable), course credit, grade level completed, and the year completed.

23.03: Collection of Data: Limitations and Requirements

All information and data contained in or added to the student record shall be limited to information relevant to the educational needs of the student. Information and data added to the temporary record shall include the name, signature, and position of the person who is the source of the information, and the date of entry into the record. Standardized group test results that are added to the temporary record need only include the name of the test and/or publisher, and date of testing.

23.04: Personal Files of School Employees

The term student record does not include notes, memory aids and other similar information that is maintained in the personal files of a school employee and is not accessible or revealed to authorized school personnel or any third party. Such information may be shared with the student, parent or a temporary substitute of the maker of the record, but if it is released to authorized school personnel it becomes part of the student record subject to all the provisions of 603 CMR 23.00.

23.05: Privacy and Security of Student Records

- (1) The school principal or his/her designee shall be responsible for the privacy and security of all student records maintained in the school.
- (2) The superintendent of schools or his/her designee shall be responsible for the privacy and security of all student records that are not under the supervision of a school principal, for example, former students' transcripts stored in the school department's central administrative offices or student records of school-age children with special needs who have not been enrolled in a public school.
- (3) The principal and superintendent of schools shall insure that student records under their supervision are kept physically secure, that authorized school personnel are informed of the provisions of 603 CMR 23.00 and M.G.L. c. 71, § 34H and are educated as to the importance of information privacy and confidentiality; and that any computerized systems employed are electronically secure.

23.06: Destruction of Student Records

- (1) The student's transcript shall be maintained by the school department and may only be destroyed 60 years following his/her graduation, transfer, or withdrawal from the school system.
- (2) During the time a student is enrolled in a school, the principal or his/her designee shall periodically review and destroy misleading, outdated, or irrelevant information contained in the temporary record provided that the eligible student and his/her parent are notified in writing and are given opportunity to receive the information or a copy of it prior to its destruction. A copy of such notice shall be placed in the temporary record.
- (3) The temporary record of any student enrolled on or after the effective date of 603 CMR 23.00 shall be destroyed no later than seven years after the student transfers, graduates, or withdraws from the school system. Written notice to the eligible student and his/her parent of the approximate date of destruction of the record and their right to receive the information in whole or in part, shall be made at the time of such transfer, graduation, or withdrawal. Such notice shall be in addition to the routine information letter required by 603 CMR 23.10.

(4) In accordance with M.G.L. c 71, section 87, the score of any group intelligence test administered to a student enrolled in a public school shall be removed from the record of said student at the end of the school year in which such test was so administered.

23.07: Access to Student Records

(1) **Log of Access.** A log shall be kept as part of each student's record. If parts of the student record are separately located, a separate log shall be kept with each part. The log shall indicate all persons who have obtained access to the student record, stating: the name, position and signature of the person releasing the information; the name, position and, if a third party, the affiliation if any, of the person who is to receive the information; the date of access; the parts of the record to which access was obtained; and the purpose of such access. Unless student record information is to be deleted or released, this log requirement shall not apply to:

- (a) authorized school personnel under 603 CMR 23.02(9)(a) who inspect the student record;
- (b) administrative office staff and clerical personnel under 603 CMR 23.02(9)(b), who add information to or obtain access to the student record; and
- (c) school nurses who inspect the student health record.

(2) **Access of Eligible Students and Parents.** The eligible student or the parent, subject to the provisions of 603 CMR 23.07 (5), shall have access to the student record. Access shall be provided as soon as practicable and within ten days after the initial request, except in the case of non-custodial parents as provided in 603 CMR 23.07 (5). Upon request for access, the entire student record regardless of the physical location of its parts shall be made available.

- (a) Upon request, copies of any information contained in the student record shall be furnished to the eligible student or the parent. A reasonable fee, not to exceed the cost of reproduction, may be charged. However, a fee may not be charged if to do so would effectively prevent the parents or eligible student from exercising their right, under federal law, to inspect and review the records.
- (b) Any student, regardless of age, shall have the right pursuant to M.G.L. c. 71, section 34A to receive a copy of his/her transcript.
- (c) The eligible student or the parent shall have the right upon request to meet with professionally qualified school personnel and to have any of the contents of the student record interpreted.
- (d) The eligible student or the parent may have the student record inspected or interpreted by a third party of their choice. Such third party shall present specific written consent of the eligible student or parent, prior to gaining access to the student record.

(3) **Access of Authorized School Personnel.** Subject to 603 CMR 23.00, authorized school personnel shall have access to the student records of students to whom they are providing services, when such access is required in the performance of their official duties. The consent of the eligible student or parent shall not be necessary.

(4) Access of Third Parties. Except for the provisions of 603 CMR 23.07(4)(a) through 23.07(4)(h), no third party shall have access to information in or from a student record without the specific, informed written consent of the eligible student or the parent. When granting consent, the eligible student or parent shall have the right to designate which parts of the student record shall be released to the third party. A copy of such consent shall be retained by the eligible student or parent and a duplicate placed in the temporary record. Except for information described in 603 CMR 23.07(4)(a), personally identifiable information from a student record shall only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent.

(a) A school may release the following directory information: a student's name, address, telephone listing, date and place of birth, major field of study, dates of attendance, weight and height of members of athletic teams, class, participation in officially recognized activities and sports, degrees, honors and awards, and post-high school plans without the consent of the eligible student or parent; provided that the school gives public notice of the types of information it may release under 603 CMR 23.07 and allows eligible students and parents a reasonable time after such notice to request that this information not be released without the prior consent of the eligible student or parent. Such notice may be included in the routine information letter required under 603 CMR 23.10.

(b) Upon receipt of a court order or lawfully issued subpoena the school shall comply, provided that the school makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance.

(c) A school may release information regarding a student upon receipt of a request from the Department of Social Services, a probation officer, a justice of any court, or the Department of Youth Services under the provisions of M.G.L. c. 119, sections 51B, 57, 69 and 69A respectively.

(d) Federal, state and local education officials, and their authorized agents shall have access to student records as necessary in connection with the audit, evaluation or enforcement of federal and state education laws, or programs; provided that except when collection of personally identifiable data is specifically authorized by law, any data collected by such officials shall be protected so that parties other than such officials and their authorized agents cannot personally identify such students and their parents; and such personally identifiable data shall be destroyed when no longer needed for the audit, evaluation or enforcement of federal and state education laws.

(e) A school may disclose information regarding a student to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This includes, but is not limited to, disclosures to the local police department and the Department of Social Services under the provisions of M.G.L. c. 71, section 37L and M.G.L. c. 119, section 51A.

(f) Upon notification by law enforcement authorities that a student, or former student, has been reported missing, a mark shall be placed in the student record of such student. The school shall report any request concerning the records of the such child to the appropriate law enforcement authority pursuant to the provisions of M.G.L. c. 22A, section 9.

(g) Authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent,

provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.

(h) School health personnel and local and state health department personnel shall have access to student health records, including but not limited to immunization records, when such access is required in the performance of official duties, without the consent of the eligible student or parent.

(5) Access Procedures for Non-Custodial Parents. As required by M.G.L. c. 71, § 34H, a non-custodial parent may have access to the student record in accordance with the following provisions.

(a) A non-custodial parent is eligible to obtain access to the student record unless:

1. the parent has been denied legal custody or has been ordered to supervised visitation, based on a threat to the safety of the student and the threat is specifically noted in the order pertaining to custody or supervised visitation, or
2. the parent has been denied visitation, or
3. the parent's access to the student has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record, or
4. there is an order of a probate and family court judge which prohibits the distribution of student records to the parent.

(b) The school shall place in the student's record documents indicating that a non-custodial parent's access to the student's record is limited or restricted pursuant to 603 CMR 23.07(5)(a).

(c) In order to obtain access, the non-custodial parent must submit a written request for the student record to the school principal.

(d) Upon receipt of the request the school must immediately notify the custodial parent by certified and first class mail, in English and the primary language of the custodial parent, that it will provide the non-custodial parent with access after 21 days, unless the custodial parent provides the principal with documentation that the non-custodial parent is not eligible to obtain access as set forth in 603 CMR 23.07 (5)(a).

(e) The school must delete all electronic and postal address and telephone number information relating to either work or home locations of the custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.

(f) Upon receipt of a court order that prohibits the distribution of information pursuant to G.L. c. 71, §34H, the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

23.08: Amending the Student Record

(1) The eligible student or the parent shall have the right to add information, comments, data, or any other relevant written material to the student record.

(2) The eligible student or the parent shall have the right to request in writing deletion or amendment of any information contained in the student record, except for information which was inserted into that record by an Evaluation Team. Such information inserted by an Evaluation Team shall not be subject to such a request until after the acceptance of the Evaluation Team Educational Plan, or, if the Evaluation Team Educational Plan is rejected, after the completion of the special education appeal process. Any deletion or amendment shall be made in accordance with the procedure described below:

(a) If such student or parent is of the opinion that adding information is not sufficient to explain, clarify or correct objectionable material in the student record, either student or parent shall present the objection in writing and/or have the right to have a conference with the principal or his/her designee to make the objections known.

(b) The principal or his/her designee shall within one week after the conference or receipt of the objection, if no conference was requested, render to such student or parent a decision in writing, stating the reason or reasons for the decision. If the decision is in favor of the student or parent, the principal or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

23.09: Appeals

(1) In the event that any decision of a principal or his/her designee regarding any of the provisions contained in 603 CMR 23.00 is not satisfactory in whole or in part to the eligible student or parent, they shall have the right of appeal to the superintendent of schools. Request for such appeal shall be in writing to the superintendent of schools.

(2) The superintendent of schools or his/her designee shall within two weeks after being notified of such appeal (longer should the appellant request a delay) review the issues presented and render a written decision to the appellant, stating the reason or reasons for the decision. If the decision is in favor of the appellant, the superintendent of schools or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

(3) In the event that the decision of the superintendent of schools or his/her designee is not satisfactory to the appellant in whole or in part, the appellant shall have the right of appeal to the school committee. Request for such appeal shall be in writing to the chairperson of the school committee.

(4) The school committee shall within four weeks after being notified of such appeal (longer should the appellant request a delay) conduct a fair hearing to decide the issues presented by the appellant.

(a) School officials shall have the burden of proof on issues presented by the appellant.

(b) The appellant shall have the right to be represented by an advocate of his/her choosing, to cross-examine witnesses, to present evidence, to make a tape or other recording of the proceedings, and to receive a written decision within two weeks after the hearing.

(c) If the appeal concerns statements by an employee of the school committee, such person(s) shall have the right to be present and to have an advocate of his/her own choosing.

(5) Nothing in 603 CMR 23.00 shall abridge or limit any right of an eligible student or parent to seek enforcement of 603 CMR 23.00 or the statutes regarding student records, in any court or administrative agency of competent jurisdiction.

23.10: Notification

(1) At least once during every school year, the school shall publish and distribute to students and their parents in their primary language a routine information letter informing them of the following:

(a) The standardized testing programs and research studies to be conducted during the year and other routine information to be collected or solicited from the student during the year.

(b) The general provisions of 603 CMR 23.00 regarding parent and student rights, and that copies of 603 CMR 23.00 are available to them from the school.

(2) In those school systems required under M.G.L. c. 71A to conduct a bilingual program, all forms, regulations, or other documents regarding 603 CMR 23.00 that a parent receives or is required to receive shall be in the language spoken in the home of the student, provided that it is a language for which the school system is required to provide a bilingual program.

23.11: Monitoring

The Department of Elementary and Secondary Education may, pursuant to a request by an eligible student or parent or on its own initiative, conduct reviews to insure compliance with 603 CMR 23.00. The school committee and the specific school(s) involved shall cooperate to the fullest extent with such review.

23.12: Severance Clause

The provisions of 603 CMR 23.00 are severable and should any section be found upon judicial review to exceed the authority of the State Board of Education, the remaining sections shall not be affected.

Regulatory Authority:

603 CMR 23.00: M.G.L. c. 71, 34D, 34E.

last updated: September 18, 2006

Family Educational Rights and Privacy Act (FERPA)

[Family Policy Compliance Office \(FPCO\) Home](#)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339.

Or you may contact us at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920

MORE RESOURCES

Final FERPA Regulations (Dec. 9, 2008)

 [PDF \(296K\)](#)

Dear Colleague Letter about 12/09/08 Final Regulations

Section-by-Section Analysis of Regulations

 [PDF \(68K\)](#)

Section VIII

Notice of Procedural Safeguards

All parents who have children on IEPs in the Weston Public Schools shall be mailed a hard copy of the Procedural Safeguards in the September month of each school year.

Parent's Notice of Procedural Safeguards

Dear Parents:

You are receiving this Notice of Procedural Safeguards (Notice) because your son or daughter (student) has been referred for an evaluation or is currently receiving special education services. If your student is eligible for special education, the school district must provide a free appropriate public education commonly referred to by the acronym FAPE. In order to provide a FAPE the school district must work in partnership with you. You will be a member of the IEP team that will consider your student's unique needs and develop an individualized education program or [IEP](#), for your student. The IEP must provide instruction that is tailored to your student's unique needs and includes sufficient support services to enable your student to make meaningful educational progress and to assist your student in acquisition of knowledge and skills, including those necessary for social and emotional development according to appropriate chronological and developmental expectations. Any special education services identified for your student must be provided at public expense with no cost to you. All students in the Commonwealth's public education system, including students with disabilities, are entitled to the opportunity to learn the material that is covered by the academic standards in the Massachusetts curriculum frameworks. Massachusetts also provides an individual right to FAPE for its resident students with disabilities who attend private schools at private expense, and who seek public special education services.

Both [State and federal laws](#) contain rules that school districts must follow when deciding if a student is eligible for special education and, if so, what services the student will receive. These laws also provide detailed procedures for ensuring that the student receives a FAPE during the entire time he or she is eligible for special education. Special education is a highly complex and regulated area of education law. The detail in the law is intended to protect your student and to help ensure that he or she receives appropriate educational services. You can get additional help in understanding the special education process from your school guidance office, the Massachusetts Department of Elementary and Secondary Education (ESE), organizations for parents of students with disabilities, and private special education organizations. Information from these sources will help you work in partnership with your school district to make sure that your student receives appropriate educational services.

This Notice provides you with important information on your right to be involved in planning your student's special education. Procedural safeguards are the specific rules that make sure that you know what the school district is proposing to do ("receive notice"), agree with the school district's plan ("give parental consent") and have a range of opportunities for resolving disagreements with the school district ("due process"). Procedural Safeguards in the law also provide additional protections outlined in this document.

We hope this Notice will be of assistance to you as you take an active role in your student's educational experience.

This document, the Parent’s Notice of Procedural Safeguards, answers the following questions:

1. What is “prior written notice” and when do you receive it?	Page 2
2. What is “parental consent” and when must the school district ask for your consent?	Page 2
3. What is an “independent educational evaluation”?	Page 4
4. When can you see your student's student records ?	Page 5
5. How can parents and schools resolve disputes?	Page 5
6. What are your responsibilities if you place your student in a private school?	Page 10
7. What must be done to plan for your student’s transition from school?	Page 10
8. How may a school discipline a student with a disability?	Page 10
9. Where can the laws and regulations and other useful information be found?	Page 12

You will receive this Notice at least once each year if your student is identified as eligible for special education. You can also request a copy from your school district at anytime or from the ESE. This document is available on the ESE Web site at <http://www.doe.mass.edu/sped/prb>.

- | | |
|---|-----------------|
| 1. What is Prior Written Notice and when do you receive it? | 34 CFR §300.503 |
|---|-----------------|

The school district must provide you with a written notice when it proposes, or refuses, to take steps to identify your student, to evaluate your student, to provide special services to your student, or to change your student’s program. Federal regulations call this a “prior written notice.” The written notice must:

- Describe **what** the school district proposes or refuses to do;
- Explain **why** the school district is proposing or refusing to take the action;
- Describe **how** the school district decided to propose or refuse to take the action, including telling you about each evaluation procedure, assessment, record, or report that your school district used to make its decision; and
- Describe any other options that your student's individualized education program (IEP) Team considered and the reasons why those options were rejected.

School districts will provide this information to you using forms developed by the ESE and available on the ESE Web site or their own forms containing the same information.

You will receive prior written notice when the school district: proposes to conduct an initial evaluation or reevaluation; proposes a new or amended IEP; proposes a change in placement, including a proposed change in placement for disciplinary reasons; or proposes to end special education services.

You will also receive a notice if the school district makes a finding of no eligibility for special education services or refuses a request you have made related to evaluations or provision of special education to your student Notices from the school district must be provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so. If your native language or other mode of communication is not a written language, your school district must ensure

that the school’s notice is translated for you orally or by other means (e.g., by sign language), and that you understand the content of the notice.

When you are given prior written notice, you will also be given a copy of this Notice of Procedural Safeguards, or if you have already received this Notice during the current school year, you will be told how you can obtain another copy. You will also be given information about whom you can contact for help in understanding federal and state special education laws.

2. What is parental consent?

34 CFR §300.9 and 603 CMR 28.07 (1)

The school district may not give your student a special test or special service unless you agree and give your written “parental consent.” The school district must clearly explain what it is proposing to do for your student and will ask you to sign your name on the consent form to show that you agree to the school’s proposal. This is giving “parental consent.”

Giving your consent is voluntary. You may take back your consent at any time. If you do, however, the withdrawal of consent will only apply to future action by the school district not to something that has already happened. Your school district may not use your refusal to consent to one service or activity as a reason to deny you or your student any other service, benefit, or activity.

Your consent is not required before your school district may review existing data as part of your student’s evaluation or reevaluation, give your student a test or other evaluation that is given to all students without consent such as the MCAS or classroom tests that are part of the general education program, or share information with federal or state educational officials.

2.1 When will a school district ask for your consent?

34 CFR §300.300 and
603 CMR 28.07(1)

A school district will ask for your parental consent in the following circumstances:

To authorize the initial evaluation to determine if the student is eligible for special education

The school district cannot conduct an initial evaluation of your student to determine whether your student is eligible to receive special education and/or related services without first obtaining your consent. If your student is referred for an evaluation, the school district must ask for your consent to the evaluation within five school days.

To approve initial services

If, after the initial evaluation has been completed, the Individualized Education Program (IEP) Team has decided that your student is eligible for special education, the IEP Team will propose special education and related services for your student. You must give your consent before your school district can provide special education and related services to your student for the first time. If you do not consent, the school district cannot provide special education and related services to your student. You can accept or reject the whole proposal or part of it. The IEP or any part that you accept must begin as soon as you accept it.

To make a change in services, placement or reevaluation

Once you have agreed to an IEP for your student, the school district must obtain your consent before the school district may change the services or the placement of your student, or conduct a reevaluation. If you refuse to give your consent, you have an obligation to engage with the district in active discussion to resolve your disagreement. If you and the district are unable to resolve your disagreement and the district believes that your refusal denies your student a free appropriate public education (FAPE), the school district must request a hearing at the Bureau of Special Education Appeals (BSEA) to obtain authority to provide educational services or to reevaluate your student without your consent.

To excuse members of the IEP Team from attending a Team meeting

Members of the IEP Team may be excused from attending a Team meeting if you agree in writing in advance of the meeting. If the Team will be discussing the excused Team member's area, then the excused member must provide his or her input in writing before the Team meeting. If you do not agree to excuse the Team member he or she must attend the IEP Team meeting.

2.2 When will the student be asked for consent?

34 CFR §300.520 and 603 CMR 28.07 (5)

Under Massachusetts' law a student has reached adulthood upon his or her eighteenth (18th) birthday. **When a student turns age 18**, therefore, all of the decision-making rights that you have as a parent transfer to your adult student, unless a court has appointed a legal guardian for your student or your student indicates in writing that he or she wants to share decision-making with you or wants you to continue to have authority to make decisions about his or her educational program. The school district must discuss with you and your student the impact of this transfer of rights at least a year before the student's eighteenth birthday. As the parent of an adult student with a disability, you will continue to receive all the required notices from the school, and you will continue to be able to inspect your student's educational records, even if your student makes his or her own educational decisions.

2.2 When will an educational surrogate parent give consent? 34 CFR §300.519 (G)
603 CMR 28.07 (7)

If a student is in the custody of the Department of Social Services, or the student's parents or guardian cannot be identified or located or have had their parental rights terminated, the ESE has a responsibility to ensure there is an adult with no conflicting interests to make special education decisions on behalf of the student. This person is called an educational surrogate parent. The ESE determines if it is necessary to appoint an educational surrogate parent for the student. If appointed, an educational surrogate parent has the same rights and responsibilities as a parent in special educational matters for the student.

3. What is an Independent Educational Evaluation?

0 34 CFR §300.502 and

603 CMR 28.04(5)

An Independent Educational Evaluation (IEE) is an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your student.

You have the right to request an IEE of your student at public expense if you disagree with the school district's evaluation. If you request an IEE, the school district must provide you with information about where you may obtain an IEE and about the state requirements that apply to IEEs.

3.1 When is an Independent Educational Evaluation conducted at public expense?

In Massachusetts, under state law, you will receive an IEE at full or shared public expense if you meet income eligibility requirements. Students who are eligible for free or reduced cost meals are entitled to an IEE at public expense. Other students are eligible for a shared cost IEE according to a sliding fee scale. Sharing your financial information with the school district is completely voluntary on your part. If you choose to share such information, the school district must immediately notify you in writing whether or not you are eligible for full or partial funding of an IEE and proceed to fund the IEE based on eligibility. Your right to a publicly funded IEE through income eligibility will extend for 16 months from the date of the school district's evaluation with which you disagree.

If you do not meet income eligibility requirements or choose not to disclose financial information, the district must consider your request for a publicly funded IEE under federal law. Within 5 days, the district may either agree to provide an IEE at public expense or request a hearing at the Bureau of Special Education Appeals (BSEA) to demonstrate that the evaluation conducted by the district was comprehensive and appropriate. More details regarding IEEs are available in the ESE Administrative Advisories 2004-1 and 2001-3 available from your local school district and on the ESE Web site <http://www.doe.mass.edu/sped/advisories/?section=admin>.

You are entitled to only one IEE of your student at public expense each time your school district conducts an evaluation. You may have independent evaluations conducted at your own expense at any time.

3.2 The results of IEEs must be considered within 10 days by the school district

If you obtain an IEE of your student at public expense or you share with the school district an evaluation of your student that you obtained at private expense, your school district must convene a Team meeting within ten school working days after receiving the evaluation information. The Team will consider the evaluation results and determine what, if any, changes should be made to your student's IEP.

4. When can you see your student's student records?

34 CFR 300.611 **and** 603 CMR 23.00

The student record consists of your student's transcript and temporary school record and includes health records, tests, evaluations, discipline records and other records pertaining to your student's special education eligibility or program.

You and your student (if your student is 14 or older) have a right to look at any and all of the student's records within 10 days of your request and before any IEP meeting or due process hearing.³ You may also have copies of the information upon request for a reasonable charge.

In addition, you can meet with professionally qualified school personnel to have the records explained. You may also have your representative (advocate, consultant, or attorney) inspect, review, and interpret your student's record if you give your specific, written informed consent. All of the rights associated with the student record are contained in the Massachusetts Student Record Regulations 603 C.M.R.23.00.

Those regulations can be found at <http://www.doe.mass.edu/lawsregs/603cmr23.html> or by requesting a copy of the regulations from the school district or ESE.

Generally only the parent, eligible student, authorized school personnel, and state and federal education officials are allowed to see the student record without the specific, informed, written consent of the parent or adult student. The school district may be required to provide some information to state and federal officials as the result of a court order or in response to a health and safety or law enforcement issue. Helpful information about these and other student records issues can be found at <http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html>.

5. How can parents and schools resolve disputes?

34 CFR 300.151, 300.506 -300.518 **AND** 603 CMR 28.08

State and federal special education laws provide many opportunities for parents to be involved in educational planning for their student who has a disability. If parents and school districts disagree about changes relating to the identification, evaluation, or educational placement of a student with a disability, or the FAPE services provided to a student with a disability, the laws provide a menu of ways to resolve the disagreement. Your student shall remain in his or her current education program and placement during any dispute regarding placement or services, unless you and the school district agree otherwise or your student's placement is changed as a result of [discipline](#).

Following are alternatives ways that you and your school district can resolve disagreements.

³ The school district can only limit access to the student record if it has received a legal document such as a restraining order or a divorce or custody decree that restricts access to information about the student's.

5.1 Bring the dispute to the attention of local public school officials

As a first step to resolve your dispute, you may contact your school Principal, the Administrator of Special Education or your Superintendent to ask for help. It is a good practice to write a letter explaining the situation about which you are concerned.

5.2 Use the ESE Problem Resolution System

If you feel that you need help from outside of your school district, you may contact the ESE, Office of Program Quality Assurance Services (PQA) at 781-338-3700 to use the state “Problem Resolution System” described at <http://www.doe.mass.edu/pqa/prs/>. You can file a complaint with PQA about any violation of state or federal education law or obtain help from PQA staff to resolve the problem informally. If you want a formal investigation by PQA, you will have to submit your complaint in writing. PQA staff will assist you in preparing and submitting the complaint. Your written complaint should include: a statement of your concerns, your attempts to resolve your concerns, the actions by the school you believe would resolve your concerns and your signature and contact information. If your complaint is about a specific student, you should provide the student’s name and residential address and the name of the school. The issues that you are complaining about, however, must have occurred no more than one year before PQA receives your complaint. If you choose to file a formal complaint with the PQA Problem Resolution System, you must also send a copy of your written complaint to the school district that is the subject of the complaint. PQA will resolve your complaint within 60 days and send you a copy of the findings and decision.

Filing a formal complaint with PQA will not prevent you from using other methods, such as conversations with your local school district, mediation, or a [due process hearing](#) at the Bureau of Special Education Appeals (discussed below) to resolve your complaint.⁴ If you request a due process hearing, however, a complaint that you file through the problem resolution system will be set aside until the due process hearing is completed.

5.3 Ask for a neutral mediator to be appointed.

[Mediation](#)⁵ is a service provided by a neutral individual who is trained in special education law and in methods of negotiation. Mediation can be scheduled whenever the parents and schools have a disagreement about special education matters, even if a complaint was made through the PQA Problem Resolution System. The mediator helps the parent and school district talk about their disagreement and reach a settlement that both sides can accept. Discussions during mediations are confidential and nothing that is said by either party can be used later if the dispute becomes the subject of a formal hearing or court proceeding. Once an agreement is reached, it will be put in writing, both sides will sign it, and it may be enforced by a court.

⁴ For a comparison of how the problem resolution system resolves a complaint with how a complaint is resolved through a due process hearing see: <http://www.doe.mass.edu/sped/docs.html>

⁵ A description of the mediation process can be found on the ESE Web site at <http://www.doe.mass.edu/bsea/mediation.html>

Mediation can be set up by contacting the BSEA at 781-338-6443. The mediator will schedule a meeting with you and the school district within 30 days of the request for mediation. Meetings will be held at a convenient time and place. Participation is voluntary, therefore both the school district and the parents must agree to participate in mediation. There is no fee for the service.

Additional information about how mediation works is available from the BSEA 781-338- 6400 and can be found in their publications "[Frequently Asked Questions about Mediation](#)"⁶ and the "[Explanation of Mediation](#)."⁷

5.4 Request a due process hearing and participate in a resolution meeting

If you and the school district have been unable to work out your disagreement, then you are entitled to have a neutral and impartial hearing officer listen to both sides of the dispute, hear testimony, examine evidence, and make a decision. This hearing is convened by the BSEA and is called a due process hearing. The BSEA hearing officer is trained in special education law and must not have any personal or professional connection to you or anyone else who is involved in the disagreement.

The due process hearing will consider disputes about eligibility; evaluation; IEPs; educational placement decisions, including those resulting from discipline; FAPE; provision of special education; or procedural protections of state and federal law for students with disabilities. You must file for a hearing within two years of when you knew, or should have known⁸ about the events that form the basis for your complaint. This time period can be extended if you can show that you were prevented from filing for a hearing because the school district misrepresented that it had resolved the issue in your complaint or if the district withheld certain required information from you.

Either you or your school district can file a written [due process hearing request](#)⁹ with the other party and send a copy to the BSEA to obtain a due process hearing. The BSEA has developed a [hearing request form](#)¹⁰ that you may use, or you can write your own letter instead of using the form, but you must be sure to include your student's name and residential address (or contact information if the student is homeless); the name of your student's school; a description of the problem you are concerned about, including specific facts relating to the problem; and a proposed solution to the problem. Note that the hearing will be limited to the issues that are identified in the complaint.

You must send your due process hearing request to the school district (or other party to the complaint) and a copy to the BSEA. If the due process complaint does not provide enough

⁶ <http://www.doe.mass.edu/bsea/mediation.html?section=faq>

⁷ http://www.doe.mass.edu/bsea/forms/m_brochure.doc

⁸ The phrase "or should have known" reminds you that you have a responsibility to be aware of your student's program.

⁹ Information on the due process hearing request can be found at: <http://www.doe.mass.edu/bsea/process.html?section=1>

¹⁰ <http://www.doe.mass.edu/bsea/forms/hearing.doc>

information, the opposing party may challenge its sufficiency within 15 days. The BSEA will decide whether the complaint is sufficient within 5 days of the challenge. Additional information may be added to the complaint if the opposing party agrees or if the hearing officer gives permission. If additional issues are added to the complaint at a later time, however, the hearing timetable begins all over again.

If there is no challenge to the sufficiency of the complaint, then the hearing process continues. If the school district has not already sent a [prior written notice](#) to you about the issue that you are complaining about, then within 10 calendar days of receiving your due process hearing request, the school district must send you a written response to the complaint.

Note: *If the school district has filed the due process hearing request, the parent must respond within 10 calendar days of receiving the hearing request, and specifically address the issues that the school district raised.*

After you file a due process hearing request, the school district has 30 days to work with you to resolve the disagreement before the due process hearing may occur.¹¹

The school district is required to set up a resolution meeting within 15 calendar days of receiving your due process complaint.¹² The school district will determine with you which members of the IEP Team must attend the meeting. Someone from the school district who can make decisions about your student's program must attend the meeting. The school district's lawyer *may not* attend unless you have a lawyer who is attending the meeting.

You must participate in the resolution meeting unless you *and* the school district agree, in writing, not to have the meeting or if you and the school district decide to use the [mediation process](#). If the school district cannot get you to participate in the resolution meeting, it can ask the hearing officer to dismiss your complaint.

If you are willing to meet, but the school district refuses or delays the resolution meeting more than 15 days after receiving notice of your hearing request, then you can ask the hearing officer to proceed with the hearing process. If you meet, but the school district has not resolved the due process complaint to your satisfaction within 30 days of your filing the complaint, then the due process hearing may go forward.

The resolution process ends when one of the following events occurs:

- When you and the school district agree, in writing, to end the resolution period;
- At the end of the 30 day resolution period;
- At the end of mediation; or
- When you and an official of the school district sign a document that spells out your agreement that resolves your dispute. This is a "settlement agreement" and can be enforced by a state or federal court. Note that if you and the school district enter into an agreement as a result of a resolution meeting, either you or the school district may

¹¹ If you and the school district agree to mediation, you may agree to continue the mediation after the 30 day period.

¹² No resolution session is required if the school district has requested the due process hearing.

void the agreement within 3 business days of the time that both you and the school district signed the agreement.

5.5 Present your evidence to an impartial hearing officer during a due process hearing

When you file a due process complaint, the BSEA will set a hearing date, assign a hearing officer, and send you detailed information about the hearing process and a list of free or low-cost attorneys and advocates whom you may contact for help.

During the due process hearing you and the school district will each present evidence and provide the testimony of witnesses to an impartial hearing officer from the BSEA. At any due process hearing, including a hearing relating to disciplinary procedures, you may:

- be accompanied, advised and represented by a lawyer and/or advocate;
- have your student present at the hearing;
- have the hearing open to the public;
- present evidence such as documents and reports;
- request, or require through subpoena, witnesses to come to the hearing and answer questions;
- see any evidence that is to be used at the hearing at least five business days ahead of time and ask the hearing officer to keep out any evidence that you have not seen; and
- obtain a written or, at your option, electronic, word-for-word record of the hearing findings of fact and decision at no cost to you. To obtain a written record of the hearing, you must make your request in writing.

Additional information about due process hearings can be obtained from the BSEA at 781-338-6400 and from the BSEA Web site: <http://www.doe.mass.edu/bsea/process>

Hearings are conducted according to the Massachusetts Administrative Procedure Act¹³ and the BSEA [Hearing Rules](#).¹⁴ The hearing officer must issue a final decision within 45 days of the end of the resolution period described above unless the hearing officer has granted extensions of time at the request of either party. The hearing officer will send a copy of the decision to you and to the school district. Both the parents and the school district must abide by the decision of the hearing officer.

¹³ M.G.L. c.30A

¹⁴ http://www.doe.mass.edu/bsea/forms/hearing_rules.doc

A hearing officer's decision on whether your student is being offered a FAPE must be based on a finding that your student's special education rights were violated or a determination that the school district failed to fulfill its other obligations to your student under the special education laws and regulations. If you have complained about a violation of the special education procedures (such as failure to hold a proper team meeting, poor record keeping, or failure to follow timelines) a hearing officer may find that your student did not receive FAPE *only if* the failure to follow the procedures:

- Interfered with your student's right to a FAPE;
- Significantly interfered with your ability to be involved in decisions about your student's education; or
- Deprived your student of an educational benefit.

The decision of the hearing officer is a final agency decision and cannot be reconsidered by the BSEA or changed by the ESE. Hearing decisions are public¹⁵ and are available on the BSEA Web site at <http://www.doe.mass.edu/bsea/decisions.html>.

5.6 Appeal a hearing decision to a state or federal court

If either the parent or the school district disagrees with the decision of the hearing officer, they can seek review of that decision in state or federal court. Any such request for review must be filed within 90 days of the decision.

5.7 Attorneys' fees CFR §300.517

34

Each party is responsible for paying its own attorney's fees unless the court decides otherwise. If you obtain a favorable result in a written hearing decision or court proceeding, the court¹⁶ may decide that the school district should pay your reasonable attorneys' fees. Note, however, that you will not be able to obtain these fees for the time spent litigating your case after the district made a settlement offer if

- the district made a written offer of settlement 10 or more days before the hearing,
- you did not accept the offer within 10 days, and
- the outcome of the hearing was no better than the settlement offer.

A court could order you or your attorney to pay the school district's or state agency's legal expenses if the court finds that your attorney filed a complaint or continued to litigate after

¹⁵ Hearing decisions are published after redacting information that would allow the student to be readily identified.

¹⁶ A BSEA Hearing Officer may not award attorney's fees.

learning that the complaint had no basis in fact, was unreasonable, was frivolous, or was pursued for an improper purpose.

6. What are your responsibilities if you place your student in a private school and you believe your school district should reimburse you for the tuition?

34 CFR §300.148

There are some occasions when a parent believes that the public school is not providing a FAPE to the student and the parent decides to place the student in a private school. A parent may enroll his or her student in private school at private expense at any time. If, however, the parent believes that the public school should be responsible for the costs of the student's education in the private school, the parent must tell the school district of objections to the student's IEP and program, reject the IEP, inform the school district of his or her intent to remove the student and enroll the student in a private school, and request a hearing by the BSEA. A parent must inform the school district before removing the student from the public school either orally at the last Team meeting before the removal or in writing at least 10 business days before removing the student from school.

The school district is not required to pay for a student to attend a private school if the school district has made a FAPE available to the student. Disagreements between parents and the school district about whether the student's program provides a FAPE and requests for financial reimbursement for the cost of a private program may be resolved through due process procedures discussed earlier in this document. The hearing officer will determine whether the school district made a FAPE available to your student. If the hearing officer finds that the school district did *not* provide your student with a FAPE, that you followed the above steps, and that the private school placement was appropriate, the hearing officer, after considering all of the circumstances surrounding the removal of the student, may require the school district to reimburse you for all or part of the cost of the private school placement.

7. What must be done to plan for your student's transition from high school?

Planning for your student's transition to post secondary opportunities must begin when your student is 15, and must be discussed each year. The school district must discuss your student's transition needs with you and your student and must consider the goals for your student after he or she completes school by graduating with a regular high school diploma or reaching the age of 22. School districts must use the [Transition Planning Form](#)¹⁷ to record the results of this annual discussion. Your student's IEP must include measurable post-secondary transition goals, objectives and services based upon an appropriate assessment of his or her disability and transition needs.

Graduation with a regular high school diploma is a change of placement and ends the student's eligibility for special education. The school district must inform you if and when the district expects your student to graduate with a regular high school diploma. This discussion should take place during the Team meeting no less than 1 year in advance of the student's graduation.

¹⁷ <http://www.doe.mass.edu/sped/28MR/28m9.doc>

8. How may a school discipline a student with a disability?

34

CFR 300.530

Public schools must have procedures and standards in place to assure a safe learning environment for students. Schools are expected, and high schools are required, to publish their rules of conduct so that students know how they are expected to behave. If a student misbehaves and violates the school code of conduct, the school may discipline the student. Discipline must be fair and even-handed.

In general, any student may be suspended or removed from school for disciplinary reasons for a short time, which is no more than 10 days. Before any removal or suspension the student must be told what he or she is accused of having done and must be given a chance to tell his or her side of the story. During a short disciplinary removal, the school is not required to provide instruction to a disabled student unless it does so for non-disabled students. Once a student with a disability has been removed from the school placement for more than 10 cumulative days during the school year the student must receive educational services that will allow the student to continue to participate in the general education curriculum and to progress toward the goals set out in his or her IEP. School officials must consult with at least one of the student's teachers to determine what services are necessary. These services must begin on the 11th school day of a student's disciplinary removal during the school year and continue during the disciplinary removal.

Schools must follow special disciplinary rules for students with disabilities who have been found eligible for special education.¹⁸ A chart depicting the operation of these disciplinary rules can be found on the ESE Web site.¹⁹ These special disciplinary rules apply as soon as a student is removed from his or her current education placement²⁰ for more than 10 days in a row, or if a student is removed for disciplinary reasons for more than a total of 10 days in any school year and there is a pattern of removal for comparable behaviors. The school must notify you as soon as the decision is made to remove your student from his or her education placement for more than 10 days and provide you with a copy of this Notice.

The student's IEP Team must meet within 10 days of the school's decision to impose the discipline. At this meeting, called a "*manifestation determination*," you and other members of the IEP Team will determine if the misbehavior was caused by or had a direct relationship to the student's disability, or was the direct result of the school's failure to provide the services required by the student's IEP. In making the manifestation determination, you and other members of the IEP team must consider

¹⁸ The special education disciplinary rules also apply to some students who have not yet been found eligible for special education. If, prior to the conduct in question, the parent has put his or her concern that the student's has a possible disability in writing to supervisory or administrative personnel or the student's teacher; if the teacher or other staff has expressed concerns about the student's pattern of behavior directly to the director of special education or other supervisory personnel, or if the student has been referred for an evaluation that has not yet been completed these special rules apply. The special education disciplinary rules *do not* apply if the parent has refused to consent to the evaluation or if the student has previously been found to be not eligible for special education.

¹⁹ http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc

²⁰ Placement is determined by the IEP Team and is the location where IEP services are provided.

relevant information from your student's file, including your student's IEP, your and the teachers' observations of your student's behavior, and any relevant information you provide.

If the team determines that the student's behavior *was not* caused by or directly related to the student's disability or the failure to properly implement the IEP, then a student with a disability can be disciplined in the same manner and for the same length of time as other students are disciplined for the same offense.

The IEP Team, however, must determine the interim alternative educational setting (IAES) where the student will be placed and the educational services that will be provided. An IAES is a setting other than the student's current placement that enables the student to continue to receive educational services according to his or her IEP. School personnel may consider the student's unique circumstances in determining whether a change in placement is appropriate for a student with a disability.

If the Team determines that the student's behavior *was* caused by or directly related to the student's disability or the failure to properly implement the IEP, then the student must be returned to the last approved IEP placement unless you and the IEP Team decide on a different placement. The student must also be provided a functional behavioral assessment. A functional behavioral assessment or FBA is a comprehensive assessment of behavior that provides the IEP Team with information about the student's behavior and identifies behavioral intervention services and program modifications that are designed to address the behavioral violation so it does not recur. If the student has already had a functional behavioral assessment and has a behavioral intervention plan, then the IEP Team should determine if any changes should be made to the behavioral intervention plan. If the behavior was caused by the failure to properly implement the IEP, the school must take immediate steps to remedy the deficiencies.

Note that if your student possessed or used a weapon or drugs, or caused serious bodily injury to another person on school property or at a school event your student may be placed by the principal in an IAES for up to 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability. The IEP Team will determine the IAES and the appropriate educational services that will be provided to the student while he or she is in the IAES

8.1 Appeal of a disciplinary decision

If a parent disagrees with any decision regarding placement of his or her student under the disciplinary provisions or disagrees with the manifestation determination, or if the school district believes that maintaining the current placement of the student is substantially likely to result in an injury to the student or to others, either the parent or the school district may appeal the decision by [requesting a hearing](#) with the BSEA, as described earlier in this document.

The BSEA will convene a hearing on a disciplinary placement or manifestation determination on an expedited schedule.²¹ During the appeal of a disciplinary placement or manifestation determination, the student must remain in the IAES until the hearing officer makes a decision or

²¹ See BSEA Hearing Rule II.C. Expedited Hearing. http://www.doe.mass.edu/bsea/forms/hearing_rules.doc p.6.

the disciplinary period is completed, unless the parent and the school district agree to a different placement.

9. **Where can the laws and regulations and other useful information be found?**

9.1 laws and regulations

You can find the full text of the state Special Education law in Massachusetts General Law Chapter 71B. The state law is popularly known as “Chapter 766.” The state special education regulations are found in the Code of Massachusetts Regulations (CMR) at 603 CMR 28.00. The law and the regulations and other helpful resources are on the ESE Web site.²²

The federal special education law is the Individuals with Disabilities Education Act, known as “IDEA.” The federal statute is located in the United States Code at 20 U.S.C. § 1400. The implementing regulations for IDEA may be found in the Code of Federal Regulations (CFR) at Chapter 34, Section 300. A copy of the federal statute and regulations and explanatory information can be found on the U.S. Department of Education Web site at <http://idea.ed.gov/>.

9.2 Individualized Education Program process guide and forms

A general overview of how the special education process works (taken from the IEP guide prepared by the USDOE) can be found at <http://www.doe.mass.edu/sped/iep>.

For the ESE explanation of the how an IEP is developed, consult the IEP Process Guide and the standard IEP forms available on the ESE Web site: <http://www.doe.mass.edu/sped/iep>

9.3 Table of abbreviations

Many common special educational phrases are abbreviated by acronyms composed of the initial letters of the phrase. For your convenience the acronyms and phrases used in this document are listed below:

BSEA:	Bureau of Special Education Appeals
CFR:	Code of Federal Regulations
CMR:	Code of Massachusetts Regulations
ESE:	Massachusetts Department of Elementary and Secondary Education
FAPE:	Free Appropriate Public Education
FBA:	Functional Behavioral Assessment
IAES:	Interim Alternative Educational Setting
IDEA:	Individuals with Disabilities Education Act
IEE:	Independent Educational Evaluation

²² <http://www.doe.mass.edu/sped/laws.html>

IEP: Individualized Education Program
PQA: Program Quality Assurance Services

9.3 Table of Web sites

Bureau of Special Education Appeals

<http://www.doe.mass.edu/bsea/decisions.html>

http://www.doe.mass.edu/bsea/forms/hearing_rules.doc

<http://www.doe.mass.edu/bsea/forms/hearing.doc>

<http://www.doe.mass.edu/bsea/mediation.html>

http://www.doe.mass.edu/bsea/forms/m_brochure.doc

<http://www.doe.mass.edu/bsea/mediation.html?section=faq>

<http://www.doe.mass.edu/bsea/process.html>

Discipline: http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc

Individuals with Disabilities Act: <http://idea.ed.gov/>

Individualized Education Program: <http://www.doe.mass.edu/sped/iep>

Independent Educational Evaluation: <http://www.doe.mass.edu/sped/advisories/?section=admin>

Parent's Notice of Procedural Safeguards: <http://www.doe.mass.edu/sped/prb>.

PQA Problem Resolutions System compared to BSEA Due Process Complaint

<http://www.doe.mass.edu/sped.docs.html>

Program Quality Assurance Services Problem Resolution System:

<http://www.doe.mass.edu/pqa/prs>

Special Education Laws and Regulations: <http://www.doe.mass.edu/sped/laws.html>

Special Education Transition Planning Form: <http://www.doe.mass.edu/sped/28MR/28m9.doc>

Student Records Regulations: <http://www.doe.mass.edu/lawsregs/603cmr23.html>

Student Records Questions and Answers

<http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html?section>.

State and District Responsibilities for Educational Surrogate Parents: Procedural Guidelines

If a student is without parental representation and requires an educational surrogate parent to be appointed in accordance with federal law and regulations, DESE will be notified and the district will assist in identifying a person willing to serve as the educational surrogate parent. If a person is identified by the district and willing to serve, they cannot be employed by the district or any state or local agency involved in the care of the student. In addition, every effort must be made to avoid any conflict of interest with regard to the selection process. Upon assignment by DESE, the educational surrogate parent has all the rights and responsibilities of a parent in making decisions regarding eligibility and special education services for the student. The educational surrogate does not receive financial reimbursement from the district except for reasonable expenses related to his/her responsibilities as an educational surrogate parent for a student enrolled in the district.

The department will provide notice of appointment to the district and any state agency having custody of the student.

*At this point in time, this situation has not occurred. However, the Weston Public Schools are prepared to handle this type of situation should it arise.

Dispute Resolution

If a parent has made an official hearing request to the BSEA, Weston will convene a meeting with the parents within 15 days of receiving notice of the parents' request for hearing. The purpose of the meeting is to try to resolve the dispute. Present in attendance are the Team members to include a representative with decision-making authority. Weston will not bring a lawyer to this dispute resolution session unless the parent does. If the parent brings a lawyer without informing the district, the meeting will not occur and another meeting will be scheduled to include legal counsel from both or neither parties. This resolution session may be waived if the district and the parents agree in writing to do so or if the parties agree to instead participate in mediation.

Should the dispute be resolved in the resolution session, the parents and the Director of Student Services or the Director of Finance and Operations sign a legally binding agreement that is enforceable in state or federal court. Any party may void this agreement within three business days of the signing.

Notice to Special Education Appeals

Within five calendar days of receiving a notice that a parent is requesting a hearing or has rejected an IEP (to include a proposed placement), or a finding of no eligibility for special education, Weston sends a copy of the notice to Bureau of Special Education Appeals (BSEA). A copy of the IEP or Notice informing the parent of a finding of no eligibility is also forwarded to the BSEA.

Special Education

Guidance on Appointment of Educational Surrogate Parents

To: DSS Staff, Superintendents, Charter School Leaders, Special Education Administrators, Directors of Educational Collaboratives, Directors of Approved Public and Private Special Education Schools and other Interested Parties

From: Lewis H. Spence, Commissioner, Department of Social Services
David P. Driscoll, Commissioner, Department of Elementary and Secondary Education



Date: November 4, 2002

Representatives of the Department of Elementary and Secondary Education (ESE) and the Department of Social Services (DSS) have met several times over the recent past to discuss the needs of children in DSS care or custody who are eligible for special education services and require the appointment of educational decision-makers, i.e., educational surrogate parents. The agencies agreed to disseminate memoranda to our respective constituencies to promote a shared understanding of who has authority to make special education decisions for children in DSS care or custody.

This memorandum will:

1. Clarify the circumstances under which ESE will assign an educational surrogate parent (ESP) to children in the care or custody of DSS;
2. Define the relationship between such children and their ESPs when the child attains the age of majority (18 years of age) under Massachusetts law; and
3. Address the issue of judicial appointments of special educational decision-makers.

The memorandum reflects the current policy of the Massachusetts Department of Elementary and Secondary Education's Educational Surrogate Parent Program. We are distributing the memorandum to all DSS staff and to public and private school officials who provide educational services to publicly funded students.

Please note that a **revised referral form**   requesting appointment of an educational surrogate parent is attached.

I. Background: The Framework for the Educational Surrogate Parent Program

The Educational Surrogate Parent Program (ESP Program) exists in response to federal special education law, the Individual with Disabilities Education Act (IDEA). The IDEA requires States to implement procedures to protect the rights of children entitled to special education services who are in the custody of a state agency (a "ward of the state"), or whose parent or guardian cannot be identified or located.

The primary mission of DSS is to protect children who have been abused or neglected in a family setting. In carrying out this mission, DSS may remove a child from his or her home and place the child in foster, group or residential care, until the child can be returned home safely or another permanent living arrangement, such as an adoptive home, can be provided. Although, in most cases, DSS receives custody of a child through a Care and Protection (C&P) petition alleging parental abuse or neglect, it may also obtain custody through a Child in Need of Services (CHINS) petition, based on the child's behavior, or as a result of a private custody dispute. Children also enter DSS care through voluntary agreements between their parent(s) and the agency.

ESE is the state agency responsible for assigning a person to act in special education matters on behalf of a child in certain circumstances in which DSS has obtained care, custody or guardianship of the child. The term used to describe these individuals is "Educational Surrogate Parent," or ESP. The ESP Program recruits and trains volunteers to act as decision-makers in special education matters for those students, ages 3 - 22, whose parents are unable or unavailable to fulfill their responsibilities in this regard. Neither a parent's lack of expertise in special education issues nor lack of fluency in English is a basis to seek appointment of an ESP for a student. An ESP has the same rights and responsibilities as a parent for purposes of special education decision-making. This means that the ESP has authority to, among other things, review the child's educational records, consent to special education evaluation, accept or reject an Individualized Education Program (IEP), request an independent evaluation and request mediation or a hearing to resolve special education disputes.

ESE operates its ESP Program under contract with a private vendor, which acts as its agent for this purpose.¹ The ESP Program matches eligible students with ESPs. Once a match is made, the ESP Program issues an appointment letter to the ESP formalizing the relationship between the individual and the student. The ESP Program sends copies of the appointment letter to the responsible school district(s), the child's DSS worker and to other identified professionals involved with the student. The assigned ESP then has authority to provide consent for evaluations and make other decisions regarding special education matters.

Federal law is clear about who can be appointed an ESP for decision-making in special education matters. An individual having special education decision-making authority must:

1. Be older than 18 years of age;
2. Not be an employee of a public agency involved in the care or education of the specific student;
3. Have no interest that might conflict with the interests of the student; and
4. Have adequate knowledge and skills to represent the student.

Since DSS workers are "involved in the care...of the specific student" and there are potential conflicts of interest, DSS employees cannot be appointed ESPs. As such, they may not make special education decisions for children in DSS care or custody. However, this provision does not bar DSS workers from referring a child for a special education evaluation if the child appears to be a student who may have educational disabilities.² In cases where referral for evaluation is appropriate, the DSS worker should simultaneously refer the child to the ESP program for immediate appointment of an ESP *if appropriate* under this memorandum.

II. When an Educational Surrogate Parent Should be Appointed for a Child in Placement

The determination of whether an ESP should be appointed for a DSS-involved child turns on whether the child is in the care or custody of DSS, and if in DSS custody, the reason for the placement. Even where DSS has custody, the agency may permit the parent to continue in a decision-making capacity for special education purposes, assuming there are no protective concerns.

- A child is in the "care" of DSS if the child is placed outside of the home by DSS pursuant to a Voluntary Placement Agreement (VPA). The parent should continue to be the child's education decision-maker. As such, no referral to the ESP Program is necessary.
- A child is in the "custody" of DSS when the court issues an order transferring custody from the parent or guardian to DSS. The majority of children in DSS custody are in custody due to either the initiation of a CHINS petition or a Care and Protection (C&P) proceeding. In general, if a child is in DSS custody due to child-related issues³ (for example, CHINS cases) as distinct from parental fitness issues (i.e., Care and Protection proceedings), DSS will permit the parent to continue to function as the child's educational decision-maker in matters regarding special education. Hence, an ESP is not required and no referral to the ESP Program is required.
- ESPs are required for children who are in custody for protective reasons. In these cases, the DSS worker should make a referral promptly to the ESP Program if the child is a special education student when s/he enters DSS custody or the worker has made a referral to the responsible school district to determine the child's eligibility for special education services.
- Unusual circumstances may occur that would warrant departure from the general principles outlined here and the appointment of an ESP. In such cases, a referral may be made to the ESP Program with an explanation of the basis for the requested appointment. The ESP Program will consider these requests on an individualized basis after consultation with the child's DSS worker or other appropriate DSS representative.

As noted earlier, a DSS worker may refer a child for a special education evaluation if the worker believes the child has a disability that interferes with the child's progress in school. If the child needs an ESP, the worker should refer the child to the ESP program at the same time using the attached referral form. If the child is eligible for an ESP and there is none immediately available, the Director of the ESP Program may authorize the school district to proceed with the child's initial evaluation. ESE has authorized the ESP Program director to take this action to avoid delay in the commencement of the child's initial evaluation. As soon as possible, the ESP Program will assign an individual to be the ongoing ESP for all other decision-making related to special education for the child, including participation in the initial Team meeting.

When referring a child to the ESP Program, DSS workers are strongly encouraged to suggest individuals meeting the eligibility criteria discussed earlier whom they know are interested and available to act as the child's ESP.

Once an ESP is appointed for a child, the DSS worker should make sure that the ESP Program or the ESP is informed in a timely manner anytime the child changes his or her placement and/or address.

It is important to underscore that the appointment of an ESP does not preclude parents from participating in their child's education. In most cases, the parent(s) can and should be encouraged to

attend their child's Team meetings, as well as other school meetings, and to work with the ESP on behalf of their child. This is particularly appropriate when the child is expected to return home.

III. Foster Parents as Educational Decision-Makers

Appointment as ESP for Children in Protective Cases

If a child is in DSS custody as a result of a C&P petition or Probate Court action brought for protective reasons, the child is placed in a foster home and the foster parent agrees, DSS generally will request that the foster parent be appointed as the child's ESP. If the foster parent is qualified to assume the role of ESP (see the four criteria that appear on page 3), the ESP program will appoint the foster parent to act as the child's ESP. In some instances, as explained below, the foster parent may be the child's special education decision-maker without needing a referral to, and appointment by, the ESP Program.

Long Term Foster Care: Foster Parent "Acting as a Parent" in Protective Cases

The federal special education law recognizes that foster parents may form "ongoing, long-term parental relationships" with the children in their care. In such circumstances, a foster parent need not be appointed as an ESP but, instead, may be deemed to be "acting as a parent" for special education purposes.

A foster parent is deemed to have a long-term relationship with a child who is the subject of a C & P petition or other protective proceeding if: 1) the child has been placed in the foster parent's home for at least six months; 2) the foster parent is willing and able to assume special education decision-making responsibilities; 3) the foster parent has no interests that conflict with those of the child. In these circumstances, no referral to the ESP Program is necessary.

Foster parents may obtain information and other assistance regarding special education decision-making by contacting the Federation for Children with Special Needs at (800) 331-0688.

Important Note:

A foster parent is not viewed as "acting as a parent" when the child's actual parent continues in that role. A foster parent may be deemed to be "acting as a parent" for special education decision-making **only** in the following circumstances: 1) the child is in DSS custody as a result of a C&P petition or other protective action; **and** 2) the child has been placed with the foster parent for at least six months; **and** 3) DSS and the foster parent agree that the foster parent will make special education decisions for the child. The foster parent may not be deemed "acting as a parent" for special education purposes in cases in which the child is in foster care as a result of a voluntary placement agreement, a Probate Court action initiated for non-protective reasons or a CHINS petition, and the parent has continued to act as the child's special education decision-maker.

IV. Appointment of Special Education Advisors for Students over the Age of Eighteen Who Continue to Be Involved with DSS

In Massachusetts, a student who has reached the age of majority (eighteen years of age) is an adult according to law. An 18-year-old student is presumed competent to make his or her own decisions.

This presumption of competency applies to students age 18 and older who are in the care of DSS. Such students are no longer eligible for an appointed ESP.

However, students 18 and older in DSS care may request continued assistance with special education decision-making if they had an appointed ESP at the time of their 18th birthday. In such cases, the ESP serving the student on his/her 18th birthday may continue to serve the student as a "special educational advisor." This arrangement is contingent on the willingness and availability of the assigned ESP to serve in the new role. The responsibilities of a special educational advisor are to assist the student in understanding any proposed special education program and to advise the student of his/her rights in making special education decisions. The authority to make such decisions, however, remains with the student.

If an adult student in DSS care would like an appointed ESP to continue to assist him or her in special education matters, the student should make that request in writing to the ESP Program. The ESP Program will verify in writing the change from the existing ESP appointment to an appointment as a special educational advisor, assuming that the ESP is willing and available to serve the student in the new role.

The student's special educational advisor will retain his/her status as advisor until the student is no longer eligible to receive special education services. If the student and/or the special educational advisor choose(s) to discontinue their relationship before that time, the student will not be eligible for appointment of another special educational advisor.

On occasion, DSS has custody, or is the guardian, of an individual 18 or older who was in DSS care or custody before turning 18 and has been adjudicated incompetent. In such cases, an ESP will be appointed as soon as the DSS worker provides documentation to the ESP program of the guardianship appointment or continued custody. An adult student who has been adjudged incompetent will continue to have the right to an appointed ESP until the student is no longer eligible to receive special education services or the custody/guardianship is terminated, whichever comes first.

V. Judicial Appointments of Educational Decision-Makers

From time to time, judges in the Juvenile, and Probate and Family Courts appoint individuals to act on a child's behalf in various education matters. Such appointments are usually contained in written orders. Depending on the language of the order, the individual may or may not have authority to be the child's ESP for special education purposes. If the order specifies that the individual is appointed as the child's decision-maker for special education purposes, the individual may be presumed to have the appropriate authority. Upon request, and provided a copy of the order is sent to the ESP Program, the ESP Program will confirm the appointment and notify the appropriate school officials and DSS. If the individual is appointed by the court as the child's "educational advocate" or to a similar role, the ESP Program will not consider the individual to be an ESP for the child until such time as the ESP program determines that the individual meets the appointment requirements outlined on pages 3-4 of this memorandum. Once ESP appointment requirements are met, the ESP Program will recognize the individual as the child's ESP and issue an appointment letter with copies to appropriate school officials and DSS. Should the individual be unwilling or unable to meet appointment requirements, the ESP Program will appoint a different person as the child's ESP, if needed.

It should be noted that if a court appoints a guardian ad litem (GAL) or educational advocate with special educational decision-making authority and the parent had been making special educational

decisions for the child, the parent no longer has the right to consent to evaluations, to sign IEPs, or to ask for mediation or a hearing to resolve special education disputes. By appointing the GAL or educational advocate and conferring special education decision-making authority on that person, the court effectively takes away from the parent any authority s/he may have had to act on behalf of her/his child in this area.

VI. Obtaining Additional Information

Questions regarding the ESP program should be directed to Michelle Poulin, Program Director, at (508) 792-7679. Questions regarding DSS-related issues should be directed to Susan Stelk, DSS Education Coordinator at (617) 748-2340.

Cc: Marcia Mitnacht, State Director of Special Education, ESE
Michelle Poulin, Director of Educational Surrogate Parent Program
Susan Stelk, Education Coordinator, DSS

1 As of this writing, the address and telephone number of the ESP Program is 167 Lyman Street, P.O. Box 1184, Westboro, MA, 01581; tel: 508-792-7679; fax: 508-616-0318.

2 It is also important to emphasize that this restriction only applies to special education matters. It does not restrict the authority of DSS workers in regular education matters.

3 Some consented-to "23 C" petitions filed in the Probate Court may also fall into this category. In these cases, a VPA has preceded the Probate Court action.

Parent Advisory Council for the Weston Public Schools

In addition to parents participating in the special education process on behalf of their child, they may also participate in Weston's Special Education Parent Advisory Council (Weston Pac). The Weston Pac helps to guide the special education services provided to all eligible students in Weston.

In Weston, the Weston Pac allows parents of students with disabilities the opportunity to discuss common areas of interest and to advise the school committee and Director of Student Services about issues relating to special education and the students with disabilities in the district. The Weston Pac also welcomes the participation of parents of children without disabilities.

Ongoing collaboration and discussion occur between the Weston Pac chairperson and the Director of Student Services. Collaborative projects have emerged as a result of these efforts such as the writing of an inclusion manual, the writing of a parent resource guide for autism spectrum disorders, and several forums in special education. Parents and students are partners with the school district throughout the entire special education process.

WESTON PAC: Weston Special Education Parents Advisory Council: Who We Are

Do you have a child that receives special education services or do you suspect that your child may be in need of such services? The Weston Special Education Parents' Advisory Council, or WESTON PAC, is a volunteer organization, funded by the Weston PTO, comprised primarily of parents of children with special needs. Its purpose is to promote understanding and respect for children with special needs in Weston and to support their education within the Weston schools. It also provides information and support to parents of children who receive these services.

WESTON PAC is active in promoting its mission. WESTON PAC:

- Sponsors educational forums led by recognized experts in the field. Recent subjects have ranged from ADD, effective advocating for children, siblings of special needs children, estate planning, and organizational issues of special needs children in school.
- Updates a website to notify parents of upcoming workshops, conferences, and research about disabilities. Our site includes links to organizations concerned with special education and disabilities.
- Researches and purchases materials for children and parents – books, tapes, software – for the school libraries on disabilities, self-esteem and emotional issues, human differences, and special education laws.
- Meets with the Director of Student Services, Dr. Regis Miller and teacher representatives from the Weston schools to share information and find ways to work together. The needs of children who receive special education frequently differ from those of other students and this forum allows for an important exchange of information and insights.

We maintain a conference calendar at the Weston Library listing upcoming conferences, lectures, and workshops. You will see notices of our educational forums in the **Westword** (now online at www.westonschools.org) and in the **Town Crier**.

We invite you to join WSEPAC, to attend one of our educational forums and meetings, to call us for information, or to network with a parent who faces issues similar to yours. Raising a child who has special needs and supporting them as they make their way through school can be challenging and at times, isolating. Consider joining an organization of other parents who deal with similar challenges and who are working to support the education of special needs children, and all children, in the Weston schools. WSEPAC needs your support to meet those challenges. For more information, call Dianna Mullen, Assistant Director of Student Services at 781-786-5240.

Section IX

Description of Building Principal Responsibilities Relating to Instructional Support, Home or Hospital Educational Services, and Students with special Needs

Consultation with the Director or Assistant Director of Student Services

The school principal is responsible for instructional practices for students' individual needs and makes certain that all students have the necessary instructional support. Specific reading and mathematics instruction, curriculum support, assistance with organizational skills, social and emotional support, as well as consultative services for classroom teachers, are included in this instructional support. Additionally, the principal ensures that students for whom English is a second language receive the appropriate support so that they can effectively progress through the general curriculum.

Ongoing consultation with the Director of Student Services occurs regarding instructional support services required by students with and without special needs. Problem solving and brainstorming often transpire between the principal and the Director of Student Services when a student appears to be unduly challenged. These discussions frequently continue with the building Student Support Team (SST). Discussions and efforts on behalf of students are documented and placed in the SST file. For students referred for special education services, the school principal makes certain that instructional support strategies are provided and utilized as part of the evaluation data to be reviewed by the Team. A curriculum accommodation plan is on file at each school building.

The principal is also vigilant to ensure that all efforts have been made to meet the needs of diverse learners in the general education program. Regular education teachers are offered professional development opportunities in analyzing and accommodating diverse learning styles of all children in the regular education classroom. In addition to differentiated instruction, principals ensure that teachers are able to provide direct and systemic instruction in reading to those students who require this service and that consultative services are provided to teachers who need support with children whose behavior is interfering with learning. Professional development opportunities focus on differentiated instruction, methods of collaboration among teachers, tutors, and other support staff, pre-referral activities, teacher mentoring, and parent involvement.

Working closely with the Director of Student Services, the principal coordinates the delivery and supervision of special education services in their building.

Weston's Protocol for Educational Services in the Home or Hospital

1. Upon receipt from a physician's written statement verifying that a public school student, or a student placed by the public school in a private school, or a student privately placed in a private school (this student **must** have an IEP), will be out of school for 14 days or longer the principal arranges for the provision of educational services in the home or hospital.
2. The level of educational services should be frequent enough to allow the student to continue his or her educational program, as long as it does not conflict with the medical needs of the student.
3. The principal coordinates the educational services with the Director of Student Services for eligible students.
4. These educational services are not considered special education services unless the student has been determined eligible for such services and the support includes services on the student's IEP.
5. The number of hours of service is based on the medical status of the student and his or her educational needs. The decision is individualized. The instructional time must be based on the educational benefit received by the student and the intensity of the intervention. (1:1 direct instruction) should be taken into account.
6. Home/hospital services may be provided in a number of ways including:
 - a. Providing services directly to the student using school employees;
 - b. Contracting with the hospital to provide the needed service;
 - c. Contracting with another school district to provide services; or
 - d. Contracting with another agency to provide services

For additional information please refer to the DESE Question and Answer Guide, March 2005.

Administrative Advisory SPED 2003-1:
Changes to Massachusetts Special Education Law

To: Superintendents, Charter School Leaders, Special Education Administrators, Directors of Collaboratives, Directors of Approved Special Education Schools and other Interested Parties

From: David P. Driscoll
Commissioner of Education

Date: October 4, 2002

This advisory explains two amendments to the Massachusetts special education law, General Laws chapter 71B, that were passed by the Legislature and signed into law by the Governor in July 2002. These amendments were enacted through outside sections of the FY 2003 state budget (St. 2002, c. 184) and they are **in effect now**. Please share this information with relevant staff members and see to it that procedures in your district, school or program are revised as necessary to comply with the new provisions of state law.

Providing Services to Students in the Home or Hospital

G.L. chapter 71B, section 2 has been amended by section 81 of St. 2002, c. 184 as follows:

The third paragraph of section 2 of chapter 71B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following sentences:- Children in public schools shall be entitled to teaching at home and in the hospital if the child's physician determines the child will have to remain at home or in a hospital for more than 14 school days in any school year. Children in non-public schools shall be entitled to home and hospital services when deemed eligible under this chapter. **An expedited evaluation, which shall be limited to a child's physician statement unless there is a clear indication of the need or unless the parents request additional evaluations, shall be conducted and services provided to eligible students by the school district within 15 calendar days of the school district's receipt of the child's physician statement.** [Emphasis added.]

The first two sentences do not change existing state law and practice, represented in the special education regulations, 603 CMR 28.00. The final sentence of this section, however, which is highlighted for your convenience, is a new provision. To assist school officials in carrying out this new law, we provide the following guidance:

1. As previously, students who have been found eligible for special education, whether they are currently enrolled in public or non-public schools, are entitled to receive publicly-funded educational tutorial services that address the student's general and special education needs when they are out of school for medical reasons. For detailed information, please refer to the Department of Elementary and Secondary Education's Question and Answer Guide on the

Implementation of Educational Services in the Home or Hospital that was revised and reissued in January 2002. The Guide is based on the regulatory provisions at 603 CMR 28.03(3)(c) and 28.04(4). This Guide can be viewed on the Department's website at:

http://www.doe.mass.edu/pqa/ta/hhep_ga.html.

2. New practice in this area will pertain to students who have not yet been evaluated for special education eligibility and who are not enrolled in the public schools but rather are enrolled in a non-public school at private expense (hereafter: private school students).
3. As previously, a parent who wishes to obtain publicly-funded special education services for a private school student who has not yet been found eligible for special education must request that the public school district in the community where the student resides conduct an evaluation to determine special education eligibility.
4. As previously, the public school district is required by law to do a complete evaluation. The school district has 45 school working days from the date of the parent's consent to conduct an evaluation including all required assessments and to convene a Team and determine if the student is eligible for special education. (603 CMR 28.05(1))
5. New language now requires that if a parent of a private school student requests an evaluation to determine eligibility for special education and presents a physician's statement, then an immediate review of the physician's statement is required. This review may lead to an expedited determination regarding special education eligibility in certain circumstances.

(a) If the statement provides sufficient detail to affirm that the student has a chronic or serious health condition, and the parent does not request additional evaluations, then the school district must determine if there is sufficient information available to consider if the student has a "health impairment" according to the definition provided under 603 CMR 28.02(7)(i) and cited in (c) below. If the district believes there is sufficient assessment information to make such a determination then it must convene a Team within 15 days of the receipt of the physician's statement and the request from the parent.

- Use of this provision for an expedited consideration of eligibility is limited to consideration of eligibility because of a *health impairment* that adversely affects educational performance.
- The district may determine that the physician's statement contains insufficient detail related to the student's health and its effect on the student's educational performance. In such case, the existing timelines set forth in 603 CMR 28.05(1) (and, in this advisory, #4 above) shall prevail.

(b) If the district convenes an expedited Team meeting, the school district must invite a representative of the student's private school to participate as a Team member and to bring information about the student's educational status to the Team meeting.

(c) The Team then has the responsibility to consider if the student has a disability consistent with the following definition:

Health Impairment - A chronic or acute health problem such that the physiological capacity to function is significantly limited or impaired and results in one or more of the following: limited strength, vitality or alertness including a heightened alertness to environmental stimuli resulting in limited alertness with respect to the educational environment. The term shall include health impairments due to asthma, attention deficit disorder or attention deficit with hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia, if such health impairment adversely affects a student's educational performance. (603 CMR 28.02(7)(i))

(d) The Team may make a determination of the student's eligibility or ineligibility for special education based on the information available. If the private school student is determined to be eligible for special education because of a "health impairment," the Team shall develop an IEP at the meeting and upon parental consent, the district shall provide appropriate services. See # 1 above for more information.

(e) The Team may make a determination that additional evaluation is necessary to make a determination of eligibility. In such case, the school district must complete the additional assessments and schedule a Team meeting within 30 school working days of receipt of consent from the parent for the additional assessments. The Team convening at this time must determine whether the student is or is not eligible for special education. Such determination is not limited to a disability consisting of a health impairment. This timeline then conforms to the standard evaluation requirements set forth in 603 CMR 28.05(1).

New Requirement Related to Development of the IEP

G.L. chapter 71B, section 3 has been amended by section 83 of St. 2002, c. 184 as follows:

Section 3 of chapter 71B of the general laws, as appearing in the 2000 Official Edition is hereby amended by inserting after paragraph 18 the following new paragraph: If a student's individual education plan necessitates special education services in a day or residential facility or an educational collaborative, the IEP team shall consider whether the child requires special education services and supports to promote the student's transition to placement in a less restrictive program. If the student requires such services, then the IEP shall include a statement of any special education services and supports necessary to promote the child's transition to placement in a less restrictive program.

This provision is consistent with existing federal law that requires the IEP Team to consider how to support the student's ability to receive special educational services in the least restrictive environment (LRE). The federal law, in defining LRE, requires that "to the maximum extent appropriate, children with disabilities...are educated with children who are nondisabled; and that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." (34 CFR 300.550(b)(1-2))

This LRE provision, read in concert with the federal provisions on the IEP, is intended to result in a complete and careful consideration of the necessary supports for a student to be successful in a less

restrictive program. The federal required content for the IEP includes: "A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child...to be educated and participate with other children with disabilities and nondisabled children..." (34 CFR 300.347(a)(3))

The new provision of the Massachusetts special education law furthers LRE by requiring the Team to consider, for any student placed in a day or residential special education facility or in an educational collaborative, what is necessary to "promote...transition" to a less restrictive program. The Department, therefore, provides the following guidance:

When developing an IEP that will result in the student's initial placement out-of-district, or convening for an annual review of the program of any student who has been placed out-of-district, the Team must actively consider if any special education services or supports for the student or school personnel are necessary to help the student transition to a less restrictive program. If the Team concludes that certain services are necessary to promote the student's transition, the Team shall include a goal statement on IEP-4 related to preparation for transition to a less restrictive program and identify all necessary services on IEP-5 on the service delivery grid of the IEP.

This is a change in the elements that are to be discussed by the Team during the development of the IEP. Therefore, all IEP Team chairpersons should be made aware of this new requirement. No changes to the IEP form itself are necessary, as the outcomes of such a discussion can be documented appropriately on the existing IEP form.

In closing, we hope this guidance is helpful in understanding the impact of these new statutory requirements and in ensuring that local practices are consistent with the law. If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700).

Thank you for your attention to this memorandum and for assuring that students with disabilities receive appropriate services.

Program Quality Assurance Services Compliance and Monitoring

Question and Answer Guide on the Implementation of Educational Services in the Home or Hospital 603 CMR 28.03(3)(c) and 28.04(4)

Issued February 1999
Revised February 2005

1. What is the Intent of the Massachusetts Regulations on Educational Services in the Home or Hospital?

The Massachusetts regulation requiring educational services in the home or hospital is 603 CMR 28.03(3)(c). It reads as follows:

Upon receipt of a physician's written order verifying that any student enrolled in a public school or placed by the public school in a private setting must remain at home or in a hospital on a day or overnight basis, or any combination of both, for medical reasons and for a period of not less than fourteen school days in any school year, the principal shall arrange for provision of educational services in the home or hospital. Such services shall be provided with sufficient frequency to allow the student to continue his or her educational program, as long as such services do not interfere with the medical needs of the student. The principal shall coordinate such services with the Administrator for Special Education for eligible students. Such educational services shall not be considered special education unless the student has been determined eligible for such services, and the services include services on the student's IEP.

The intent of this regulation on home or hospital instruction is to provide a student receiving a publicly funded education with the opportunity to make educational progress even when a physician determines that the student is physically unable to attend school. While it is impossible to replicate the total school experience through the provision of home/hospital instruction, a school district must provide, at a minimum, the instruction necessary to enable the student to keep up in his/her courses of study and minimize the educational loss that might occur during the period the student is confined at home or in a hospital.

Although the regulation on home/hospital instruction is included in the Special Education Regulations (603 CMR 28.00), home/hospital instruction is not considered "special education" unless the student has been found eligible for special education. In other words, home/hospital instruction typically is considered a regular education service, since it is in the interest of both the individual student and the school to make it possible for the student to keep up with schoolwork while s/he is unable to attend school for medical reasons.

The Special Education Regulations also include a provision relating specifically to students who are likely to be confined to home or hospital for medical reasons for more than 60 school days in any school year. Please see regulation 603 CMR 28.04(4), discussed in [Question #4](#), below.

Please note that the requirements and guidance discussed in this Question and Answer Guide are separate and distinct from those relating to the approval of parent requests for "home education" or

home schooling programs, which are governed by General Laws Chapter 76, § 1. The Department of Elementary and Secondary Education's *Home Education Advisory* provides guidance on the Massachusetts law governing home schooling programs.

2. Who is Entitled to Educational Services in the Home or Hospital?

Public school students. A public school student who, due to documented medical reasons, is confined to home or a hospital for not less than fourteen (14) school days during the school year, is entitled to receive home/hospital educational services as described under 603 CMR 28.03(3)(c). In this context "public school student" means a student who is enrolled in a public school district or a charter school, or a student who is being educated with public funds in an educational collaborative or an approved private day or residential special education school. (Please see [Question #8](#), below, for more detail about students in approved private day and residential special education schools.) The requirement for a school district to provide home/hospital instruction to a public school student who is being educated at public expense is not dependent upon the student's eligibility for special education.

Private school students. A student who is enrolled in a private school at private expense ("private school student") is entitled to receive publicly-funded home/hospital instruction as a special education service if s/he has been found to be a student with a disability who requires special education. Mass. General Laws Chapter 71B, § 1 defines "school age child with a disability" as follows:

a school age child in a public or *non-public school setting* who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services, including a school age child who requires only a related service or related services if said service or services are required to ensure access of the child with a disability to the general education curriculum. G.L. Chapter 71B, § 1 (emphasis added).

A private school student who has been evaluated and has been found eligible for special education is entitled to receive home/hospital educational services as outlined in [Question #9](#), below. For both public school students and private school students, the justification for any needed home or hospital instruction must be documented by a student's personal physician. A school district that receives a request for home instruction from someone other than a physician, or from a physician who is not personally responsible for a student's care, is not obligated to provide instruction under 603 CMR 28.03(3)(c). In this case, the responsible school district should inquire further with the student's parent or guardian to determine the student's status and any additional information or action that is needed. For example, the school district may need to proceed under the compulsory attendance law if it determines that a student between ages 6 and 16 is not attending school, is not being otherwise educated in a manner approved by the school district, and is not medically unable to attend school.

Determining eligibility. As required under M.G.L. c. 71B, § 2, if a parent of a private school student requests an evaluation to determine the student's eligibility for special education and presents the school district with a physician's statement, then the school district must immediately review the physician's statement to determine if there is sufficient information available to consider if the student has a "health impairment" according to the definition provided under 603 CMR 28.02(7)(i). If there is sufficient information in the physician's statement, then the school district should convene the Team within 15 days to make an expedited determination of eligibility and begin provision of services. Please refer to [Administrative Advisory SPED 2003-1](#) for additional information about these requirements.

3. How Can Home or Hospital Education Services Be Accessed?

Once the student's personal physician (for example, a pediatrician, internist, medical specialist or psychiatrist) determines that a student's medical condition will require either hospitalization or home care for not less than 14 school days, the physician must notify the school district responsible for the student in order to begin the home/hospital instruction process. The student's physician must complete a Department of Elementary and Secondary Education form 28R/3 (or equivalent signed statement) and submit it to the student's *building principal or other appropriate program administrator*. At a minimum the physician's signed notice must include information regarding:

- the date the student was admitted to a hospital or was confined to home;
- the medical reason(s) for the confinement;
- the expected duration of the confinement; and
- what medical needs of the student should be considered in planning the home or hospital education services.

Students with chronic illnesses who have *recurring home/hospital stays of less than 14 consecutive school days*, when such recurrences have added up to or are expected to add up to more than 14 school days in a school year, are also eligible for home or hospital educational services if they are requested and the medical need is documented by the physician.

Home and hospital educational services under 603 CMR 28.03(3)(c) must begin without undue delay after the school district receives written notice from the student's physician that such services are necessary. Please note that there is *no required 14-day waiting period before home or hospital instruction can commence* if it is likely that the student will be absent from the school-based program for 14 school days or more in the school year.

Whenever a student is likely to miss 14 school days or more for health-related reasons, the Department strongly recommends that the school district expedite the delivery of educational services as well as any evaluation or Team meetings that may be necessary, in order to minimize the negative impact on the student's educational progress. (See also [Question #10](#), below.)

4. What Requirements Apply if the Student is Likely to Be Confined to Home or a Hospital for More Than 60 School Days?

If, in the judgment of the student's physician, a student with an IEP is likely to remain at home, in a hospital, or in a pediatric nursing home for medical reasons and for more than sixty (60) school days in any school year, the Administrator of Special Education is required, *without undue delay*, to convene a Team meeting to consider evaluation needs and, if appropriate, to amend the existing IEP or develop a new IEP suited to the student's unique circumstances. (See 603 CMR 28.04(4).) The Department recommends that the Administrator of Special Education convene the Team meeting within 10 school days after the school district is notified that the student is likely to remain at home or in the hospital for more than sixty days. This provision applies to all eligible students, including private school students who have been determined to need special education.

5. How Should Home or Hospital Services Be Delivered?

School districts may provide home/hospital services in a number of ways, including:

- providing the services directly to the student using district employees;
- contracting with the hospital to provide the needed services;
- contracting with another school district to provide the services; or
- contracting with another agency to provide the services.

Home/hospital instruction is typically one-to-one or small group instruction that is provided on an individualized schedule, for less than a full school day or a full school week. The school district should determine the number of instructional hours per day or per week based on the educational and medical needs of the individual student. School districts may not preset the number of instructional hours per week provided to students who must remain at home or in the hospital; the decision must be individualized. Based on the student's medical status, the student's physician may determine that the number of instructional hours should be reduced. In addition, the amount of instructional time deemed necessary by a district may be guided by the instructional approach used in a one-to-one home or hospital setting as compared to the instructional approach normally implemented in the student's school-based program. However, such a reduction in instructional time must be based on the educational benefit received by the student given the reduced teacher-student ratio. Service delivery, including the time of day the services are to be delivered, should be determined in the best interests of the student and in consideration of the medical circumstances of the student.

When planning and delivering home or hospital educational services, the school district should carefully consider all aspects of a student's educational program while attending school, including any current IEP services, Section 504 plans and instructional accommodations, as well as the student's general education services.

6. Is the Academic Content of Instruction and the Certification of Staff Any Different for Home or Hospital Instruction Than for School-Based Instruction?

Instruction that is provided in the home or hospital for public school students under 603 CMR 28.03(3)(c) must include the same academic content as that provided in the student's regular school-based program. While teacher certification requirements apply to the teachers who are providing the instruction, the teachers do not have to be certified in all subject areas. However, in all cases the school district must be able to demonstrate that the assigned staff member effectively provides the necessary instruction to the student. Teachers who provide home/hospital instruction to public school students must coordinate the instructional content, approach and student progress with the student's teachers at school.

For both public school students and private school students, special education and/or related services that are provided in a home or hospital setting under this provision must be delivered (or closely supervised) by staff certified or appropriately licensed to deliver such services.

7. May A School District Require That a Parent or Other Responsible Adult be in the Home While the District's Instructor is Working With the Student?

If a district requires that an adult is present during homebound instruction, the district should take reasonable steps to ensure that this policy does not conflict with its obligation to provide instruction. A district could likely avert a potential conflict by arranging for instruction at a time (such as late afternoon or evening) when an adult would be at home with the student. If a district were unable to send an instructor at a time when an adult was at home, it would be permissible for the district to send a staff member to accompany the instructor. If a district is unable to arrange for instruction

during hours when an adult will be at the home or to send a staff member to accompany the instructor, the district should propose a reasonable alternative to the student's parent that would ensure that the student receives instruction while satisfying the district's legitimate concerns about safety and liability.

8. Under what Circumstances are Educational Collaboratives and Public and Private Day and Residential Special Education Schools Approved Under 603 CMR 28.09 Required to Provide Home or Hospital Instruction?

If the school district continues to pay the costs of the placement in order to hold the enrollment status of the student in a educational collaborative program or a public or private special education school during the student's confinement to home or a hospital, the respective collaborative or public or private school must provide at no additional cost to the school district appropriate educational and special educational services. These services must be provided consistent with requirements of 603 CMR 28.03(3)(c) regarding educational services in a home or hospital, subject only to the limitations outlined in [Question #5](#), above.

If the student is not expected to remain in the placement after the student's confinement to home or hospital, the school district must ensure in another way that the student receives appropriate educational and special educational services or, if appropriate, reconvene the Team consistent with 603 CMR 28.04(4) and consider evaluation needs and/or revisions to the IEP taking into account the services the student needs while s/he is unable to attend school for medical reasons.

9. How Do These Requirements Apply to a Student Who is Enrolled in Private School at Private Expense and Needs Home/Hospital Instruction for Medical Reasons?

As is stated above in answer to [Question #1](#), although the regulation requiring home/hospital instruction is included in the Special Education Regulations (603 CMR 28.00), home/hospital instruction is not considered "special education" unless the student has been found eligible for special education. State law (G.L. Chapter 71B) requires school districts to provide special education to eligible students who are attending private school at the parent's expense or other private expense ("private school students"). Since home/hospital instruction can be a regular education or special education service, this has led to some confusion about the appropriate provision of home/hospital instruction for private school students.

- *If the private school student already has an IEP* under which the school district is providing special education services, then during the 14+ school days that the physician says the student will be out of school for medical reasons, the school district must provide the specially designed instruction and/or related services described on the student's current IEP, modified as necessary to accommodate the student's medical needs. If the student's medical condition is likely to affect the ability of the student to maintain effective school progress, the student's parent may request that the Administrator of Special Education convene a Team meeting to consider further evaluation of the student and, if appropriate, to amend the existing IEP or develop a new IEP. Modifications to the IEP can include home or hospital instruction. The Administrator of Special Education is required to convene a Team meeting without undue delay for any student with an IEP who, in the judgment of the student's physician, is likely to remain at home or in a hospital for more than 60 school days in any school year. This

requirement is found in the Special Education Regulations at 603 CMR 28.04(4) and is discussed in Question #4, above.

- *If the private school student does not have an IEP* and will be confined to home or a hospital for medical reasons, s/he may be eligible for special education services if the student's medical condition is determined to be a health impairment that adversely affects the student's educational performance. Under these circumstances, the parent is entitled, at any time, to request and receive an evaluation of the student by the public school district to determine if the student's medical condition meets special education eligibility requirements. If a physician indicates to a school district that the student has a medical or health condition that is likely to lead to extended school absence(s) or an inability to maintain effective educational progress, the school district shall treat such information as a referral for an evaluation to determine eligibility for special education. In such case, the school district shall, within five school days, send written notice to the student's parent seeking consent for such evaluation to occur (603 CMR 28.04(1)(a)). A Team may find a student eligible for special education based on a chronic or acute health impairment or other disability, as defined in 603 CMR 28.02(7), that adversely affects the student's educational performance. Please see [Question #10](#), below.

Under Massachusetts law, a private school student who has been determined to be a "school age child with a disability" as defined in G.L. Chapter 71B, § 1, is entitled to receive publicly-funded special education services in accordance with an IEP developed by the school district of residence. The school district may not refuse to evaluate the student because s/he is enrolled in private school or because s/he is currently out of school for medical reasons. The Department recommends that the Administrator of Special Education make every effort to expedite assessment(s) and the Team meeting so that services may be provided in a timely fashion. If the student is evaluated and determined to be a student who is eligible for special education, the student will be entitled to receive home/hospital instruction according to the IEP.

- *If the private school student does not have an IEP and the parent does not wish to refer the student for a special education evaluation*, the parent may contact the school district of residence, providing documentation from the student's physician that the student is confined to home or hospital for medical reasons for not less than 14 school days during the school year. The school district may, at its discretion, provide home/hospital instruction to the student, using the district's resources to provide the instruction, but it is not required to do so unless the student is evaluated and found to be eligible for special education. Please see [Question 2](#) above for additional information on determining eligibility of private school students based on a physician's statement.

Please note that the public school district is under no obligation to be familiar with nor to use the private school's curriculum, textbooks, or related education materials, but shall provide home or hospital services designed to maintain the private school student's progress in general curriculum areas when such services have been included on the IEP. Consequently, if a private school student will be absent from school for medical reasons for an extended period of time, the student's parent should always contact the private school to find out what tutoring services or other home/hospital instruction the private school will provide to help the student keep up with his or her schoolwork. The administrators and teachers in the private school are most knowledgeable about the private school's curriculum and the coursework that the student is covering in class, and they are in the best position to design and provide tutoring or other home/hospital instruction that will enable the student to keep up with school assignments. Depending on the circumstances, the private school itself may have an obligation to provide accommodations or services to the student under federal civil rights laws,

Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, or under the contract of enrollment between the school and the parents.

10. Are Students With Chronic or Acute Health Issues Always Eligible for Special Education?

The answer depends on the facts of the individual case. Any student with a medical or health condition that is likely to lead to extended school absence(s) or inability to maintain effective educational progress is a reasonable candidate to be referred to the public school district for initial evaluation to determine special education eligibility. Such referrals should take place as soon as it is known that a student's health condition is chronic or acute and is likely to have a negative educational impact, rather than delaying referral or action until the student is absent for significant periods of time or has begun to experience educational failure.

If assessment information indicates that the student's educational progress will be adversely affected as a result of a chronic or acute medical condition that is not temporary in nature, then the Team will likely determine that the student is eligible for special education. An eligibility determination is an individualized decision that depends on the facts of each case. In most cases, if the Team determines the student is eligible, the type of disability as recognized by federal and state special education law will be a "health impairment" (see 603 CMR 28.02(7)(i)). In some cases, the assessments may indicate other types of disability, such as "emotional impairment" or "neurological impairment."

If the student has been evaluated and found eligible for special education, the Team will write an IEP describing the special education and related services that the student needs and the school district will provide. If the student will be out of school for medical reasons for an extended period of time, it is appropriate to include on the IEP educational tutoring as a related service that the student needs in order to access the general curriculum while s/he is in the home or hospital setting. The IEP may be tailored to address expected time periods when the student is unable to attend school, if that is deemed appropriate to meet the unique needs of the individual student.

Additional questions or concerns about the provision of home or hospital educational services for students who are unable to attend school should be directed to the Department of Elementary and Secondary Education, Program Quality Assurance Services, at (781) 338-3700.

last updated: March 2, 2005

Communication in the Primary Language of the Home

Procedure for Supporting English Language Learners (ELL) in the Weston Public Schools

Every effort is made to accommodate parents whose primary language is other than English. Weston staff initially communicates with parents via their student and the school counselor to determine what language supports will be necessary. Weston has employed both interpreters and translators, depending on the needs and requests of the parents. Funds are set aside annually to pay for this service.

At this time, Weston contracts with an agency to provide services to parents who are limited English proficient or monolingual in their native language.

Language School International, Inc.
179 Great Road
Acton, MA 01720
978-263-0326
Fax: 978-264-9552

Procedure for Supporting English Language Learners (ELL) in the Weston Public Schools

A student whose primary language is not English and is determined to be in need of further instruction in English will be evaluated by the ELL teacher to determine what level of intervention is appropriate. Some students need direct instruction, while others may only require consultation services. If the student is provided with ELL instruction and does not make effective progress, he/she may be referred for a special education evaluation. This evaluation can be administered in English or in the student's native language. When the appropriate assessments have been completed, the IEP Team convenes to determine whether the student is eligible to receive specialized instruction through special education. If the student is found to have a disability, he/she is entitled to the same special education services offered to native English speaking students.

Involvement in the General Curriculum

The district has taken significant steps to align the general education curriculum with the Massachusetts Curriculum Frameworks. Students with disabilities are full participants in the general curriculum and are provided essential learning opportunities that prepare them to reach the state graduation standards. Accommodations and modifications to a student's program are made when appropriate through the IEP process. The IEP chairperson, who is familiar with the general curriculum and the student's learning profile, will discuss with the IEP Team how the student will appropriately access the general curriculum. This is thoroughly documented throughout the student's IEP.

Instructional Grouping Requirements for Students Aged 5 and Older

Weston Public Schools determines appropriate group size and support for students receiving services outside of the general education classroom. All instructional groups are compatible with the methods and goals stated in each student's IEP.

For instructional groupings outside of the general education classroom, group composition never exceeds 8 students to one special education teacher or 12 students to a teacher and an aide. Similar ratios are maintained for eligible students served in substantially separate settings (more than 60% of the student's schedule). In actuality, group sizes in Weston Public Schools are usually two or four students with a special education certified teacher.

Group sizes rarely, if ever, exceed 8 students to one teacher or 12 students to a teacher and an assistant. Weston Public Schools understands that the Director of Student Services and the certified special educator may decide to increase the instructional group by no more than two students provided that the students have comparable instructional needs. If this occurs, parents of the students in the group are notified of the decision to increase group size and the reason for such a decision. Additionally, the DESE is also notified. Such increase in instructional groupings is only in effect for one year and every effort is made to decrease the group size as soon as possible.

Age Span Requirements

The ages of the youngest and oldest student in any instructional grouping do not differ by more than 48 months. If the district believes a larger age span is justified, a written request for approval is submitted to the Commissioner of Education. Only after approval is granted may the age requirements span beyond 48 months.

Section XI

Procedures for Out-of-District Placements

Weston adheres to all of the policies and procedures identified by the Massachusetts Department of Elementary and Secondary Education as they pertain to out-of-district placements. A monitoring plan is on file for each student, attached to a log sheet documenting phone calls, correspondence, and site visits. Weston's Assistant Director of Student Services is responsible for ensuring that every out-of-district student is afforded full procedural protection.

Each out-of-district placement is pursued based on the LEE regulations as well as the approval of the Massachusetts Department of Elementary and Secondary Education (603 CMR 28.09). A legal and binding contract is signed with each program in accordance with the requirements of 28.06(3)(f)(1-5). A copy of each contract is maintained in the front of each SPED student's folder in the special education office. Every September contracts are renewed for each student placed out of district. Exceptions to this mandate are students who attend collaborative programs located in public schools attended by typical students.

In rare instances, Weston may have to place a student in an unapproved program in order to meet all of the provisions of the IEP. In such instances, Weston adheres to the DESE guidelines as outlined in the August 6, 2001 memorandum, "Out-of-District Placements in Unapproved Programs" and the forms, "Notification of Intent to Use an Unapproved Program 603 CMR 28.06 (3)(e)(4)." If a student is placed out of state in a program not approved by DESE, the Assistant Director of Student Services would ensure that such school has approval by the host state and a copy of this approval would be placed in the student's SPED file.

Special Education

Administrative Advisory SPED 2002-5:

Special Education Contracts Between School Districts and Out-of District Programs [603 CMR 28.06(3)(f)]

To: Special Education Administrators, Educational Collaborative Directors, Directors of Approved Public and Private Day and Residential Special Education Schools and other Interested Parties

From: Marcia M. Mittnacht - State Director of Special Education
John D. Stager - Administrator, Program Quality Assurance Services

Date: June 21, 2002

The Massachusetts special education regulations require school districts to enter into a written contract (sometimes known as a "placement agreement") with out-of-district public and private agencies for every eligible student placed by the school district. 603 C.M.R. § 28.06(3)(f). Out-of-district programs are defined under 603 C.M.R. § 28.02(14). This advisory explains the contract requirements and provides guidance on additional contract elements that the Department of Elementary and Secondary Education recommends for consideration by the contracting parties.

The special education regulations specify the minimum terms that such a contract must contain. Among other terms, the contract must provide for:

- the out-of-district program's agreement to provide the services on the Individualized Education Program ("IEP") for the student in compliance with the law and the elements of the IEP;
- the out-of-district program's completion and issuance of written student progress reports;
- the school district's access to any or all records necessary to ensure appropriate monitoring and evaluation of the education of the student in the out-of-district program;
- the out-of-district program's agreement to abide by the Massachusetts Student Record Regulations;
- the out-of-district program's agreement to provide access to the school district and/or the Department of Elementary and Secondary Education to conduct announced and unannounced site visits and to review any or all documents relating to the provision of special education services at public expense;
- the out-of-district program's agreement to ensure provision of all the substantive and procedural rights held by eligible students;
- the out-of-district program's assurance that it is and will be in compliance with all other applicable requirements of Massachusetts special education regulations and applicable policy statements and directives issued by the Department; and
- the out-of-district program's assurance that it does not discriminate on the basis of race, color, religion, sexual orientation, and national origin and does not discriminate against persons with disabilities.

The Department's role with respect to the precise terms of such contracts is limited to determining compliance by school districts with 603 C.M.R. § 28.06(3)(f) and to approving public and private special education programs under 603 C.M.R. § 28.09. The Department does not approve contract terms or participate in the negotiation of such terms.

Compliance with 603 C.M.R. § 28.09

The Department anticipates that contract provisions will differ depending on whether a student is placed in a Department-approved or in an unapproved out-of-district program. If a school district is placing a student in an **unapproved** program, the district must ensure that the program meets requirements relating to health and safety, appropriately certified educational staff, educational facilities and materials, and all requirements consistent with those found under 603 C.M.R. § 28.09 and §18.00. The specifics of these requirements are generally described under 603 C.M.R. § 28.09 and §18.00 and are detailed in the Department's *Application Procedures for Department of Elementary and Secondary Education Approval of a Massachusetts Public or Private Day or Residential Special Education School Program*. This program approval document is available from the Department's Program Quality Assurance Services unit (PQA) and also is available on the Department's Web site at http://www.doe.mass.edu/pqa/sa_nr/.

If a student is placed in a program **approved** by the Department of Elementary and Secondary Education, however, the school district need not make these inquiries with the program. If the program has received approval, the Department will monitor these issues generally on a program-wide basis and the school district must ensure that these matters are implemented with respect to the individual placement(s) made by that district. This is consistent with 603 C.M.R. § 28.06(3)(a) ("the Department shall determine that programs approved under § 28.09 of these regulations have appropriate policies, procedures, and appropriately credentialed staff"). Program approval sought and received by out-of-state programs either from the Department of Elementary and Secondary Education in Massachusetts or in other states will also be acceptable to meet these additional requirements.

School District Monitoring of Placements and Records

In contrast to the Department's role with respect to approved programs and the requirements in section 28.09, school districts remain responsible for monitoring "the programs of individual students enrolled in the approved programs." 603 C.M.R. § 28.06(3)(a) and (b). The Department anticipates that such monitoring will include careful review of student progress reports, announced and unannounced site visits, a review of documentation sufficient to verify and evaluate the full implementation of education services at public expense, and all other activities necessary to ensure that the student's education and program comply with federal and state law. While the parties may negotiate some reasonable terms regarding the implementation of these requirements, the contract language to which the parties agree must not impede the school district's ability to monitor the placement of individual students and may not purport to limit the Department's authority, function, and role.

Provision of Services

With respect to the services specified on a student's IEP, 603 C.M.R. § 28.06(3)(f)(1) states that the "out-of-district placement shall comply with all elements of the IEP for the student." While providing certain services specified on an IEP may require negotiation, the Department does not expect out-of-district programs to agree to provide all services specified on IEPs yet to be developed. The provision

of services specified on future IEPs should be handled through a simple amendment to the original contract as opposed to an open-ended provision that may require a program potentially to provide services inconsistent with its approval status with the Department of Elementary and Secondary Education and the pricing of the program by the Commonwealth.

Pricing of and Payment for Private Out-of-District Programs

As specified in 603 C.M.R. §§ 28.06(3)(e)(4) and 28.09(3)(a), the Operational Services Division ("OSD") of the Executive Office of Administration and Finance establishes the rates for all placements in approved and unapproved private special education school programs made by school districts at public expense. These requirements are described under 808 C.M.R. 1.00 (setting of prices for placements in private programs for special education). School districts are not authorized to establish, agree upon, or pay tuition for an approved **or** unapproved private placement of any type without a rate having been set by OSD. Typically, approved program rates will be available from OSD well in advance of the placement of the student. However, such rates may change and the contract may not be used to limit the ability of private programs to seek rate adjustments consistent with the requirements of law and regulation. The parties may negotiate other terms related to payment provided that such terms comply with all federal and state laws including the timely placement of students served in out-of-district programs.

Optional Elements that May Be Included in the Contract

Public and private out-of-district programs in most instances serve students with the most complex disabilities. The Department's Program Quality Assurance Services unit receives many inquiries regarding the complex circumstances of individual students, particularly as they intersect with regulatory requirements for which the Department has oversight responsibilities. The Department has observed that the lack of clear, written communication of expectations between the parties involved in out-of-district placements may result in unintended noncompliance with state and federal special education requirements.

Communication and planning are essential to the successful partnership between a school district and a public or private out-of-district placement. Drafting and negotiating the school district/out-of-district contract affords the parties an opportunity to discuss and consider additional items, beyond those required by the regulations, that define respective responsibilities and expectations. Parties benefit by discussing issues sooner rather than later, even if they decide not to incorporate these or other optional provisions in a contract. The Department recommends, therefore, that school districts and out-of-district special education programs use the contracting process as a vehicle to clarify and address each party's expectations. Students' rights to a free, appropriate, public education (FAPE) and their needs for a predictable environment are best served when potential areas of confusion or conflict are identified and addressed in advance.

For these reasons, **the Department recommends, but does not require**, the consideration of the following additional elements for inclusion where deemed appropriate by the parties in a contract required under 603 C.M.R. 28.06(3)(f):

- responsibility to conduct unscheduled Team meetings, re-evaluations and 3-year re-evaluations (school district has legal responsibility, but certain aspects described below could be delegated to the out-of-district public or private program);
- responsibility for developing IEPs in a timely fashion (school district has legal responsibility for notice to parents and convening the Team meetings);

- issuing of proposed IEPs with proper notice of procedural safeguards and notice of parents' rights (school district has legal responsibility and out-of-district public or private school has obligation to keep itself current regarding parents' rights and offer parents' rights education via the public school special education parent advisory council (PAC) or private school parent group);
- chairing IEP Team meetings (school district has legal responsibility, but meeting management responsibilities could be delegated to out-of-district public or private school provided that an administrative representative of the district with power to commit the district's resources is in attendance at every Team meeting, and where Team members are unable to agree on the IEP, the school district's administrative representative states the proposed elements of the IEP);
- special considerations for parent communications in instances where parents are limited English-proficient or require accommodations to ensure their understanding of all required communications to and from the program;
- information regarding methods of reaching responsible school district officials when the public school district is not in session or when the usual contact person is unavailable;
- information-sharing concerns (e.g., out-of-district public or private school notifications to school district should include not only student-specific incidents but also changes in major policies/procedures/practices, and major changes in program and staff. Note that out-of-district public or private approved special education schools are required to notify the Department of Elementary and Secondary Education of planned and unplanned major program changes on PQA Forms 1 and 3; and it is recommended that responsible school districts be similarly notified.);
- responsibilities for health-related services, or other services not a part of the student's IEP;
- responsibilities for communications regarding student discipline issues (this includes but is not limited to matters related to a program's overall code of conduct and behavior management systems, restraint policies and procedures consistent with applicable state regulations, suspension and termination policies and procedures);
- responsibilities for and appropriate follow-up to student discipline problems, (i.e., conducting functional behavioral assessments and manifestation determinations, proposing or changing behavioral intervention plans and "interim alternative educational settings," incident reporting to the local school district and Department of Elementary and Secondary Education including reports of physical restraints. (school district has legal responsibility to convene the IEP team and take the lead, but out-of-district public or private school will likely first notice signs of problems; certain aspects of these federally required processes could be delegated to out-of-district public or private school);
- specific procedures for addressing situations when out-of-district public or private school is considering discharge or termination of the student for any reason;
- mechanisms for transition and change-in-placement planning, including change in decision-making authority at age 18, decision-making in regard to high school graduation and issuance of high school diploma or certificates of course completion, achievement, attendance, or participation. (See Department of Elementary and Secondary Education [Special Education Advisory 2002-4](#) for further guidance on these matters.);
- the provision and funding of transportation for the student to and from home and to and from school-sponsored activities; and
- responsibility for the payment of incidental expenses unrelated to the school district's obligation to pay the tuition established by OSD.

Elements that Should Not Be Included in the Contract

The written contract between a school district and an out-of-district special education program pursuant to 603 CMR 28.06(3)(f) is intended to address the placement of students consistent with

federal and state special education requirements. The contract should not include elements or parties unrelated to the specific intent of this regulation. The required contract may not be used as a mediation agreement or a settlement agreement. School districts should **not** include the following items in contracts under 603 CMR 28.06(3)(f):

- matters related to the relationship or obligations of other public or private agencies;
- matters related to the payment or receipt of a rate different than that approved by OSD or agreement to maintain an OSD rate beyond effectiveness;
- disclaimer of responsibilities that by law or regulation must remain with the school district;
- matters that appear to abridge the rights of a parent or student;
- a commitment for placement of an eligible student beyond a single calendar year;
- any requirement for specific educational or related service methodologies;
- any cost share arrangement with the parent or other entity; and
- any other matters that are inconsistent with state or federal law.

In closing, we hope this information is helpful to school districts and out-of-district public and private special education programs in carrying out their obligations relating to the provision of special education and related services to eligible students with disabilities. If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700).

Thank you for your attention to this memorandum and for assuring that students with disabilities receive appropriate services.

C: Superintendents of Schools
Charter School Leaders

WESTON

PUBLIC SCHOOLS WESTON, MASSACHUSETTS 02493 • TEL 781-529-8082

SAMPLE COVER LETTER TO ACCOMPANY CONTRACT AND MONITORING PLAN FOR OUT-OF-DISTRICT PLACEMENTS

RE: (Student's Name)

Dear (Private School):

Enclosed please find the contract and monitoring plan which shall govern our review of (Student's Name) program, as he/she receives educational services within your program. This documentation and monitoring of the program is required by the current Massachusetts special education regulation, specifically 603 CMR 28.06(3), effective September 1, 2000.

In addition to the information specified within the enclosed contract and monitoring plan, please be advised that this school district shall abide by the following financial terms in providing tuition for this student's program:

1. The school district agrees to fund this out-of-district program at the annual rate of \$____, which is the current rate approved by the Operational Services Division.
2. The school district's responsibility to fund this placement will terminate on the actual date when the student leaves this program.
3. Any and all additional costs associated with this placement shall be the sole responsibility of _____ (If applicable, reference any additional funding sources).

Please feel free to contact the office of the Director of Student Services at 781-529-8089 if you have any questions. Thank you for your anticipated cooperation and willingness to provide an educational placement for this student.

Very truly yours,

Cynthia Mahr
Director of Finance and Operations

WESTON

PUBLIC SCHOOLS WESTON, MASSACHUSETTS 02493 • TEL 781-529-8089

FAX 781-529-8098

OFFICE OF SPECIAL EDUCATION

Mr. Edward Orenstein

INTERIM DIRECTOR OF STUDENT SERVICES

**CONTRACT AND MONITORING PLAN FOR (PRIVATE SCHOOL)
ISSUED BY THE WESTON PUBLIC SCHOOLS
AS REQUIRED BY 603 CMR 28.06(3)**

SCHOOL DISTRICT: WESTON PUBLIC SCHOOLS
STUDENT: (STUDENT)
OUT-OF-DISTRICT SCHOOL: (PRIVATE SCHOOL)

1. (Private School) shall comply with all elements of (Student)'s IEP and receive tuition at the rate determined by the Massachusetts Operational Services Division.
2. (Private School) shall provide, in writing to the Director of Student Services, detailed documentation of such compliance through the completion of required student progress reports.
3. Weston Public School's total financial and programmatic obligations toward (Student)'s placement at (Private School) are limited by the terms of this Agreement.
4. Weston Public School agrees to pay for (Student)'s placement at the (Private School) for the term of the IEP, as specified in this Agreement, so long as: (1) the student continues to participate in and otherwise remains in good standing as a student at (Private School); (2) the student continues to reside within the Weston Public School District, in accordance with applicable laws and regulations; and (3) (Private School) continues to be approved by the Commonwealth of Massachusetts as an approved special education school.
5. Weston Public School shall have no obligation to fund any portion of (Student)'s placement for any period in which (Student) is not in attendance or is not participating in the program, except for routine absence due to illness.
6. (Private School) agrees to allow the Weston Public School to monitor and evaluate (Student)'s education placement. (Private School) shall make available upon request from the Weston Public School any records including but not limited to clinical information pertaining to (Student) to

authorized school personnel from the Weston Public School and/or the Department of Elementary and Secondary Education, in accordance with the Massachusetts Student Records Regulations.

7. (Private School) agree to participate in any TEAM meeting that may be convened to review or develop (Student)'s IEP.
8. (Private School) shall allow the Weston Public School and/or the Department of Elementary and Secondary Education to conduct announced and unannounced site visits, and (Private School) shall further allow for the review of all documents relating to the provision of special education services to Massachusetts students at public expense. The Weston Public Schools' access to records shall be limited to those records pertaining to students under the jurisdiction of the Weston Public Schools, and shall relate only to the need to verify and evaluate educational services provided at public expense.
9. (Private School) shall afford (Student) all the substantive and procedural rights afforded to publicly funded special needs students including but not limited to those specified in 603 CMR 28.100 et seq. (effective September 1, 2001). (Private School) shall further comply with all other applicable requirements of state and federal law in its provision of services to (Student).
10. At least thirty (30) days prior to termination of (Student)'s enrollment in, or (Student)'s discharge from (Private School), or if (Student) is absent for more that five (5) consecutive days, (Private School) agrees to notify the Weston Public School in writing.
11. (Private School) agrees that it does not discriminate on the basis of race, color, religion, sexual orientation, or national origin, or that it discriminates against qualified persons with disabilities.
12. (Private School) provides, on an annual basis, written confirmation of its full compliance with M.G.L. Chapter 71, Section 38R, which requires CORI checks for all school employees and volunteers, as well as any and all subcontractors of any kind, or laborers who perform work on school grounds, and who may have direct and unmonitored contact with children.

Signature of Representative from (Private School)

Title

Date

MONITORING PLAN

STUDENT: _____

SCHOOL YEAR: _____

THE SPED PLACEMENT SPECIALIST WILL:

- Will make at least two site visits each year
- Make phone contact with the program liaison at least two times per year
- Make phone contact with the parents at least two times per year
- Review and follow-up (if necessary) upon receipt of written progress reports
- Interview the student once a year if appropriate

MONITORING LOG

Student: _____

Date	Phone Contact	Site Visit	Comments

Special Education

Out-of-District Placements in Unapproved Programs

To: Special Education Administrators
From: Marcia M. Mittnacht, State Director of Special Education
Date: August 6, 2001
Re: Out-of-District Placements in Unapproved Programs
--NOTICE OF CHANGE IN PRACTICE--
Effective September 2001 (Corrected Memorandum)

This memorandum alerts school districts and private schools serving students at public expense to changes in the process formerly known as "sole source of care." The changes make the Department of Elementary and Secondary Education's process consistent with current regulations, reduce paperwork for school districts, and should expedite the placement process for those students who cannot be served in their public school districts or an approved program. These changes apply to all out-of-district placements in unapproved programs, whether day or residential.

I remind districts that responsibility for monitoring individual out-of-district placements rests primarily in the hands of the local school district, whether the placement is made to an approved or unapproved setting. I also want to remind school districts that the state special education regulations clearly state that placement for special education purposes in an "unapproved school" should only occur as a last resort and never should occur without notification to the Department of Elementary and Secondary Education. Massachusetts is fortunate to have more *approved private* schools, both day and residential, to serve special education students than almost any other state in the nation. Additionally, we have a wide selection of approved *public* day programs for special education students. The use of unapproved programs by school districts should be minimal and reserved only for the small number of students who cannot be served in an approved program.

School districts must conduct a thorough search for approved programs for students needing out of district placements prior to any consideration of using unapproved programs. Such a search must be conducted initially and updated at least annually when the student's IEP is reviewed. If a school district is unable to serve an individual student's needs in the district and is also unable to locate an approved program for this student, the school district may place the student out-of-district in an unapproved program if it complies with the regulations governing such a placement. These regulations are found at 603 C.M.R. § 28.06(3). Please note that the changes in the Department's process are closely aligned with these regulations and you should review the regulatory requirements. **The Department's process, previously referred to as "sole source of care approval," will now be called "authorization for pricing."**

As of September 1, 2001, school districts no longer must file an application for a sole source of care waiver with the Department. School districts, however, must notify the Department of each proposed placement of a student in an unapproved private day or residential program prior to placement. This notification must comply with 603 C.M.R. § 28.06(3)(e)(4). Notification submitted by a school district *must* include the following five items:

1. Notification of intent to place a student in an unapproved program, using form 28M3;

2. If applicable, Application for Funding of Special Education Placement and any required documentation, using form 28M4;
3. Pricing forms consistent with the pricing requirements of the Operational Services Division ("OSD") of Administration and Finance;
4. A copy of the contract or information on the terms of the contract consistent with 603 CMR § 28.06(3)(f); and
5. Documentation of the district's plan for monitoring the student's program in the unapproved placement.

Effective September 1, 2001, school districts should send notification to the Department at:

Attention:

Coordinator, Placement/Pricing Authorization
Program Quality Assurance
Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02158

The Department may request additional documentation in specific cases. The Department may deny authorization for pricing if the proposed placement is not made in compliance with the state regulations regarding special education. For instance, placement in unapproved settings prior to notifying the Department and the setting of a rate for the placement violates the special education regulations. Such a placement also may result in denial of state funding for the placement and would be cited as an area of non-compliance in a Coordinated Program Review.

Once notification of a proposed placement from a school district is received, the Department will review the notification for compliance with 603 C.M.R. § 28.06(3)(e). If complete, the Department then will forward the pricing forms to OSD. OSD will review the price authorization request and take action appropriate under its regulations (808 C.M.R. § 1.00). Students may not be placed in unapproved programs nor may public funds be used for payment of tuition or other expenses prior to OSD's authorization of a price for a particular student in a particular unapproved program."

In addition to notifying the Department of proposed placements in unapproved programs, the district must maintain *in the student's record* the documentation described in detail in 603 C.M.R. § 28.06(3)(e). This documentation includes the following.

- Documentation demonstrating a comprehensive search for placement in an approved setting;
- Documentation of an evaluation of the appropriateness of the unapproved program;
- For schools located in Massachusetts, documentation of the unapproved school's approval from the local school committee to operate under G.L. c. 76, § 1; and
- A copy of the information sent to the Department, including a copy of the contract between the school district and the out-of-district placement.

The Department has the right to request and to review such documentation at any time. The Department may conduct random, unannounced monitoring visits for the purposes of reviewing documentation maintained locally in the student's record for any student attending an unapproved program. Additionally, during scheduled Coordinated Program Reviews the Department's Program Quality Assurance unit will review the required documentation maintained at the school district level.

Reimbursement

We note that state reimbursement for special education services is scheduled to change in school year 2002-2003, with the possibility of preliminary activity during school year 2001-2002. Although details of such reimbursement program are not yet in place, a preference for funding of *approved* programs will be addressed in any implementing regulations. Funding of *unapproved* programs may be affected and the procedures outlined in this memorandum will change as necessary. We strongly recommend if your district makes placements to a particular unapproved school on a regular basis that you directly recommend to the school that it apply for approval in Massachusetts. Applications for approval of special education schools may be obtained from and sent to:

Attention:

Coordinator, Placement Approvals
Program Quality Assurance
Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02158

last updated: August 6, 2001

Notification of Intent to Use an Unapproved Program 603 CMR 28.06(3)(e)(4)

Directions: As of 10/1/06, this single form replaces the previously mandated 28M3 and 28M4 forms. A school district must complete and submit all three pages of this form and obtain prior approval from the Department when it intends to place a student in an unapproved program. School districts are required to send the Department the Notification of Intent to Use an Unapproved Program form on an annual basis. School districts are required to enter into a contract annually for the purpose of placing a student into an unapproved program.

Section I: Student Information

Student's First Name: _____ MI: _____ Last Name: _____

Date of Birth: ____/____/____ Male/Female _____ Disability: _____

SASID Number: _____

Date of Current IEP: / to /
(MM/YY to MM/YY)

Section II: School District Information

School District Name: _____ School District Code: _____

School District Contact Person: _____

Contact Address: _____

Telephone: () _____ E-mail: _____

Section III: Justification

The school district shall, in all circumstances, first seek to place a student in a program approved by the Department pursuant to the requirements of 603 CMR 28.09. Preference shall also be given to approved programs located within the Commonwealth of Massachusetts if the choice of such program is consistent with the needs of the student and choice of such program complies with LRE requirements. (603 CMR 28.06(3)(d)).

Briefly describe why the student is being placed in an unapproved setting. Include any and all steps taken to ensure:

1) that the school district first sought placement in an approved program; and 2) that preference was given to approved programs in the Commonwealth of Massachusetts.

Section IV: Student Placement Information

Circle One: Day School **OR** Residential

Circle One: Initial Placement **OR** Renewal **OR** Termination

FOR THIS APPLICATION:

Proposed Placement Start Date: _____/_____/_____

Proposed Placement End Date: _____/_____/_____

FOR PREVIOUS APPLICATION (if applicable):

Initial placement date at unapproved school: _____

Authorized annual tuition for the prior IEP period: _____

Section V: Special Education Placement Information

Agency Name: _____ Primary Contact Person: _____

Agency Address: _____

Agency Telephone: (____) _____ E-mail: _____

School/Program Name: _____ Program Code: _____ - _____ - _____
(4 digits)

School/Program Address: _____

School/Program Telephone Number: (____) _____ E-mail: _____

Section VI: Public School District Special Education Administrator's Statement of Assurances

I hereby certify the following:

- (1) The student has a current, signed IEP AND PLI.
- (2) All available approved programs have been pursued and those facilities have indicated that they cannot serve this student.
- (3) All required documentation as indicated on the attached checklist has been completed and will be maintained in this student's record, including a separate monitoring plan developed by the sending public school district.
- (4) The unapproved program can provide the program and services in this student's IEP in appropriate settings by appropriately credentialed staff.
- (5) The unapproved program (if in MA) has local school committee approval, or approval of the host state.
- (6) The school district is responsible for ensuring that this student participates in MCAS testing (on demand or alternate) as required.
- (7) SIMS data will be updated upon Department approval for the placement.

Print Name of Special Education Administrator

School District

Signature of Special Education Administrator/School District

Date: (MM/DD/YY)

Section VII: Private School Special Education Administrator's Statement of Assurances

I hereby certify that the price to be charged by this facility is the lowest rate charged to any other purchaser of equivalent services, and the school will abide by Department regulations, including, but not limited to 603 CMR 28.06(3)(f)(1-5).

Print Name of Special Education Administrator/

Private School

Signature of Special Education Administrator/Private School

Date: MM/DD/YY

DEPARMENT OF EDUCATION ACTION:

Date Form Received: ___/___/___ DOE Support Staff Member Initials: _____

Application Complete: YES/NO

Additional Information Requested: _____ Additional Information Received: _____

Department of Education Staff Signature: _____ Date Approved: ___/___/___

<h2 style="margin: 0;">Required Documentation Assurance Checklist</h2> <p style="margin: 10px 0;"><i>(Documentation is to be kept on file locally for review by the Department of Education when the Department completes the next scheduled Coordinated Program Review, and will be made available to the Department at other times upon request)</i></p>	<p>Check box to indicate completion.</p>
<p>Comprehensive Search for an Available Program approved by DOE –</p> <ul style="list-style-type: none"> • For initial placements: Justification and accompanying documentation should demonstrate a comprehensive search for placement options in approved settings and reasons why such settings are unable to provide services. • For renewals: Justification and accompanying documentation should demonstrate why the unapproved program continues to be appropriate. 	<input type="checkbox"/>
<p>Evaluation of the Appropriateness of the Unapproved Program-</p> <p>Detailed documentation (including the documentation of site visits) should demonstrate a thorough evaluation of the unapproved program to ensure the following:</p> <ul style="list-style-type: none"> • That the program can appropriately implement the student’s IEP in a safe and educationally appropriate environment. • That the facility can and will provide the student with all rights that are accorded to the student under federal and state special education law. • That the school staff has the appropriate special education certification, licensure or registration. 	<input type="checkbox"/>
<p>Approval to Operate the Program-</p> <ul style="list-style-type: none"> • For in-state programs: Copy of the local school district’s approval to operate a private school in Massachusetts. • For out-of state programs: Copy of the host state’s approval to operate a private school or, if the host state does not have an approval process, then documentation from the program of its reputable accreditation. 	<input type="checkbox"/>
<p>Pricing Information on Unapproved Program-</p> <ul style="list-style-type: none"> • For in-state programs: <ol style="list-style-type: none"> 1. Notice of Proposed Placement, Form N 1 2. Completed Pricing Forms from the Operational Services Division (OSD) of Purchased Services within the Executive Office for Administration and Finance 3. Signed Written Contract for the Placement • For out-of state programs: <ol style="list-style-type: none"> 1. Notice of Proposed Placement, Form N 1 2. Statement Setting Tuition Rate by the Host State 3. Signed Written Contract for the Placement 	<input type="checkbox"/>
<p>District Monitoring Plan-</p> <ul style="list-style-type: none"> • Documentation of school district plan to ensure that the unapproved program is implementing the IEP. (The school district must also place all actual monitoring documentation in student file for review by the Department.) 	<input type="checkbox"/>

Note to School District: As required under 603 CMR 28.06(3)(e)(4)(ii), the Department will notify the school district within ten days of receipt of this form if there are any objections to the unapproved program.

Mail form to: Attn: Private School Supervisor
Massachusetts Department of Education
Program Quality Assurance Services
350 Main Street
Malden, MA 02148

Massachusetts Department of Education / Use of An Unapproved Program Notification

Page 233 of 286

Mandated Form - **28M/3 Revised 10/1/06**

Educational Services in Institutional Schools (ESIS)

Weston Public Schools assumes full responsibility for disabled students residing in institutional settings. Evaluations, IEP meetings, and required services are the sole responsibility of the school district. Weston's protocol for monitoring students in institutional schools is the same as that for any student who attends an out-of-district placement. Weston understands its responsibility for contracting for services not provided by the institutional school, ensuring that progress reports are completed and holding at least annual IEP meetings. Communication with parents, institutional staff, and contracted service providers is ongoing.

Students with Disabilities in Private Schools at Private Expense

Weston's Assistant Director of Student Services maintains a list of students with disabilities who attend private schools at parents' expense. This list is updated and reviewed monthly. Parents of students with IEP's are notified in writing four to six weeks prior to an annual review to determine if services and an IEP are still desired and if they are, to set up a mutually convenient date and time to meet. Students requiring a three-year reevaluation are identified at least three months before the reevaluation due date. Their parents are sent a letter and asked to contact the Assistant Director of Student Services to discuss the reevaluation process and to determine the types of evaluations to be completed. If parents are in agreement with the reevaluation process, a consent form is sent out immediately. All efforts are made to ensure that a representative from the student's private school participates at the Team meeting. Please see attached Administrative Advisory SPED 2007-2 for further explanation of district requirements for private school students.

Initial evaluations and three-year reevaluations are conducted in the same manner for students attending private schools at private expense as they are for public school students. These students are afforded all of the same rights and privileges as students attending Weston Public Schools. Annually in June, the Assistant Director of Student Services notifies school-based staff of their obligation to inform the SPED office of any students with disabilities who have transferred to private schools at private expense. Records are subsequently forwarded to the Assistant Director of Student Services who adds these students to the tracking list.

Every effort is made to schedule and deliver special education services to students who attend private schools at private expense at a convenient time and location. Additionally, the Assistant Director of Student Services provides monitoring and consultation services to private school staff. Often times, parents and school staff are seeking assistance in the area of program modifications and accommodations rather than direct services. For any student found to have a disability, and unable to make effective progress without SPED services, an IEP must be written. Parents may choose to accept, decline, or reject the proposed services. Weston is committed to ensuring that all parents are fully informed of their rights under the special education law and regulations.

For non-Massachusetts residents attending private schools in Massachusetts, the school districts where the private schools are located must conduct child find, evaluate, and determine proportionate share services for all non-resident students according to the requirements of IDEA-2004. Please see attached the Special Education Administrative Advisory SPED 2007-2 section III A-I.

Special Education

Administrative Advisory SPED 2007-2: **IDEA-2004 and Private School Students (Updated July 2008)**

To: Special Education Administrators, Educational Collaborative Directors, and Other Interested Parties

From: Marcia Mittnacht
State Director of Special Education

Date: May 4, 2007 (updated July 2008)

The Massachusetts Department of Elementary and Secondary Education is issuing this advisory in response to correspondence and instruction from the U.S. Department of Education's Office of Special Education Programs (OSEP)¹ about Massachusetts' efforts to reconcile state and federal obligations for serving eligible students attending private schools in Massachusetts at private expense² ("private school students" or "parentally-placed private school students"). This advisory describes all requirements and procedures regarding parentally placed private school students. Please note that this advisory replaces previously issued guidance, formerly 2006-3R and 2006-5, now withdrawn.

Requirements in the federal Individuals with Disabilities Education Improvement Act (IDEA-2004) for providing special education services to eligible private school students differ from those in Massachusetts' law. As described more fully below, state law requires districts to create Individualized Education Programs (IEPs) for all eligible Massachusetts students that provide for genuine opportunity to participate in the public school program, whereas federal law requires that districts spend a proportionate share of their federal grant on services for eligible private school students using service plans. Also, state law assigns responsibility to the district where the student lives rather than the district where the private school is located, as is now required under federal law.

The Massachusetts Department of Elementary and Secondary Education has been working with school officials, representatives of private schools, and OSEP to ensure that our requirements for serving eligible private school students in Massachusetts are responsive to federal *and* state special education laws and meet the needs of private school students while minimizing administrative burdens for schools and districts. The purposes of this Advisory are to inform special education administrators and other interested parties about the state and federal requirements (Part I below); explain how they differ (Part II); and describe the procedures that school districts must follow regarding child find, evaluation, consultation, and proportionate share calculations to demonstrate compliance regarding all private school students who attend schools located within the geographical boundaries of Massachusetts school districts (Part III).

I. State and Federal Requirements to Provide Special Education Services to Parentally Placed Private School Students

Massachusetts' special education law applies to all Massachusetts residents, regardless of

where they attend school. It requires school districts to offer special education and related services to all students who reside in the district,³ including parentally-placed private school students.⁴ Special education and related services must be designed to meet the needs of eligible students and must provide students with a genuine opportunity to participate in the public school special education program. The school district must provide or arrange for evaluation, determine eligibility, propose an Individualized Education Program (IEP), and make services available to all eligible students who reside in the district, regardless of where they attend school.

Under state law, services described in the IEP that are funded with state or local funds must be provided in a public school facility or in another public or neutral site.⁵ Schools may provide services at the private school if only federal funds are used. Special education and related services for private school students must be comparable in quality, scope, and opportunity for participation to those provided to public school students with disabilities,⁶ and must be described in a properly developed IEP. Eligible private school students have individual rights and full access to the state due process procedures.⁷

Federal special education law (IDEA-2004) also requires school districts to provide special education services to private school students, although the federal requirements do not require the same higher standard and individual entitlement mandated in state law. Under IDEA-2004 school districts must conduct child find activities and evaluations to determine students' eligibility for special education.⁸ In contrast to state law that requires all eligible students to have an IEP, federal law requires school districts to expend only a proportionate share of the federal money districts receive under Part B of IDEA to provide services to parentally-placed private school students.⁹ "Proportionate share" means that the district must spend on services for private school students **who attend a private school in the district** an amount that represents the same proportion of its federal grant as these private school students represent within the population of disabled students served by the district as a whole.¹⁰

Following consultation with the private schools school districts must determine which services to provide with that proportionate share of funds. Districts provide these services to eligible private school students through an "individual services plan" instead of an IEP,¹¹ and private school students do not have an individual entitlement to services under federal law. The federal due process protections, including the entitlement to an IEP and the right to a hearing, do not extend to private school students under IDEA-2004.¹² Also, residents of other states attending private school in Massachusetts are entitled to services according to federal law¹³ and do not have an individual entitlement to services based upon state law.

II. Reconciling the Differences Between State and Federal Requirements for Private School Students

The federal and state special education requirements have been easy to reconcile in the past because complying with the higher standard of individual entitlement under Massachusetts' law allowed school districts to meet the federal proportionate share requirement for providing special education services to eligible private school students. Also, school districts have consulted with the private schools, as required by federal law, because districts invite private school representatives to participate in the Teams that develop the IEPs for all private school students residing in the district.

A significant change to federal law under IDEA-2004, however, concerns responsibility for providing special education services to eligible private school students who attend school in a district other than the one in which they live. Federal law now requires that the district *where the private school is located* - rather than the district of residence - fulfill the requirements for child find and for proportionate share services.¹⁴ This change is intended to improve private school students' access to special education services by eliminating some of the logistical obstacles to student participation, as well as simplifying school districts' consultation with private schools. Now the district where a private school is located must meet federal special education requirements for all students who attend a private school located in the geographic boundaries of the district, regardless of where those students live.

State law, however, still requires the school district *where the student resides* to provide special education and related services under Massachusetts' higher standard and as described in an IEP. Massachusetts residents must continue to receive full special education services, including evaluation and IEPs, as appropriate, from the district in which they live. Therefore, when an evaluation for special education eligibility is requested for a Massachusetts resident who attends a private school, the student must be referred to the district of residence. State law requires the district of residence to evaluate all students who live in the district who are referred for evaluation, regardless of where they attend school.

For non-Massachusetts residents attending private schools in Massachusetts, the school districts where the private schools are located must conduct child find, evaluate, and determine proportionate share services for all non-resident students according to the requirements of IDEA-2004. The section below describes more specifically how districts may comply with the state and federal special education requirements for private school students who live in or attend a school located in the district.

III. Activities to Demonstrate Compliance with State and Federal Requirements for Special Education Services for Parentally Placed Private School Students

- A. **Child Find.** School districts must conduct child find activities for all students attending school in the district, regardless of whether students attend public or private school and regardless of where they live, including students who live outside of Massachusetts but attend private schools in Massachusetts.¹⁵ Child find activities for private school students must be comparable to those conducted for students in public schools and must include providing private schools located in the district with information about how students can access publicly funded evaluation and special education services.¹⁶ These requirements are largely unchanged in IDEA-2004, and so districts already should be conducting these child find activities in all private schools located in the districts' geographic area.

Students who live in one Massachusetts district but attend school in another should still be referred to the district of residence for evaluation and services. This child find requirement is consistent with state law and is current practice in all Massachusetts districts.

- B. **Evaluation and Determination of Eligibility.** As required by state law, Massachusetts school districts must evaluate and provide special education and related services to all eligible parentally-placed private school students who reside in the district, regardless of whether the students attend a private school located in that district or in another district. Also, IDEA-2004 requires that a school district must

determine eligibility of out-of-state residents who attend a private school located in the district's boundaries if the students are referred for evaluation by the private school or the parents. The Massachusetts school district where the private school is located may conduct its own evaluation in a manner consistent with the requirements of state and federal law¹⁷ or may accept a prior evaluation conducted by the student's out-of-state district of residence if the evaluation information is current enough.

Eligibility for all students attending school in Massachusetts is determined using criteria based on the definitions of disability included in Massachusetts state law.¹⁸ Districts must report all eligible private school students to the Massachusetts Department of Elementary and Secondary Education according to Student Information Management System (SIMS) requirements, regardless of where they live. All eligible private school students, including out-of-state residents attending private school in Massachusetts,¹⁹ must receive a State Assigned Student Identifier (SASID).

- C. **Consultation.** IDEA-2004 requires that public school districts ensure that private schools have opportunities to engage in "timely and meaningful" consultation about services provided to eligible private school students. This requirement is consistent with the private school consultation requirements under the No Child Left Behind Act (NCLB). Consultation requirements for Massachusetts resident students may be met in part through districts' current practice of working with representatives of the private schools as members of the Team developing students' Individualized Education Programs (IEPs). School districts also must engage in additional consultation with private school representatives about the special educational needs of eligible out-of-state resident students attending Massachusetts private schools.

Consultation must include the following:

- the child find process, including how parents, teachers, and private school officials will be informed of the process;
- the determination of the proportionate share of federal funds available to serve parentally-placed private school students with disabilities, including the determination of how the proportionate share of those funds was calculated; and
- how the consultation process will take place among representatives of the school district, private school, and parents.

Consultation about out-of-state residents who attend private school in Massachusetts must also include the following:

- how, where, and by whom special education and related services will be provided, including a discussion of types of services - direct services and alternate service-delivery mechanisms, as well as how such services will be apportioned if funds are insufficient to serve all students - and how and when these decisions will be made; and
- how, if the school district representatives disagree with the views of the private school officials on any aspect of services for eligible out-of-state



residents, the district will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials. ²⁰

- D. **Determination of Proportionate Share.** IDEA-2004 requires that school districts spend a proportionate share of their federal Part B grant on providing special education and related services, including direct services, *to parentally-placed private school students with disabilities enrolled in private schools located in the district.*²¹ "Proportionate share" is an amount that represents the same proportion of the district's federal grant as the proportion of eligible private school students represent within the entire population of disabled students served by the district.²² All Massachusetts districts must calculate the proportionate share and demonstrate upon request that they have spent this amount of *federal funds* on eligible parentally-placed private school students *who are enrolled in private schools located in the district.*

To calculate proportionate share, the district must know:

the total IDEA Part B funds received by the district under Fund Code 240 in a fiscal year;

2. the number of eligible parentally-placed private school students attending private school in the district, which includes
 - a. students who live in the district *and* attend private school in the district;
 - b. students who live in another Massachusetts district but attend a private school in the district;²³ and
 - c. out-of-state students who attend a private school located in the district; and
3. the number of eligible public school students who live in the district.

The proportionate share may be calculated and documented using the worksheet provided in **Attachment A**   to this advisory. Following is an example of a proportionate share calculation:

A public school district (Anytown District) has four (4) eligible private school students enrolled in private schools within the geographic boundaries of the district. Two (2) are district residents, one (1) lives in another Massachusetts town,²⁴ and one (1) lives in another state. The public school also serves 396 eligible public school students who reside in and are enrolled in the district.

Anytown district also serves five (5) resident students who are enrolled in private schools located in other districts, as required by state law. These students are, however, not included in Anytown district's proportionate share calculation. Rather, these students must be included in the proportionate share computation for the districts in which the private schools they attend are located.

*The **total** number of eligible public and private school students enrolled in public or private schools in Anytown district is 400. This includes the four private school*

students referred to above, and 396 eligible public school students. The district's proportion of eligible parentally-placed private school students to all eligible students is 4:400 or 1%.

Anytown district received \$123,000 under Fund Code 240, its federal Part B entitlement grant. Because the proportion of private school students with disabilities is 1% of all students with disabilities, the "proportionate share" of the federal special education funds is 1% of the total grant of \$123,000, or \$1,230.





Anytown district must spend at least \$1,230 of its federal grant on services²⁵ for parentally-placed private school students who are attending private schools in the district in order to meet its proportionate share obligation under IDEA-2004. In this case, although there are four (4) private school students counted in the proportionate share calculation, only three (3) of them are being served by Anytown district. The fourth student receives services from the district where he/she lives, consistent with Massachusetts law. Therefore, the \$1,230 must be spent on services for one or more of the three (3) private school students attending private schools in Anytown district and served by Anytown district.



As noted above, for the purposes of calculating proportionate share, students who attend private schools located in a district other than the one where they live are not included in the calculation of, or spending of, proportionate share funds by the district of residence. This is true even though the district of residence creates the students' IEPs, provides special education and related services to them, and reports them to the Department. These students must be included in the proportionate share calculation of the district where the private schools they attend are located.

To make sure that districts have correct information about private school enrollment to compute proportionate share accurately, districts of residence must report the numbers of eligible students attending private schools in other towns to the districts where those private schools are located. This communication should be limited to the number of students attending the private school outside of the district of residence, and may not include personally identifiable information about those students.²⁶

- E. **Expenditure of Proportionate Share.** Under the federal law, school districts determine which services to provide with the proportionate share of federal funds following consultation with representatives of the private schools located in the district and parents of eligible students.²⁷ The district may use the entire federal proportionate share on only one eligible student or may decide to allocate an amount for services for more than one or all of the students. Because Massachusetts state law requires school districts to provide services according to an IEP to eligible Massachusetts residents who attend private schools, districts may not limit their spending of special education funds for Massachusetts residents to only services that can be provided with the proportionate share. Regardless of the higher standard for Massachusetts residents attending private school, all districts must still calculate proportionate share and be able to demonstrate how they have spent sufficient federal funds on special education services for private school students.

Because out-of-state residents attending private schools in Massachusetts do not have an individual entitlement to services, eligible out-of-state resident students may not

necessarily receive proportionate share services and, in such cases, will not receive special education services from the Massachusetts district where the private school is located. The Department recommends that the district make available the data it has used in calculating proportionate share and information demonstrating whether its proportionate share obligation has been met. The district may use the attached form (**Attachment A**  ) to document its calculation of and spending of the proportionate share of federal funds. Also, appended to this advisory (**Attachment B**  ) is a sample letter that districts may use to notify parents of eligible non-Massachusetts residents attending private schools here of the districts' decision not to make services available because the required federal proportionate share obligation has been met.

- F. **Development of Services Plans.** If the school district provides services to non-Massachusetts residents attending private schools in Massachusetts, either using proportionate share funds for that student or other resources at its own election, the district is required to develop **an individual services plan** for the student describing the types of services it will provide and where services will be delivered. A sample services plan is included as **Attachment C**  . Services plans must describe the specific special education or related services that the district where the private school is located will provide to the student, but are not the same as IEPs. Unlike the process for creating an IEP, the district does not need to convene a Team to create the plan. Districts may offer a representative of the student's private school the opportunity to participate in meetings at which the services plan is discussed, but are not required to do so as long as the private school has been consulted about the services as described in Section III.C. above. Also, services plans do not confer an individual entitlement to special education and related services.

Additionally, IDEA-2004 does not require that a parent provide written consent to a services plan. Though a parent may refuse services proposed in a services plan, out-of-state residents are not entitled to due process protections to challenge the sufficiency of the proposed services or the districts' actions.



- G. **Providing or Contracting for Services.** Massachusetts resident students with disabilities who are attending private schools, either within or outside of their community of residence, are entitled to equitable opportunities to participate in the publicly funded special education program as required by state law. To carry out this responsibility and reconcile state and federal requirements for private school students attending private schools outside of their community of residence, school districts must make reasonable efforts to provide students with access to services in the community where they go to school. Reasonable efforts include the following:
- **Provide IEP services on site at the private school.** Districts may use federal funds to provide services on site at the private school in order to improve access to services for the student. Because Massachusetts state law requires school districts to provide services according to an IEP to eligible Massachusetts residents who attend private schools, districts may not limit their spending of special education funds for Massachusetts residents to only services that can be provided with the proportionate share and may allocate additional federal funds to provide services at the private school. Private school organizations in the state have indicated that the majority of private schools would welcome the opportunity to facilitate students' access to

services and will work cooperatively with you to do so.

- **Provide IEP services at a public or neutral site convenient to the private school.** Districts may use any combination of state, federal, and local funds to provide services at a public school or at another public or neutral site close to the private school that the student attends.
- **Contract with others to provide the IEP services at an appropriate site.** Districts may contract with the public school district where the private school is located to provide services to the student. The district where the private school is located also may be able to help you identify local service providers (individuals, community agencies, or other organizations) and neutral sites where services can be provided in that community. Additionally, educational collaboratives may be a key resource for providing services because they routinely serve students across many districts' geographic areas. An educational collaborative may be able to serve the student in a location convenient to the private school that the student attends.

For students attending private schools outside of the district of residence, if, after making reasonable efforts to provide services to the private school student in the community where the private school is located, the district determines that no such arrangements are feasible, the district may serve the student in the district.²⁸ The district may need to provide the student with transportation²⁹ in order to ensure that the student has access to the necessary services.

- H. **Due Process Protections.** Under state law, eligible private school students who are Massachusetts residents and/or adults acting on their behalf are entitled to use the Department of Elementary and Secondary Education's Problem Resolution System.³⁰ If a private school student is having difficulty working with the district of residence to obtain an evaluation or necessary services, then the student, the parent, the private school or another interested party can seek assistance from the Department in resolving the problem. Also, students residing in Massachusetts and their parents are entitled to file a request for hearing or mediation with the Bureau of Special Education Appeals on any matter related to evaluation or special education services.³¹ Under federal law, due process is not available to private school students who do not reside in Massachusetts, except for complaints related to child find.
- I. **[Memorandum on Providing Data for Private School Students](#)** - July 2008

We hope this guidance assists special education administrators and other interested parties in understanding these requirements and in ensuring that local practices are consistent with state and federal law. A summary chart of the obligations of districts is included as **Attachment D**  .

If you have any questions or require additional information, please contact Program Quality Assurance Services at the Department of Elementary and Secondary Education (781-338-3700). If you have any questions about appropriate submission of data in relation to these students, please contact data collection at (781) 338-3282. Thank you for your cooperation and your service to students.

10. Letter from OSEP, dated 3/9/07 at: <http://www.doe.mass.edu/sped/osep/>

11. This term includes students in parochial or independent schools, but does not include students placed by their parents in private special education schools who are seeking public tuition for such programs. This advisory does not address the different requirements that apply in the latter circumstance.
12. M.G.L. c. 71B, Section 3.
13. St. 1999, c. 127, Section 258; 603 CMR 28.03(1)(e).
14. 603 CMR 28.03(1)(e)(3).
15. 603 CMR 28.03(1)(e)(4).
16. Additional information regarding the state's entitlement to special education and related services for private school students is found in Special Education Guidance on Providing Special Education Services for Students Attending Private Schools at Private Expense issued in February 2000. This guidance document is available on the Department's website at <http://www.doe.mass.edu/sped/2000/guidancexpnse.html>.
17. 20 U.S.C. § 1412(a)(10)(A); 34 CFR § 300.131.
18. These general provisions, which were included in IDEA-1997 and the 1999 regulations, are also included in IDEA-2004, codified at 20 U.S.C. § 1400 et seq. and 34 CFR Part 300. Please note that additional citations to federal law in this memorandum will be to the federal regulations, unless otherwise indicated.
19. 20 USC § 1412(a)(10)(A).
20. 34 CFR §§ 300.132(b), 300.137-300.139.
21. 34 CFR § 300.140.
22. 34 CFR § 300.131(f).
23. 34 CFR § 300.131.
24. 34 CFR § 300.131(f).
25. 34 CFR § 300.131.
26. See 603 CMR 28.04 and 20 U.S.C. § 1414.
27. See 603 CMR 28.02(2).
28. Any out-of-state student seeking public special education services must receive a SASID and be reported for the year during which evaluation was conducted or services were sought, regardless of whether or not the student is offered special education services. 34 CFR § 300.132(c).
29. 34 CFR § 300.134(d-e).
30. The federal regulations regarding expenditure of proportionate share funds make clear that state and local funds may be used to supplement but not supplant the required expenditure of federal funds. 34 CFR § 300.133(d). This means that districts are required to expend the proportionate share of federal funds for private school students, rather than spend funds from any source in that amount for this population of students. Districts must maintain proportionate share documentation (both calculation and spending documentation) for review by the Department of Elementary and Secondary Education upon request.
31. 34 CFR § 300.133(a).
32. Students who live in the district (District A) but attend private school in another district (District B), are not counted in the calculation of the proportionate share by District A; rather, they must be counted by District B. District A must notify District B of the number of District A residents who attend private schools located in District B.
33. Students who live in one Massachusetts district, but attend private school in another district must be counted for the proportionate share in the district where

- they attend private school, even though they are served by the district where they live.
34. As noted above, the school district cannot include the costs of conducting child find activities and evaluating students in determining whether the district has met its proportionate share obligations under federal law. 34 CFR § 300.131(d).
 35. See the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and 34 CFR Part 99, and IDEA-2004, 34 CFR §§ 300.610-300.627, for information regarding non-disclosure of personally identifiable student information without consent.
 36. See Part C above.
 37. Students served in the district may receive services at the public school or in another public or neutral setting.
 38. The cost of transportation may be included in calculating whether the district has met the proportionate share obligation. 34 CFR § 300.139(b)(2).
 39. <http://www.doe.mass.edu/pqa/prs/>.
 40. <http://www.doe.mass.edu/bsea/>.

last updated: August 1, 2008

Section XII

Definitions and Acronyms

IAES – Interim Alternative Educational Setting

FAPE – Free and Appropriate Public Education – the student continues to receive educational services while in an IAES in order to progress toward meeting the goals set out in the student’s IEP.

FBA – Functional Behavioral Assessment

BIP – Behavioral Intervention Plan for dispensing Behavior Intervention Services

Manifestation Determination – Determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability; or if the conduct in question was the direct result of the LEA’s failure to implement the IEP.

Special Circumstances – Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of a State or local education agency (LEA); 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 a State or local agency; or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local agency.

Serious Bodily Injury – Bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Behavioral Interventions

When a student's behavior impeded their learning or the learning of others, the Team needs to consider the student's behavior and the ability of the student to follow the school discipline code. Writing a Behavior Intervention Plan, BIP, may be an appropriate step for the Team to take before considering other options. This plan should clearly identify the behavior, the function of the behavior, and interventions that will be taken in an attempt to diminish the behavior, including positive behavioral interventions and who is responsible for the implementation of the plan. **Positive reinforcements/interventions** are critical to this process since the goal is to extinguish the behavior. These reinforcements need to be periodically reviewed and adjusted as needed.

If a student is placed on a BIP, the plan is shared with all staff members working with the student. Staff members are made aware of the identified target behaviors to be addressed and the interventions that will take place if the student exhibits any of these behaviors. Positive reinforcements and encouragement are provided when appropriate to support the student in extinguishing the behavior.

Behavioral plans are reviewed and updated depending upon the outcome and effectiveness of the proposed interventions. A copy of the plan is placed in the student's cumulative record. If the student is on an IEP, a copy of the plan would also be placed in the IEP folder. A functional Behavioral Assessment, FBA, would be completed if the IEP Team, building principal, special education administrator or parent deems it appropriate.

Should a student require any physical restraint, the Weston Public Schools has a Physical Restraint Policy and follows the guidelines set forth by the Massachusetts Department of Secondary and Elementary Education in 603 CMR 46.00: Physical Restraint.

Pursuant to the Anti-Bullying law, Weston Public Schools has developed a policy and procedure to address this concern. The Special Education Department has also added the procedure of writing in goals and objectives for students receiving IEP services for whom being a target or being an aggressor may be an issue.

Weston Public School's Anti-Bullying Protocol

I. LEADERSHIP

Statement of Purpose:

The Weston Public Schools expects that all members of the school community will treat each other in a civil manner and with respect for differences.

The Weston Public Schools is committed to providing all students with a safe learning environment that is free from bullying and cyber bullying. This commitment is an integral part of our comprehensive efforts to promote learning, and to prevent and eliminate all forms of bullying and other harmful and disruptive behavior that can impede the learning process.

The Weston Public Schools understands that members of certain student groups, such as students with disabilities, students who are gay, lesbian, bisexual, or transgender, and homeless students may be more vulnerable to becoming targets of bullying, harassment, or teasing. The Weston Public Schools will take specific steps to create a safe, supportive environment for vulnerable populations in the school community, and provide all students with the skills, knowledge, and strategies to prevent or respond to bullying, harassment, or teasing.

The Weston Public Schools will not tolerate any unlawful or disruptive behavior, including any form of bullying, cyber bullying, or retaliation, in our school buildings, on school grounds, or in school-related activities. We will investigate promptly all reports and complaints of bullying, cyber bullying, and retaliation, and take prompt action to end that behavior and restore the target's sense of safety. We will support this commitment in all aspects of our school community, including curricula, instructional programs, staff development, extracurricular activities, and parent or guardian involvement.

The Bullying Prevention and Intervention Plan ("Plan") is a comprehensive approach to addressing bullying and cyber bullying, and the district is committed to working with students, staff, families, law enforcement agencies, and the community to prevent issues of violence. In consultation with these constituencies, we have established this Plan for preventing, intervening, and responding to incidents of bullying, cyber bullying, and retaliation. The Principals are responsible for the implementation and oversight of the Plan at their respective buildings.

A. Public involvement in developing the Plan. As required by M.G.L. c. 71, § 37O, the Plan will be developed with various constituencies. This involvement will include:

Weston Public Schools administrators, faculty and staff; school volunteers; interested community representatives, students, parents, and guardians; and the Weston School Committee. A community forum on the development of the Plan will be held on November 22, 2010.

Consultation will include, at a minimum, notice and a public comment period before the Weston School Committee adopts the Plan.

B. Assessing needs and resources.

The Superintendent, along with the Superintendent's designees, with input from administrators, faculty, and families, will assess the adequacy of current programs, policies and procedures. This task will include:

- Review of current policies and procedures;
- Review of available data on the prevalence and characteristics of bullying and behavioral incidents;
- Assessment of available resources including curricula, training programs, and behavioral health services for designing ongoing professional development

- Review of current and relevant articles and research on best methodology to prevent, intervene and address bullying and cyber-bullying;
- Research and review „field tested“ and research-based anti-bullying curricula and instructional guides;
- Development of a resource bank of relevant materials for both parents and students;
- Review of the Massachusetts comprehensive Health and Wellness Curriculum Frameworks to provide a working curriculum context for anti-bullying curriculum; and
- Assessments of initial and periodic needs, by surveying students, faculty, staff, parents, guardians on school climatic and school safety needs.
- Planning and oversight.
- The building Principals or designee will be responsible for the following tasks under the Plan:
 - Receiving reports on bullying;
 - Collecting and analyzing school-wide data on bullying to assess the present level of need and to measure improved outcomes;
 - Creating a process for recording and tracking incident reports, and for accessing information related to targets and aggressors;
 - Implementing the ongoing professional development that is required by the law;
 - Identifying support strategies that respond to the needs of targets and aggressors;
 - Choosing and implementing, in partnership with central office administrators, the curricula that the school or district will use;
 - Amending student and staff handbooks and codes of conduct; and
 - Leading the parent or family engagement efforts and drafting parent information materials.

The Director of Technology will be responsible for updating the Acceptable Use Policy. The Assistant Superintendent in partnership with the Anti-bullying Subcommittee will be responsible for reviewing and updating the biennially, or more frequently if needed.

II. PROHIBITION AGAINST BULLYING AND RETALIATION

Acts of bullying, which include cyber bullying, are prohibited:

- i. on school grounds and property immediately adjacent to school grounds, at a school-sponsored or school--related activity, function, or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased, or used by a school district or school; or through the use of technology or an electronic device owned, leased, or used by a school district or school, and
- ii. at a location, activity, function, or program that is not school-related including through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the acts create a hostile environment at school for the target or witnesses, infringe on their rights at school, or materially and substantially disrupt the education process or the orderly operation of a school.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying is also prohibited. As stated in

M.G.L. c. 71, § 37O, nothing in this Plan requires the district or school to staff any non-school related activities, functions, or programs

III. DEFINITIONS

In order to work as collaboratively and as efficaciously as possible, to prevent and intervene on all acts of bullying, it is essential for administrators, faculty, staff, students, parents, guardians, law enforcement agencies, and other interested parties to use common language. The following definitions are provided to facilitate this goal.

Aggressor is a student who engages in bullying, cyber bullying, or retaliation.

Bullying, as defined in M.G.L. c. 71, § 37O, is the repeated use by one or more students of a written, verbal, or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

- i. Causes physical or emotional harm to the target or damage to the target's property;
- ii. Places the target in reasonable fear of harm to himself or herself or of damage to his or her property;
- iii. Creates a hostile environment at school for the target;
- iv. Infringes on the rights of the target at school; or
- v. Materially and substantially disrupts the education process or the orderly operation of a school.

Cyber bullying, is bullying through the use of technology or electronic devices such as telephones, cell phones, computers, and the Internet. It includes, but is not limited to, email, instant messages, text messages, and Internet postings. See M.G.L. c. 71, § 37O for the legal definition of cyber bullying. Hostile environment, as defined in M.G.L. c. 71, § 37O, is a situation in which bullying causes the school environment to be permeated with intimidation, ridicule, or insult that is sufficiently severe or pervasive to alter the conditions of a student's education.

Retaliation is any form of intimidation, reprisal, or harassment directed against a student who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying.

Staff includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff, or paraprofessionals.

Target is a student against whom bullying, cyber bullying, or retaliation has been perpetrated.

IV. RELATIONSHIP TO OTHER LAWS

Consistent with state and federal laws, and the policies of the school or district, no person shall be discriminated against in admission to a public school of any town or in obtaining the advantages, privilege and courses of study of such public school on account of race, color, sex, religion, national origin, or sexual orientation. Nothing in the Plan prevents the school or district from taking action to remediate discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law, or school or district policies.

In addition, nothing in the Plan is designed or intended to limit the authority of the school or district to take disciplinary action or other action under M.G.L. c. 71, §§ 37H or 37H½, other applicable laws, or local school or district policies in response to violent, harmful, or disruptive behavior, regardless of whether the Plan covers the behavior.

V. TRAINING AND PROFESSIONAL DEVELOPMENT

The Weston Public Schools will meet the requirements under M.G.L. c. 71, § 37O to provide ongoing professional development for all staff, including but not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, and paraprofessionals.

A. Annual staff training on the Plan.

Annual training for all Weston Public Schools faculty and staff on the Plan will include staff duties under the Plan, an overview of the steps that the Principal or designee will follow upon receipt of a report of bullying or retaliation, and an overview of the bullying prevention curricula to be offered at all grades throughout the school. Staff members hired after the start of the school year are required to participate in school-based training during the school year in which they are hired, unless they can demonstrate participation in an acceptable and comparable program within the last year.

B. Ongoing professional development.

The Assistant Superintendent, in collaboration with the Anti-bullying Subcommittee will be responsible for oversight and implementation of the training used throughout the system. The goal of professional development is to establish a common understanding of tools necessary for staff to create a school climate that promotes safety, civil communication, and respect for differences. Professional development will build the skills of staff members to prevent, identify, and respond to bullying. As required by M.G.L. c. 71, § 37O, the content of school-wide and district-wide professional development will be informed by research and will include:

- Developmentally appropriate strategies to prevent bullying;
- Developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents;
- Information regarding the complex interaction and power differential that can take place between and among an aggressor, target, and witnesses to the bullying;
- Research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment;
- Information on the incidence and nature of cyber bullying;
- Internet safety issues as they relate to cyber bullying;
- Promoting and modeling the use of respectful language;
- Fostering an understanding of and respect for diversity and difference;
- Building relationships and communicating with families;
- Constructively managing classroom behaviors;
- Using positive behavioral intervention strategies;
- Applying constructive disciplinary practices;
- Teaching students skills including positive communication, anger management, and empathy for others;
- Engaging students in school or classroom planning and decision-making; and
- Maintaining a safe and caring classroom for all students.

Professional development will also address ways to prevent and respond to bullying or retaliation for students with disabilities that must be considered when developing students' Individualized

Education Programs (IEPs). This will include a particular focus on the needs of students with autism or students whose disability affects social skills development.

C. Written notice to staff.

The Weston Public Schools will provide all staff with an annual written notice of the Plan by publishing information about it, including sections related to staff duties, in the school or district employee handbook and the code of conduct

VI. ACCESS TO RESOURCES AND SERVICES

The Assistant Superintendent, in collaboration with the Anti-bullying Subcommittee will be responsible for researching, reviewing and adopting appropriate curriculum and instructional materials for use in the schools. This work will require consultation with other appropriate district and town resources.

The curriculum must be:

- Developmentally appropriate;
- Evidence based – based on research, or field tested; and
- Evaluated for effectiveness.

The resources will be evaluated on documented success rate, design that is engaging to students and in keeping with our core values and philosophies of pedagogy. Curriculum should have creative presentation and should encourage students to find solutions and use critical thinking skills.

A. Identifying resources.

Resources for targets, aggressors, and their families may include, but are not limited to: adopting new curricula, establishing safety planning teams, and identifying other agencies that can provide services.

The Anti-bullying Subcommittee will be responsible for creating and posting a bibliography of anti-bullying resources including, but not limited to:

- The Weston Public Schools Anti-Bullying Policy;
- The Weston Public Schools Anti-Bullying Prevention and Intervention Plan;
- Instructional guides and materials;
- Research articles and materials on the prevalence and characteristics of bullying;
- Relevant and useful websites; and
- Community resources and related services.

B. Counseling and other services.

The Weston Public Schools has a variety of appropriate resources within the district. The Weston Public Schools utilizes adjustment counselors, youth counselors and school psychologists who assist in developing safety plans for students who have been targets of bullying or retaliation, providing social skills programs to prevent bullying, and offering education and/or intervention services for students exhibiting bullying behaviors. The Weston Public Schools utilizes a variety of tools including, but not limited to, behavioral intervention plans, social skills groups, and individually focused curricula. Translators are provided as are translations of materials for Weston families as needed.

C. Students with disabilities.

As required by M.G.L. c. 71B, § 3, as amended by Chapter 92 of the Acts of 2010, when the IEP Team determines the student has a disability that affects social skills development or the student may

participate in or the student is vulnerable to bullying, harassment, or teasing because of his/her disability, the Team will consider what should be included in the IEP to develop the student's skills and proficiencies to avoid and respond to bullying, harassment, or teasing. All special education Administrators and faculty members were trained on this requirement in September 2010.

D. Referral to outside services.

The Weston Public Schools has a referral protocol for referring students and families to access appropriate services. Referrals comply with relevant laws and policies. Current local referral protocols will be evaluated to assess their relevance to the Plan, and revised as needed

VII. ACADEMIC AND NON-ACADEMIC ACTIVITIES

A. Specific bullying prevention approaches.

Bullying prevention curricula will be informed by current research which, among other things, emphasizes the following approaches:

- Using scripts and role plays to develop skills;
- Empowering students to take action by knowing what to do when they witness other students engaged in acts of bullying or retaliation, including seeking adult assistance;
- Helping students understand the dynamics of bullying and cyber bullying, including the underlying power imbalance;
- Emphasizing cyber safety, including safe and appropriate use of electronic communication technologies;
- Enhancing students' skills for engaging in healthy relationships and respectful communications; and
- Engaging students in a safe, supportive school environment that is respectful of diversity and difference.

Initiatives will also teach students about the student-related sections of the Bullying Prevention and Intervention Plan. The Weston Public Schools will review the Plan with students by October 1st of each school year.

B. General teaching approaches that support bullying prevention efforts.

The following approaches are integral to establishing a safe and supportive school environment. These underscore the importance of the Weston Public Schools bullying intervention and prevention initiatives:

- Setting clear expectations for students and establishing school and classroom routines;
- Creating safe school and classroom environments for all students, including for students with disabilities, lesbian, gay, bisexual, transgender students, and homeless students;
- Using appropriate and positive responses and reinforcement, even when students require discipline;
- Using positive behavioral supports;
- Encouraging adults to develop positive relationships with students;
- Modeling, teaching, and rewarding pro-social, healthy, and respectful behaviors;

- Using positive approaches to behavioral health, including collaborative problem-solving, conflict resolution training, teamwork, and positive behavioral supports that aid in social and emotional development;
- Using the internet safely; and
- Supporting students' interest and participation in non-academic and extracurricular activities, particularly in their areas of strength.

VIII. POLICIES AND PROCEDURES FOR REPORTING AND RESPONDING TO BULLYING AND RETALIATION

A. Reporting potential bullying or retaliation.

Reports of potential bullying or retaliation may be made by staff, students, parents or guardians, or others, and may be oral or written. Oral reports made by or to a staff member shall be documented in an age appropriate manner by the Principal or designee. A school or district staff member is required to report promptly to the Principal or designee any instance of bullying or retaliation the staff member becomes aware of or witnesses. Reports made by students, parents or guardians, or other individuals who are not school or district staff members, may be made anonymously. The Weston Public Schools will make a variety of reporting resources available to the school community including an anonymous electronic option.

Use of a written form is not required as a condition of making a report. The Weston Public Schools will: 1) take all reported incidents either verbal or written and will record necessary information to document the information as reported, and 2) will provide information on how to report incidents both on the website and in the handbook for each school. At the beginning of each school year, the Superintendent will provide the school community, including administrators, staff, students, and parents or guardians, with written notice of its policies for reporting acts of bullying and retaliation. A description of the reporting procedures and resources, including the name and contact information of the Principal or designee, will be incorporated in student and staff handbooks, on the school or district website, and in information about the Plan that is made available to parents or guardians.

1. Reporting by Faculty and Staff

A. Faculty or Staff member will report immediately to the Principal or designee when he/she witnesses or becomes aware of conduct that may be bullying or retaliation.

The requirement to report to the Principal or designee does not limit the authority of the staff member to respond to behavioral or disciplinary incidents consistent with school or district policies and procedures for behavior management and discipline.

2. Reporting by Students, Parents or Guardians, and Others

A. The school or district expects students, parents or guardians, and others who witness or become aware of an instance of bullying or retaliation involving a student to report it to the Principal or designee. Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report. Students will be provided practical, safe, private and age-appropriate ways to report and discuss an incident of bullying with a staff member, or with the Principal or designee. The Principal or designee will document all reported incidents.

B. Responding to a report of bullying or retaliation.

1. Safety:

- a. Before fully investigating the allegations of bullying or retaliation, the Principal or designee will take steps to assess the need to restore a sense of safety to the alleged target and/or to protect the alleged target from possible further incidents. Responses to promote safety may include, but not be limited to, creating a personal safety plan; pre-determining seating arrangements for the target and/or the aggressor in the classroom, at lunch, or on the bus; identifying a staff member who will act as a “safe person” for the target; and altering the aggressor’s schedule and access to the target. The Principal or designee will take additional steps to promote safety during the course of and after the investigation, as necessary for all parties involved.
- b. The Principal or designee will implement appropriate strategies for protecting from bullying or retaliation a student who has reported bullying or retaliation, a student who has witnessed bullying or retaliation, a student who provides information during an investigation, or a student who has reliable information about a reported act of bullying or retaliation.

2. Obligations to Notify Others:

- a. Notice to parents or guardians. Upon determining that bullying or retaliation has occurred, the Principal or designee will promptly notify the parents or guardians of the target and the aggressor of this, and of the procedures for responding to it. There may be circumstances in which the Principal or designee contacts parents or guardians prior to any investigation. Notice will be consistent with state regulations at 603 CMR 49.00.
- b. Notice to another school or district. If the reported incident involves students from more than one school district, charter school, non-public school, approved private special education day or residential school, or collaborative school, the Principal or designee first informed of the incident will promptly notify by telephone the Principal or designee of the other school(s) of the incident so that each school may take appropriate action. All communications will be in accordance with state and federal privacy laws and regulations, and 603 CMR 49.00.
- c. Notice to law enforcement. At any point after receiving a report of bullying or retaliation, including after an investigation, if the Principal or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor, the Principal will notify the local law enforcement agency. Notice will be consistent with the requirements of 603 CMR 49.00. Also, if an incident occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in school, the Principal or designee shall contact the local law enforcement agency if he or she has a reasonable basis to believe that criminal charges may be pursued against the aggressor.
- d. In making this determination, the Principal will, consistent with the Plan and with applicable school or district policies and procedures, consult with the school resource officer, if any, and the Superintendent or designee.

C. Investigation.

The Principal or designee will investigate promptly all reports of bullying or retaliation and, in doing so, will consider all available information known, including the nature of the allegation(s) and the ages of the students involved.

During the investigation the Principal or designee will, among other things, interview students, staff, witnesses, parents or guardians, and others as necessary. The Principal or designee (or whoever is conducting the investigation) will remind the alleged aggressor, target, and witnesses that retaliation is strictly prohibited and will result in disciplinary action.

The Principal or designee, other staff members as determined by the Principal or designee, and in consultation with the school counselor, may conduct interviews. To the extent practicable, and given his/her obligation to investigate and address the matter, the Principal or designee will maintain confidentiality during the investigative process. The Principal or designee will maintain a written record of the investigation, including the preservation of all email and text communications.

Procedures for investigating reports of bullying and retaliation will be consistent with Weston Public Schools policies and procedures for investigations. If necessary, the Principal or designee will, with the consent of the Superintendent, consult with legal counsel about the investigation. (Align this with school or district procedures.)

D. Determinations.

The Principal or designee will make a determination based upon all of the facts and circumstances. If, after investigation, bullying or retaliation is substantiated, the Principal or designee will take reasonable steps to prevent recurrence and to ensure that the target is not restricted in participating in school or in benefiting from school activities. The Principal or designee will: 1) determine what remedial action is required, if any, and 2) determine what responsive actions and/or disciplinary action is necessary.

Depending upon the circumstances, the Principal or designee may choose to consult with the students' teacher(s) and/or counselors, and the target's or aggressor's parents or guardians, to identify any underlying social or emotional issue(s) that may have contributed to the bullying behavior and to assess the level of need for additional social skills development.

The Principal or designee will promptly notify the parents or guardians of the target and the aggressor about the results of the investigation and, if bullying or retaliation is found, what action is being taken to prevent further acts of bullying or retaliation. All notice to parents must comply with applicable state and federal privacy laws and regulations. Because of the legal requirements regarding the confidentiality of student records, the Principal or designee cannot report specific information to the target's parent or guardian about the disciplinary action taken unless it involves a "stay away" order or other directive that the target must be aware of in order to report violations.

E. Responses to bullying.

1. Teaching appropriate behavior through skills-building

Upon the Principal or designee determining that bullying or retaliation has occurred, the law requires that the school or district use a range of responses that balance the need for accountability with the need to teach appropriate behavior. M.G.L. c. 71, § 37O(d)(v). Skill-building approaches that the Principal or designee may consider include:

- a. Offering individualized skill-building sessions based on the school's/district's anti-bullying curricula;
- b. Providing relevant educational activities for individual students or groups of students, in consultation with guidance counselors and other appropriate school personnel;
- c. Implementing a range of academic and nonacademic positive behavioral supports to help students understand pro-social ways to achieve their goals;

- d. Meeting with parents and guardians to engage parental support and to reinforce the anti-bullying curricula and social skills building activities at home;
- e. Adopting behavioral plans to include a focus on developing specific social skills; and
- f. Making a referral for evaluation.

2. Taking disciplinary action

If the Principal or designee decides that disciplinary action is appropriate, the disciplinary action will be determined on the basis of facts found by the Principal or designee, including the nature of the conduct, the age of the student(s) involved, and the need to balance accountability with the teaching of appropriate behavior. Discipline will be consistent with the Plan and with the school's or district's code of conduct.

Discipline procedures for students with disabilities are governed by the federal Individuals with Disabilities Education Improvement Act (IDEA), which should be read in cooperation with state laws regarding student discipline.

If the Principal or designee determines that a student knowingly made a false allegation of bullying or retaliation, that student may be subject to disciplinary action.

3. Promoting safety for the target and others

The Principal or designee will consider what adjustments, if any, are needed in the school environment to enhance the target's sense of safety and that of others as well. One strategy that the Principal or designee may use is to increase adult supervision at transition times and in locations where bullying is known to have occurred or is likely to occur.

Within a reasonable period of time following the determination and the ordering of remedial and/or disciplinary action, the Principal or designee will contact the target to determine whether there has been a recurrence of the prohibited conduct and whether additional supportive measures are needed. If so, the Principal or designee will work with appropriate school staff to implement them immediately.

IX. COLLABORATION WITH FAMILIES

A. Parent education and resources.

The Weston Public Schools in collaboration with parent associations will offer education programs for parents and guardians that are focused on the parental components of the anti-bullying curricula and any social competency curricula used by the district or school.

B. Notification requirements.

Each year the Weston Public Schools will inform parents or guardians of enrolled students about the anti-bullying curricula that are being used. This notice will include information about the dynamics of bullying, including cyber bullying and online safety. The school or district will send parents written notice each year about the student-related sections of the Plan and the school's or district's Internet safety policy. All notices and information made available to parents or guardians will be in hard copy and electronic formats, and will be available in the language(s) most prevalent among parents or guardians. The district will post the Plan and related information on its website.

Weston Public Schools Functional Behavior Assessment

Student:

Date:

Personnel Involved:

1. Describe the behavior of concern: (Be descriptive and use observable language, for example, “Flipped out” is not observable; “On the floor kicking and crying for 15 minutes” is descriptive and observable)
 - Describe the behavior:
 - How often does the behavior occur?
 - How long does it last?

2. Problem analysis:
 - Where is the behavior most and least likely to occur?
 - When is the behavior most and least likely to occur?
 - With whom is the behavior most and least likely to occur?
 - A: Antecedents – What environmental conditions are most likely to precede the behavior? (Ex. Demand situation, expectation of compliance, going to a location, etc...)?
 - B: Behavior – What observable antecedent behavior do you see before the behavior is about to start? (Ex. Body language, talking under breath, withdrawing, slamming book)?
 - C: Consequences – What do the adults **currently** do or say in response to this behavior? (Ex. Ignore, repeat directions, stern look, verbal reprimand, gesture, loss of privileges, body language)?
 - Response – What is the child’s response to the adults’ behavior?

3. Broad influences outside of the child (Ex. Family situation, major life event, medical issues, etc...)

4. Form an hypothesis:
 - State **antecedent** behavior and **consequence** (ABC):
 - i. Ex. When the student is requested to complete academic tasks (antecedent), the student throws paper on the floor (behavior), and the teacher verbally reprimands the student (consequence).
 - Hypothesize function of the behavior (What purpose does it serve? Why does the student engage in the behavior? Possibilities include: escape, attention, access to tangible items, sensory/automatic reinforcement. Revisit the ABC listed above.
 - i. Ex. The student throws paper on the floor to escape a task OR the student throws paper on the floor to gain adult attention. (This is linked to the child’s response to the consequence and if the consequence results in the continuation or termination of the behavior)

5. Options:

- Do we need more information at this point? Or do we need to involve others?
- Is a more formal observation necessary to proceed?
- Do we need to develop a formal behavior intervention plan? (Attach BIP) OR recommend pre-referral strategies? (Attach modification checklist)

Initiate Pre-referral Strategies OR Design a Behavior Intervention Plan
(Circle One)

Weston Public Schools
Behavior Intervention Plan (BIP)

Student:

Grade/School:

Date developed:

Date last updated:

Behaviors targeted for decrease:

Hypothesis of function of behavior (see FBA):

Definitions:

Appropriate behaviors targeted for increase:

Prevention strategies:

Positive reinforcement program:

Behavioral intervention:

Student Behavior	Teacher Behavior

Weston Public Schools Physical Restraint Protocol

Weston Public Schools is required to have a physical restraint protocol according to 603 CMR 46.00, pursuant to Massachusetts General Laws.

Definitions:

- Physical restraint is the use of bodily force to limit a student's freedom of movement.
- A physical escort is touching or holding a student without the use of force for the purpose of directing the student.
- An extended restraint is a physical restraint the duration of which is more than twenty minutes.

Purpose:

The purpose of the physical restraint protocol is to ensure that every student in the Weston Public school system is free from the use of unreasonable physical restraint. Physical restraint shall be used with extreme caution and only in emergency situations, after other less intrusive alternatives have failed or been deemed inappropriate. The two goals are:

1. To administer physical restraint only when needed to protect a student and/or member of the school community from imminent, serious, physical harm; and
2. To prevent or minimize any harm to the student as a result of the use of physical restraint.

Nothing in 603 CMR 46.00 or this school's protocol precludes any teacher or employee of the school system from using reasonable force to protect students, other persons, or themselves from assault or imminent, serious, physical harm. In addition, nothing in these regulations should interfere with or prohibit law enforcement, judicial authorities or mandated reporter responsibilities.

Program:

The physical restraint program may only be used when:

- Non-physical interventions would not be effective
- The student's behavior poses a threat of imminent, serious, physical harm to self and/or others

Physical restraint shall not be used as a means of punishment or as a response to property destruction, disruption of school order, refusal to comply, or verbal threats. A person administering physical restraint shall use the safest method available and shall discontinue the restraint as soon as possible. The student's physical status shall be monitored continuously and the restraint will be terminated immediately if the student

demonstrates physical distress. Persons who administer physical restraint shall review and consider any known medical or psychological limitations or behavior intervention plans for individual students. Following the release of a student from a physical restraint, the school staff shall implement follow-up procedures, including notification to parents/guardians and completion of the Physical Restraint Reporting Form. (See attached copy). In addition, this shall include reviewing the incident with the student and with the staff who administered the restraint, and may include follow-up with students who witnessed the incident.

Training Requirements:

Within the first month of each school year, the superintendent, principal or his designee will provide all staff with policy and procedural information regarding physical restraint. Employees hired after the start of the school year will receive this information within a month of their employment. This presentation will address:

- The school's physical restraint policy
- Interventions that may preclude the need for physical restraint, including de-escalation strategies
- Types of restraints and related safety considerations
- Administering physical restraint in accordance with known medical or psychological limitations or behavior plans of individual students
- Identification of staff who have received in-depth training in the use of physical restraint

The superintendent/principal shall identify program staff whom are authorized to serve as school-wide resources to assist in ensuring proper physical restraint. Initially, these staff members will participate in in-depth physical restraint training of sixteen (16) hours in length. They will then have review sessions to reinforce practices and procedures annually. Whenever possible, these trained staff members will be called upon to administer necessary physical restraint.

Reporting and Follow-up Procedures:

All instances of physical restraint will be reported. The staff member who administered the physical restraint shall verbally inform the superintendent/principal or his designee as soon as possible, and shall submit a written report no later than the next school working day. (A copy of the same written report form is attached to this protocol). The superintendent/principal shall maintain an ongoing record of all reported instances of physical restraint, which shall be made available for review by the Department of Secondary and Elementary Education, upon request.

The superintendent/principal or his designee shall verbally inform the student's parents or guardians of the restraint as soon as possible. A written report, in the native

language of the parents or guardians shall be mailed to them, postmarked no later than three school working days following the incident.

When a physical restraint has resulted in a serious injury to a student or staff member, or when an extended restraint (more than 20 minutes) has been administered, the school shall provide a copy of the written report to the Department of Secondary and Elementary Education within five days of the incident. A copy of the record of physical restraints maintained by the superintendent/principal for the third-day period prior the the reported restraint shall also be submitted.

Complaint Procedures:

Parents or guardians who have a complaint regarding physical restraint procedures may request a meeting with the superintendent/principal to discuss their concerns. If the parents'/guardians' issues are not resolved at this level, they may request an Executive Session hearing with the Weston Public School Committee.

**Weston
Public Schools**

Weston, Massachusetts 02493 * 781-786-5240
Fax 781-786-5249

Physical Restraint Reporting Form

Student Name: _____

Date of Restraint: _____

Time Restraint Commenced: __:__:__ **Time Restraint Concluded:** __:__:__

Location of Restraint: _____

**Were there any physical conditions that affected the restraint? (I.E. weather, slippery floor, etc.)
If yes, please describe:**

Name/Role of staff who administered restraint:

Name/Role of adult witness(es) to restraint, if any:

Administrator who was informed of restraint and when:

Describe the incident in chronological order:

- 1. What led up to the incident? What activity was the student involved in immediately prior to the behavior that led to the restraint?**

2. What behaviors (s) led to the restraint?

3. What interventions were attempted to de-escalate the behavior prior to physical restraint?

- clarifying expectations
- redirection
- relaxation strategies
- behavior modification strategies
- providing choices
- nonverbal or verbal cues
- other: please describe:

- providing support
- restructuring the environment
- modeling
- time out
- clarifying consequences
- isolating student by removing others

4. Describe the restraint used and student's behavior and reactions during the restraint:

5. How was the restraint ended / incident resolved?

Was any emergency action taken (I.E. summon for medical help or police)? If yes, describe:

Staff and student involved in a lengthy physical restraint must be examined by the school nurse immediately following the restraint. Was there any physical injury to a student or staff member as a result of the incident? If yes, describe:

Was there any property damage as a result of the incident? If yes, describe:

Are there any disciplinary sanctions being imposed on the student? If yes, describe:

Parents/Guardians were notified verbally of the incident and any disciplinary sanctions imposed on the student. They were also notified of their right to discuss the administration of the restraint with the superintendent/principal or his designee:

By whom? _____

Date: _____

A copy of this report was distributed to:

- ____ Superintendent/Principal
- ____ Parents/Guardians
- ____ Student/s cumulative file
- ____ Classroom teacher
- ____ Special Education Director
- ____ Assistant principal
- ____ School nurse
- ____ Other:

For extended restraints (beyond 20 minutes) ONLY:

- 1. Describe alternatives to extended restraint that were attempted:**

- 2. Describe the outcomes of those efforts:**

- 3. Provide justification for administering the extended restraint:**

Name of person(s) completing this report:

Signature: _____ **Date:** _____

Signature: _____ **Date:** _____

603 CMR 46.00:
Physical Restraint

46.01: Authority, Scope, Purpose and Construction

(1) Authority. 603 CMR 46.00 is promulgated by the Board of Education pursuant to M.G.L. c. 69, § 1B, and c. 71, § 37G.

(2) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, collaborative education programs and special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services shall comply with the restraint requirements of 102 CMR 3.00.

(3) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the unreasonable use of physical restraint. Physical restraint shall be used only in emergency situations, after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

(a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from imminent, serious, physical harm; and

(b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(4) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

46.02: Definitions

As used in 603 CMR 46.00, the following terms shall have the following meanings:

(1) Extended restraint: A physical restraint the duration of which is more than twenty (20) minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in 603 CMR 46.06.

(2) Physical escort: Touching or holding a student without the use of force for the purpose of directing the student.

(3) Physical restraint: The use of bodily force to limit a student's freedom of movement.

(4) Public education programs: Public schools, including charter schools, collaborative education programs, special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h), and school events and activities sponsored by such programs.

(5) Restraint - Other: Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian. The use of seclusion restraint is prohibited in public education programs.

(a) Mechanical Restraint: The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.

(b) Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."

(c) Chemical restraint: The administration of medication for the purpose of restraint.

(6) School Working Day: Any day or partial day that students are in attendance at the public education program for instructional purposes.

46.03: Procedures and Training

(1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding restraint that provides a description and explanation of the school's or program's method of physical restraint, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

(2) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the school's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after

the school year begins, within a month of their employment. Training shall include information on the following:

- (a) The program's restraint policy;
- (b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;
- (c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;
- (d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and
- (e) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director of each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training be at least sixteen (16) hours in length.

(4) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

- (a) Appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;
- (b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
- (c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- (e) Demonstration by participants of proficiency in administering physical restraint.

46.04: Determining When Physical Restraint May Be Used

(1) Use of restraint. Physical restraint may be used only in the following circumstances:

- (a) Non-physical interventions would not be effective; and
- (b) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others.

(2) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(3) Prohibitions. Physical restraint is prohibited in the following circumstances:

- (a) As a means of punishment; or
- (b) As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm.

(4) Referral to law enforcement or other state agencies. Nothing in these regulations prohibits:

- (a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;
- (b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or
- (c) The exercise of an individual's responsibilities as a mandated reporter pursuant to MGL c. 119, § 51A. These regulations shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

46.05: Proper Administration of Physical Restraint

(1) Trained personnel. Only school personnel who have received training pursuant to 603 CMR 46.03(2) or 603 CMR 46.03(3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

(2) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

(3) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.

(4) Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues for more than twenty (20) minutes, it shall be considered an "extended restraint" for purposes of the reporting requirements in 603 CMR 46.06.

(5) Safety requirements. Additional requirements for the use of physical restraint:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(d) Following the release of a student from a restraint, the program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

46.06: Reporting Requirements

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of physical restraint as specified in 603 CMR 46.06(2) after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of a duration longer than five minutes

(2) Informing school administration. The program staff member who administered the restraint shall verbally inform the program administration of the restraint as soon as possible, and by written report no later than the next school working day. The written report

shall be provided to the principal or director of the program or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint. The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department of Elementary and Secondary Education, upon request.

(3) Informing parents. The principal or director of the program or his/her designee shall verbally inform the student's parents or guardians of the restraint as soon as possible, and by written report postmarked no later than three school working days following the use of restraint. If the school or program customarily provides a parent or guardian of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent or guardian in that language.

(4) Contents of report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.

(e) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.

(f) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

(5) Report to the Department of Elementary and Secondary Education. When a restraint has resulted in a serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the written report required by 603 CMR 46.06(4) to the Department of Elementary and Secondary Education

within five school working days of the administration of the restraint. The program shall also provide the Department with a copy of the record of physical restraints maintained by the program administrator pursuant to 603 CMR 46.06(2) for the thirty day period prior to the date of the reported restraint. The Department shall determine if additional action on the part of the public education program is warranted and, if so, shall notify the public education program of any required actions within thirty calendar days of receipt of the required written report(s).

46.07: Special Circumstances

(1) Special Circumstances - Students with Disabilities. Restraint administered to a student with a disability pursuant to an Individualized Education Plan ("IEP") or other written plan developed in accordance with state and federal law to which the public education program and the student's parent or guardian have agreed shall be deemed to meet the requirements of 603 CMR 46.00, except that the limitations on chemical, mechanical, and seclusion restraint set forth in 603 CMR 46.02(5), the training requirements set forth in 603 CMR 46.03, and the reporting requirements set forth in 603 CMR 46.06 shall apply.

(2) Special Circumstances - Individual Waiver of Reporting Requirements. Public education programs may seek a parent's or guardian's consent to waive the reporting requirements of 603 CMR 46.06 for restraints administered to an individual student that do not result in serious injury to the student or a program staff member and do not constitute extended restraint. Extended restraints and restraints that result in serious injury to a student or program staff member must be reported in accordance with the requirements of 603 CMR 46.06, regardless of any individual waiver to which the parent or guardian may have consented. Individual waivers should be sought only for students who present a high risk of frequent, dangerous behavior that may require the frequent use of restraint.

(3) Limitations on individual waivers.

(a) A public education program may not require a parent's consent to such a waiver as a condition of admission or provision of services.

(b) A parent may withdraw consent to such waiver at any time without penalty.

(4) Individual Waiver - documentation required. The program shall maintain the following documentation on site in the student's file and shall make such documentation available for inspection by the Department of Elementary and Secondary Education at its request at any time:

(a) The informed written consent of the parent or guardian to the waiver, which shall specify those reporting requirements(s) in 603 CMR 46.06(1)-(4) that the parent or guardian agrees to waive; and

(b) Specific information regarding when and how the parent or guardian will be informed regarding the administration of all restraints to the individual student.

(5) Prohibition on Program or Classroom Waivers: Nothing herein shall be construed to allow a program or classroom to receive an exemption or waiver from any of the requirements of 603 CMR 46.00 on behalf of all of the students enrolled in a particular program or classroom.

last updated: April 2, 2001

Procedure for Suspension of Students with Disabilities

The Weston Public Schools carefully monitors and documents all student suspensions. The suspension of a student on an IEP for longer than 10 consecutive days or a series of suspensions that are shorter than 10 days, but constitute a pattern are considered to represent a change in placement. Prior to a change in placement of a student with disabilities, the IEP Team, which always includes a regular education representative, convenes to develop or review an FBA, or to develop an assessment plan. The Team discussed whether there is a correlation between the behavior exhibited and the student's disability. Initially, specific questions are asked and answered by the IEP Team members (e.g. Does the student understand their impact and consequences of his/her behavior? Can the student control his/her behavior? Is the current placement appropriate?). Finally, a manifestation decision is made by the Team.

If the IEP Team determines that the behavior is **NOT** a manifestation of the student's disability, the student can be suspended or expelled consistent with the district's policies and practices for suspending any student. However, the school must provide an appropriate education program to the student with disabilities who has been suspended in some alternative setting.

Regardless of the manifestation determination, the district may decide to place the student in an interim alternative educational setting determined by the Team for a period of up to 45 days. Various reasons for this determination may include the following:

- If the behavior exhibited by the student involves the use of weapons or illegal drugs or other controlled substances on the school property or at a school function
- If the district believes that the student is at risk to harm himself/herself or others and a hearing officer orders an alternative placement

The placement of a student in an interim alternative education setting enables the student to have access to the general curriculum, to continue to receive special education support as outlined on the student's IEP, and to provide support services to address the problematic behavior.

If the IEP Team determines that the behavior **IS** a manifestation of the student's disability, then the district will take the following steps with parental consent:

- Revise the IEP if deemed appropriate
- Change the student's placement if deemed appropriate
- Conduct an FBA and develop/ revise the BIP if deemed appropriate

The district provides written notice to the parent about their right to an appeal and to an expedited hearing. If the parent decides to appeal the decision, during the appeal the student remains in the placement outlined on the last accepted IEP or in the interim alternative placement, unless the parent and the district decide otherwise.

Placement in Disciplinary Procedures

Under IDEA 2004: Section 615(k)

(To be read in conjunction with state law under M.G.L. c.71, §§ 37H & 37H1/2)

A Principal may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student with a disability who, after a disciplinary hearing, has been found to have violated a school code of conduct.

Student with a disability violates a school code of conduct.

Removal not more than 10 days

Principal may exclude a student with a disability from the current placement without obligation to provide FAPE. This includes suspension, removal and assignment to an IAES. Disciplinary decision same as for students without disabilities.

Removal Exceeds 10 Days

Notify parents of decision to take disciplinary action not later than the date the decision is made, and of procedural safeguards under IDEA. Obligation to provide FAPE continues.

Notify parents of decision to take disciplinary action, not later than the date the decision is made, and of procedural safeguards under IDEA.

Manifestation Determination

Within 10 school days of the decision to change placement, the district, the parent, and relevant members of the IEP Team review relevant information and make a manifestation determination.

Manifestation Determination

Does the conduct have a direct and substantial relationship to the disability? Or is it the direct result of the district's failure to implement the IEP?

No – Student's conduct is not a manifestation of the disability.

Special Circumstances: does the offense fall under "special circumstances" related to weapons, illegal drugs, controlled substances, or serious bodily injury?

Yes – Student's conduct is a manifestation of the disability.

Appeal to BSEA

A parent may request a hearing on a manifest determination or placement decision. A district may request a hearing if concerned current placement is substantially likely to result in injury to child or others. The hearing must occur within 20 school days from the date of request.

Apply relevant disciplinary procedures applied to students without disabilities.

While appeal is pending, parent and district agree to another placement **OR** student remains in disciplinary placement.

Provide educational services that enable the student to participate in general education curriculum and progress toward goals on IEP. Any IAES must be determined by the TEAM.

Conduct FBA and implement BIP if none exists or review present BIP and modify as necessary.

Yes – May remove student to IAES for up to 45 school days. The IAES must be determined by the Team.

Time period for placement expires

Hearing Officer makes a determination within 10 school days of the hearing.

No Return student to placement from which removed unless parent and district agree to change of placement-AND proceed with the steps that flow from the **NO** and **YES** boxes as described above.

Return student to the placement from which the child was removed.

Order a change in placement to an appropriate IAES for not more than 45 school days if determined that current placement is substantially likely to result in injury to the child or others.

Procedure for Recording Suspensions

Weston Public Schools closely monitors special education students who are suspended from school. The following procedures are followed when a student receiving special education services is suspended.

1. Students receiving special education services and their parents receive advanced written notice regarding the school's Code of Conduct.
2. Within the Code of Conduct, procedural safeguards are included and explained.
3. Weston Public Schools understands that students in special education may be suspended up to 10 days in any school year.
4. If a student in special education has been suspended for 10 days, any subsequent suspensions must include a provision of special education services for the student during the time of suspension.
5. When a student on an IEP is suspended, the school principal or assistant notifies the Director of Student Services.
6. Often times, this notification is followed by a written summary of the reason for the suspension.
7. The suspended student's IEP chairperson is informed of this suspension through the principal's office and the student's behavior/infraction is often discussed at the weekly Student Support Team (SST).
8. When the number of suspensions approaches six to eight days, and it appears that a pattern has developed regarding suspensions, the IEP Team reconvenes to determine if an amendment to the IEP is necessary. This consistently occurs prior to any suspension beyond 10 consecutive days or 10 cumulative days.

Procedural Requirements of Students Not Yet Determined to be Eligible for Special Education

If prior to any disciplinary action, the district has knowledge that a student may have a disability, the district will protect the rights of the student until and unless the student is determined not to be eligible. Reasons why the district may have prior knowledge that the student may have a disability could include the following:

- The parents have expressed concern to the school personnel in writing
- The parents may have requested that their child be evaluated
- A school staff member may have expressed concern that the student has a disability

There can be exceptions to the prior knowledge stipulation. These include:

- The parent has not consented to a request to evaluate the student;
- The parent has refused special education services;
- An evaluation of the student has resulted in a finding of no eligibility.

If the district has no evidence to suggest that the student has a disability, and the parent has requested an evaluation following the disciplinary action, the district will make every effort to expedite the evaluation process to determine eligibility consistent with federal requirements. If the student is found to be eligible, he/she will receive all rights afforded students in special education following the finding of eligibility. All procedures are thoroughly documented.

Section XIII

Equal Opportunity

In accordance with FAPE (Free Appropriate Public Education), Weston Public Schools offers students with disabilities the opportunity to access all educational, nonacademic, extracurricular, and ancillary services. Full inclusion programming is also available to all SPED students based on each of their Individual Education Programs. Additional, it is the practice of the Director of Student Services to fund staff to provide additional support for students with disabilities who would otherwise be unable to participate in extracurricular activities independently. Equal access for all students is a mandate which Weston implements throughout its grade level continuum of PreK-12+.

Special Education

Administrative Advisory SPED 2002-1:

Requirement to Review Refusals to Evaluate for Special Education Eligibility Guidance on the change in the special education standard of service from "maximum possible development" to "free appropriate public education" ("FAPE")

Effective January 1, 2002

To: Superintendents of Schools, Charter School Leaders, Special Education Administrators,
Other Interested Parties

From: David P. Driscoll
Commissioner of Education

Date: November 20, 2001

In the summer of 2000, the Massachusetts special education law, Mass. Gen. Laws Chapter 71B, was amended to change the special education standard of services from the current "maximum possible development" (sometimes referred to as "maximum feasible benefit") to the federal standard, "free appropriate public education" ("FAPE"). The change is effective as of January 1, 2002. This memorandum is intended to help school officials, parents and other interested parties understand the effect of the change and apply the FAPE standard, consistent with state and federal law.

The FAPE standard has been part of the federal special education law since 1975, and it is well-established in educational practice and case law. In amending the Massachusetts special education law to align it with the federal standard, the Legislature indicated its intent was to ensure that our public education system provides high standards for *all* students, including students with disabilities. The Education Reform Act underscores the Commonwealth's commitment to assist all students to reach their full educational potential. Improving educational outcomes for students with disabilities is a goal of the state and federal special education laws, and improving educational outcomes for all students, including students with disabilities, is central to education reform.

"Free appropriate public education" is defined in Mass. Gen. Laws Chapter 71B, § 1, effective January 1, 2002, as follows:

special education and related services as consistent with the provisions set forth in 20 U.S.C. 1400 *et seq.* [the federal Individuals with Disabilities Education Act, or IDEA], its accompanying regulations, and which meet the education standards established by statute or established by regulations promulgated by the Board of Education.

Under the federal Individuals with Disabilities Education Act, at 20 U.S.C. § 1401(8), the term "free appropriate public education" is defined as:

special education and related services that - (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the state involved; and (D) are provided in conformity with the individualized education program.

The United States Supreme Court has interpreted the term "free appropriate public education" as the provision of publicly-funded individualized instruction with sufficient support services to permit the student to benefit educationally from the instruction¹. This education must be provided in the least restrictive environment. Subsequent federal cases have held that this access to education for students with disabilities must be "meaningful." The decisions also note that the key to any student's meaningful special education is the development of the Individualized Educational Plan ("IEP") that is tailored to meet the unique needs of the student.

The FAPE standard for delivery of special education services requires the school district to provide personalized instruction tailored to the student's needs, with sufficient support services to permit the student to make meaningful educational progress. The special education and related services are to be provided in conformity with the student's IEP and consistent with state requirements. Applying the federal FAPE standard in individual cases, courts have ordered school districts to provide an extensive array of special education services, including private day and residential placements as well as related services.

The central principles and requirements of state and federal special education law in Massachusetts will be unaffected by the change to the FAPE standard in January 2002. For example, the following elements are unchanged:

- **Massachusetts education standards.** Both the state and federal definitions of FAPE (quoted on page 1) refer to special education and related services that meet state education standards. The state standards include not only the requirements of the Special Education Regulations (603 CMR 28.00) but also the learning standards that Massachusetts has established through the state curriculum frameworks. All students in the Commonwealth's public education system, including students with disabilities, are entitled to the opportunity to learn the material that is covered by the academic standards in the Massachusetts curriculum frameworks.
- **Eligibility for special education.** The change to the FAPE standard will not affect eligibility for special education, since the standard relates to services provided after a student has been determined to be eligible for special education. Eligibility criteria are defined in the special education statute and regulations. Eligible students are those who, because of a disability, are unable to progress effectively in the general education program without specially designed instruction or who are unable to access the general curriculum without a related service. To determine a student's eligibility, the school district evaluates the student and convenes a Team to meet and review the evaluation information and make a determination of eligibility in accordance with the Special Education Regulations, 603 CMR 28.00.
- **Individualized evaluation and educational plans.** State and federal law continue to require school districts to focus on the unique needs and strengths of the individual student through the Team evaluation and IEP process. The change to the FAPE standard maintains that focus. State and federal law have required, and will continue to require, the school to provide a program that will benefit the student educationally.
- **Procedural rights and responsibilities.** The change in the standard does not affect the procedural safeguards provided under the law. These safeguards include the requirement for parental notice and consent before changing a student's special education services or placement; the right of parents to obtain an independent evaluation of their child; and the right of parents and school districts to seek resolution of disputes through mediation and administrative hearings. A current IEP that has been accepted by the parent continues to represent an agreement for services between the parent and the school district. *The change in the standard on January 1, 2002 does not change existing IEPs.*

- **Least restrictive environment.** The requirement to provide special education and related services to students with disabilities in the "least restrictive environment" has been part of the state and federal special education laws since they were first enacted. This requirement continues in effect even after January 1, 2002.

The change to the FAPE standard may or may not have an impact on costs over time, since court decisions make clear that FAPE is not a minimal or trivial standard. Most states have been operating under the FAPE standard for years, and many states besides Massachusetts have been struggling with the high costs of special education. In Massachusetts, the Legislature and the Governor have sought to provide fiscal relief to local communities through a combination of a new special education reimbursement program and substantially increased funding for schools through Chapter 70 and other programs. The U.S. Congress has indicated that it will revisit funding for the states when it addresses reauthorization of the federal special education law.

We do not yet know whether and how the enactment of the FAPE standard may affect decisions in special education appeals cases, either at the administrative level (through the Bureau of Special Education Appeals) or in court. While hearing officers and judges must decide cases under the applicable legal standard, a review of decisions in Massachusetts and in other states indicates that the outcome depends on many factors, including the complexity and severity of the student's disability, the student's academic progress, and the need to assess what is the least restrictive environment in which the student can receive appropriate education.

The vast majority of IEPs are written, accepted, and implemented without dispute, with educators and parents working together in the best interests of the students. Each year, over 150,000 IEPs are written for special education students in Massachusetts, and fewer than 1% result in requests for mediation or an administrative hearing before the Bureau of Special Education Appeals. Disputes over IEPs are rare and even when they arise, most are resolved by parents and educators at the local level. This will continue to be so under the FAPE standard.

The change in the Massachusetts special education standard to FAPE is not expected to result in major changes in IEPs or placements. It remains to be seen whether the change has an impact on costs. In some individual cases, over time, school districts, parents, and hearing officers may make decisions about services or placements based at least in part on the FAPE standard. The Department of Elementary and Secondary Education will be reporting to the Legislature each year on special education, and we will include data and observations related to the change in the standard in subsequent reports.

In conclusion, the federal Individuals with Disabilities Education Act was amended in 1997, specifically to raise expectations and increase educational achievement of students with disabilities. The Department of Elementary and Secondary Education believes that the change to the FAPE standard in Massachusetts should help educators and parents to focus on providing programs and services that are of high quality and that will improve student achievement.

¹ *Hendrick Hudson Bd. of Educ. v. Rowley*, 458 U.S. 176, 188-89 (1982); see also *Cedar Rapids Community Sch. Dist. v. Garret F.*, 526 U.S. 66 (1999); *Burlington v. Department of Educ.*, 736 F.2d 773 (1st Cir. 1984).

Related Services currently Provided to Eligible Students

For students with special education needs who also require related services, the district will provide or arrange for the provision of support services, which have been determined to be developmental or corrective in nature. The IEP Team has agreed that these services are required to assist the student in benefiting from special education support and /or to assist the student in accessing the general curriculum. Related services provided in the Weston Public Schools include the following:

1. Speech and Language Therapy
2. Psychological Consultation – to the Team
3. Physical Therapy
4. Occupational Therapy
5. Early Identification/Intervention for Children with Disabilities
6. Orientation and Mobility Training
7. Medical Services for Diagnostic or Evaluation Purposes
8. School Health Services
9. Parent Training
10. Special Transportation
11. Applied Behavior Analysis
12. Adapted Physical Education
13. Adaptive Technology

Continuum of Services – Vocational

Weston offers a continuum of services for disabled students who do not gain admission to select vocational-technical schools. In-district job sites are available for students based on their strengths, weaknesses, preferences, and interests. Through the IEP Team process, vocational options and staff are identified to enable students to explore work opportunities prior to graduation. Historically, Weston employees have willingly mentored SPED students under the supervision of SPED Tutors who serve as job coaches. Finally, through our high school GOAL Program, staff has been able to identify and place students in supervised internships and paid employment opportunities. The Weston community has been very receptive to offering students with disabilities the opportunity to experience the world of work.

Weston also has contracted with Collaboratives to provide students with vocational opportunities. Both paid work and internship opportunities are available for students. The Bridges Program, under the auspices of the TEC Collaborative, offers job placement, job development, and job coaching for disabled students. The LABBB and ACCEPT Collaboratives offer vocational programs and services for disabled students also.

The role of the School Counselor

The Weston Public Schools have several School Counselors who work directly with students, staff members and administrators. The role of the School counselor is to provide on-going support to students throughout the school system. Students are supported through lunch groups and also meet in small groups or one-to-one with the counselor. This is done on an interim basis and if more intensive treatment is required, the counselor would notify the parents, building Principal, School Psychologist, and Special Education Administrator.

The Weston Public Schools also has a doctoral level psychologist in each school whose primary function is to evaluate students. After meeting with the student, the School Psychologist will have a follow-up meeting or phone conference with the parents, building Principal, Special Education Administrator, and IEP Chairperson, if the student is on an IEP. At this time, the psychologist provides feedback and makes recommendations.

Transportation

Weston Public Schools provides special transportation for students with disabilities attending both in-district and out-of-district placements. The IEP Team determines the need for this related service as well as any additional accommodations that may be required, such as a monitor or a wheelchair van. Regular bus transportation with a monitor is also offered to students with disabilities if the IEP Team determines that this option is more appropriate than a cab. For parents who choose to transport disabled students ordinarily entitled to special transportation, Weston reimburses them at the state approved mileage rate. Forms are provided to parents and submitted monthly to the SPED office for reimbursement and reporting purposes.

Weston adheres to all laws and regulations established by the Commonwealth of Massachusetts and DESE regarding the bidding process, safety standards, specialized vehicles, etc. Currently, Weston Public Schools has a contract with Waltham Central Transportation. The Assistant Director of Student Services coordinates all transportation for students with disabilities. Communication with the company's transportation coordinator is frequent and well documented.

Transportation arrangements are made in a timely manner and with strict adherence to the one hour traveling time limit. Every fall, Weston conducts in-service training for all of the drivers who transport Weston students with disabilities. The Assistant Director of Student Services conducts the training for cab drivers and the Director of Student Services conducts the training for school bus drivers.

Weston's special transportation roster typically includes between ten and fifteen students with disabilities. The Assistant Director of Student Services maintains a transportation folder for all communications and correspondence with the transportation company. Issues, concerns etc. are also recorded on students' monitoring plans when appropriate.

Use of Tutors and Instructional Aides

Weston Public Schools employs Tutors and Instructional Aides to provide support to students in and out of the classroom. Tutors and Instructional Aides are appropriately trained to assist in providing special education or related services. All Tutors are certified/licensed teachers or are interns who will be eligible for licensure within the school year.

Instructional Aides offer support to students in the classroom, working alongside special or general education teachers. All Instructional Aides have at least a Bachelor's degree.

Tutors and Instructional Aides are closely supervised by certified/licensed special and general education teachers. Tutors are attentive to IEP goals and objectives and collect data on a regular basis pertaining to student performance. Because of their level of expertise (licensed/certified), Tutors may implement instructional activities under the direct supervision of a licensed special education teacher. Tutors and Instructional Aides implement instruction under the supervision of an appropriately certified or licensed professional.

This role is being looked at in a district review done independently by Walker Partnership. A report to the School Committee is pending.