Special Education Procedures Manual

White Pine County School District

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INTRODUCTION

Purpose

The purpose of the Special Education Procedures Manual is to provide White Pine County School District (WPCSD) educators, parents, and community members with information relevant to the operation of the district's special education programs. It reflects current requirements in federal and state law and should serve as a useful guide not only in providing needed services, but also in providing technical assistance to staff members in carrying out their assigned responsibilities.

The procedures outlined in the Special Education Procedures Manual are also designed to ensure compliance by the WPCSD with the requirements of Section 504 of the Rehabilitation Act of 1973 (as amended) and Title II of the Americans with Disabilities Act (as amended) for students with disabilities entitled to special education and related services under the IDEA.

Throughout this Manual, whenever the terms "parent" or "parents" are used, the reference is to any person who is defined as a parent under the Individuals with Disabilities Education Act (IDEA) at 34 CFR 300.30. The IDEA definition includes biological or adoptive parents, foster parents, a guardian, an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative with whom the child lives) or an individually legally responsible for the child's welfare, or a surrogate parent appointed in accordance with the IDEA.

Notice of Nondiscrimination

The WPCSD does not discriminate against any person on the basis of race, color, national origin, sex, disability, age, or on any other basis protected by state or federal law, and it provides equal access to the Boy Scouts of America and other designated youth groups.

The lack of English language skills will not be a barrier to admission to or participate in any school district programs or activities, including special education programs for which students are eligible.

The following person has been designated to handle inquiries regarding the school district's nondiscrimination policies: Title IX and 504/ADA Coordinator, 1135 Avenue C, Ely, Nevada 89301 or (775) 289-4851. For further information on notice of non-discrimination, contact the United States Department of Education, Office of Civil Rights, 1-800-421-3481.

CONFIDENTIALITY

The confidentiality of personally identifiable information about students with disabilities is protected through the Family Educational Rights and Privacy Act (FERPA), the Individuals with Disabilities Education Act (IDEA), and the Nevada Administrative Code (NAC). Except under limited circumstances, confidential information contained in education records cannot be accessed or disclosed without the consent of the parent or the student, if not a minor. Confidentiality is critical to the special education process and must be strictly observed. This policy is not intended to inhibit professional communication, but rather to ensure that confidential information about students and their families is treated appropriately.

Definitions

1. Directory information. Information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may be released to agencies, institutions, the military or businesses for the purpose of providing

students with yearbooks, class rings, graduation announcements, athletic apparel, school pictures, scholarship opportunities, or other purposes that benefit the student and/or school. Directory information will not be released when the purpose is primarily for commercial or sectarian use.

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

3. Education records. Records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include records that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record; certain law enforcement unit records; certain employment records; certain records on a student 18 years of age or older; certain records created or received by an educational agency after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student; and grades on peer-graded papers before they are collected and recorded by a teacher.

   The following types of documents represent common information of this nature:

   a. Written assessment and diagnostic findings and other documentation (medical, sociological, psychological, or academic) that is used for determining eligibility for special education or for determining an appropriate program. This includes test protocols utilized during the assessment process if the protocols contain personally identifiable information.

   b. Official correspondence that includes information about the student or the student's family.

   c. Confidential documents provided by other agencies or programs that were provided through a written release of information by the parents or specifically identified as confidential information.

   d. Written information provided by the parents that is included in the student's confidential special education records at the request of the parents.

   This is not an exclusive list, and there are other types of information that qualify as confidential information.

4. Eligible student. A student who has reached 18 years of age or is attending an institution of post-secondary education.

5. Personally identifiable information. Includes but is not limited to the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier such as the student's social security number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the educational agency reasonably believes knows the identity of the student to whom the education record relates.

6. Record. Any information recorded in any way, including but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

Maintenance of Records

The records custodian must ensure that all educational records are maintained in a secure location. File cabinets and other storage containers that are used to store such records and documents must be locked and remain locked except for access by authorized personnel. The school principal is responsible for security of special education records and management of confidential information at each school site; however, he/she may designate a staff person to assist with this responsibility. Files may be kept in a central location or in more than one location in the school as long as security is maintained. Confidential special education files must not be mixed with other types of records on the student (e.g., cumulative school records, files maintained by teachers of students' school work).

Directory Information

The school may disclose directory information without written consent if a notice has been given to parents or eligible students regarding the types of information that will be disclosed, as well as notification of their right to refuse disclosure of any or all information that the school considers directory information.

Parents may prohibit the disclosure of directory information by providing a written request to this effect.

Inspection and Review of Educational Records

1. Timelines for access. Parents have the opportunity to inspect and review any educational records relating to their child which are collected, maintained or used by the district. The district must comply with a request to inspect and review without unnecessary delay and in any event before any meeting regarding an IEP or a due process hearing relating to identification, evaluation, educational placement, or the provision of a free appropriate public education, and not later than 36 school days after the request has been made. Generally, the policy in White Pine County School District is to respond to a request to inspect and review records within ten (10) working days after the request has been made.

2. Interpretations and explanations. Parents have the right to obtain reasonable interpretations and explanations of the information contained in the educational records. The parents may make reasonable requests for the district to explain and interpret the records, and to have their representative inspect and review the records.

3. Copies of records. The parents may request that the district provide them with copies of the records, if, without the copies, any meaningful review of the records is impractical. The district may charge a reasonable fee for photocopying records.

4. Authority of parent. The district may presume that the parent has the authority to inspect and review records relating to the student unless the district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation or divorce. In White Pine County School District, it will be necessary for the district to have a copy of any such legal document prior to denying a parent access to the records.

5. Record of access. The district shall keep a record of the persons other than parents and authorized employees given access to educational records. The record must include the person's name, date of access, and purpose for which the person is authorized to use the records.

6. Records on more than one student. If any educational record contains information on more than one student, the parents may inspect and review only the information relating to their child or be informed of that specific information.

7. List of types and locations of records. Upon request the district shall maintain and provide to parents a list of the types and locations of educational records it collects, maintains or uses relating to students.

8. Fees. If the district charges a fee for copies of records made for parents, the amount of the fee cannot effectively prevent the parents from exercising the right to inspect and review those records. No fee may be charged for the search or retrieval of the information.

   Generally, the school district provides copies of special education records upon request. In most instances, the school district does not charge a fee for duplication of special education records provided to the parent or guardian; exceptions may be made in appropriate circumstances.

Amendment of Educational Records

1. A parent who believes that information in educational records is inaccurate, misleading or violates the privacy or other rights of the student may request an amendment of that information. The district shall determine whether to amend the information within a reasonable period of time after receipt of the request. If the decision is to refuse to amend the information, the district shall inform the parent of the refusal in writing, including the reason for the refusal and the right to a hearing.

   When the parents of a student request amendment of the student's special education records, the school district Student Support Services office must be notified.

2. Upon request, the district shall provide an opportunity for a hearing to challenge information in educational records.

3. If, as a result of the hearing, it is decided that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the district shall amend the information accordingly and inform the parents in writing.

4. If it is decided that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the parent may place in the records a statement commenting on the information or setting forth any reasons for disagreeing with the decision.

   The district shall notify the parent that the parent has a right to include such a statement in the record.

   The district shall retain any such explanation placed in the records as part of the records as long as the record or contested portion is maintained. If the records are disclosed to any person, the explanation must also be disclosed.

5. Any hearing held regarding the amendment of records must be conducted in accordance with FERPA and other applicable procedures.

Safeguards

The district shall not disclose personally identifiable information except as authorized by law.

Each principal/designee must ensure that all school staff that collect or use personally identifiable information receive training to ensure the confidentiality of such information. The district shall:

1. Protect the confidentiality of personally identifiable information at its collection, storage, disclosure and destruction;

2. Appoint one official to assume responsibility for ensuring the confidentiality of any personally identifiable information;

3. Train or instruct all persons collecting or using personally identifiable information regarding confidentiality procedures; and

4. Maintain a current listing for public inspection of the names and positions of those employees within the district who may have access to personally identifiable information. **Destruction of information** The district shall also:

1. Inform parents when the personally identifiable information is no longer needed to provide educational services to the student;

2. Maintain a permanent record of the student's name, address, telephone number, grades, attendance, classes attended, grades completed and the year completed; and

3. Upon the request of the parent, destroy any personally identifiable information except the information listed in (2), which is no longer necessary to provide educational services.

Destruction of personally identifiable information will be coordinated through the STUDENT SUPPORT SERVICES OFFICE. Generally, the STUDENT SUPPORT SERVICES OFFICE will manage the notice and destruction process in accordance with the record retention schedules established in state law.

Consent Required for Access to Records

Parental consent will be obtained before personally identifiable information is disclosed to anyone other than authorized individuals or agencies; or used for any purpose other than meeting a requirement under IDEA. The district will not release information from education records to participating agencies without parental consent unless authorized to do so under FERPA (see *AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION).*

Who May Access Records Without Consent

There are several situations where the school district may disclose education records of a student without written consent of the parent or eligible student. The most common situations affecting special education students are explained below:

1. To school officials with a legitimate educational interest, including any administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); student teachers and related service interns; a person serving on the School Board; a person or company with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in

performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

The DIRECTOR OF STUDENT SUPPORT SERVICES is the school official in charge of educational records and shall determine whether a school official is seeking information to carry out his/her official duties and whether the specific information sought is necessary in carrying out those duties.

2. To comply with a judicial order or lawfully issued subpoena. If the education records of a student are subpoenaed, the school district needs to make a reasonable effort to notify the parent or student (if 18 years of age or older) before complying with the subpoena. This is intended to allow the parent/student the opportunity to quash or challenge the subpoena.

3. To authorized representatives of federal or state agencies who are engaged in audit or compliance activities. In such a case, the representatives must sign a record of access stating the purpose of their need to access the education record.

4. The school district may disclose personally identifiable information about a student from confidential records in an emergency if the information is necessary for the health or safety of the student or other individuals.

5. To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer.

6. To other entities specified in FERPA, 34 CFR Part 99, §99.31.

PROCEDURAL SAFEGUARDS

Procedural safeguards are specific rights and guarantees given to parents and students through state and federal laws to protect them in matters related to identification, evaluation, educational placement, and the provision of a free appropriate public education. Collectively, these rights and guarantees are referred to as "procedural safeguards," and they are described for parents in a document disseminated by the Nevada Department of Education entitled "Special Education Rights of Parents and Children."

The IDEA requires that parents be given an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of a free appropriate public education for students with disabilities. A meeting does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Definitions

1. Consent. Parents must give informed written consent, which means that they have been fully informed of all information relevant to the activity for which consent is sought, in their native language or other mode of communication. Parents must understand and agree in writing to the carrying out of the activity for which their consent is sought. The request for consent must describe the activity and list the records (if any) which will be released and to whom. Parents must also be informed and understand that the granting of consent is voluntary on their part and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it

does not negate an action that has occurred after the consent was given and before the consent was revoked). If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

2. Evaluation. Evaluation procedures are used to determine if a student has a disability and the nature and extent of special education and related services that are needed by that student. The term refers to procedures that are individually administered and used selectively with a student and does not include basic tests or procedures used with all students in school (e.g., group achievement tests, general screenings of all students).

3. Notice. The district must provide the parents with prior written notice (see *PARENTAL PRIOR WRITTEN NOTICE*) a reasonable time before proposals or refusals to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education to a student. The notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the district must translate the notice orally so that the parent understands the content of the notice and maintain written evidence that these steps were taken.

   In WPCSD, written notice will generally be provided within 10 days of making a decision to propose an action (such as a proposal to refer the child for a special education evaluation), or within 10 days of receiving a request from the parent that the WPCSD intends to refuse. The notice must contain the following information:

   a. A description of the action proposed or refused by the school district;

   b. An explanation of why the school district proposes or refuses to take the action;
   c. A description of other options the school district considered and the reasons why those options were rejected;
   d. A description of each evaluation procedure, assessment, record, or report used by the school district as the basis for the proposed or refused action;
   e. A description of the factors that are relevant to the school district's proposal or refusal;
   f. A statement that the parents of a child with a disability have protection under the procedural safeguards of IDEA and, if the notice is not an initial referral for an evaluation, the means by which a copy of the description of the procedural safeguards can be obtained; and
   g. Contact sources for parents to obtain assistance in understanding the provisions of special education law.

4. Procedural safeguards. A copy of procedural safeguards (the "rights" document) must be provided to parents **AT LEAST ONCE PER YEAR** and at the following junctures:

   a. Initial referral for evaluation or upon parent request for an evaluation
   b. Upon the first request for a due process hearing in a school year
   c. Upon the first request for a complaint investigation in a school year (the Nevada Department of Education provides this copy to the parent)
   d. Upon request by the parent
   e. On the date a decision is made to make a removal that constitutes a disciplinary change

of placement

5. Parent. As used in this section, the term **parent** refers to biological or adoptive parents, a foster parent, a guardian generally authorized to act as the child's parent (but not the state if the child is a ward of the state), an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare, a surrogate parent, or a person identified through judicial decree or order to act as the "parent" of a child or to make educational decisions on behalf of a child, or the student, if he or she has reached the age of 18. A non-custodial divorced parent also has the right to participate in special education proceedings regarding his or her children. All of the rights that are afforded to parents transfer to the student when he or she is age 18, with certain exceptions. One exception is when the student has been adjudged incompetent by a court of competent jurisdiction and a guardian has been appointed. See NAC 388.195. Another exception is when the parent of a student with a significant cognitive impairment has applied to the district and been approved to represent the educational interests of a student who is age 18. See NAC 388.197.

   Unless a judicial decree or order has identified a person to act as the parent, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified to act as a parent, is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

6. Surrogate parent. A surrogate parent is a person appointed by the school district to represent the interests of a student when neither of the student's parents can be identified or located, or the student is a ward of the State of Nevada, or the student is an unaccompanied homeless youth. A surrogate parent has all the special education rights and authority ordinarily afforded to other parents. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements described below. If the student is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents.

Informed Written Consent

1. Reasonable steps to obtain consent. The district must take and document reasonable steps to obtain parent consent when consent must be obtained before the district can proceed with its evaluation and service provision responsibilities. Reasonable steps which must be taken and carefully documented include:

   - Detailed records of telephone calls made or attempted and the results of those calls
   - Copies of correspondence sent and responses received ○ Detailed records of visits to home or place of employment and results

2. Consent requirements. Informed written consent from a student's parents is required in the following instances:

   - When the school district initially proposes to evaluate a student to determine his or her eligibility for special education and related services (see *NEVADA CONSENT FOR EVALUATION)*

- If the parent refuses to consent to an initial evaluation or fails to respond to a request to obtain consent, the district may but is not required to pursue the evaluation through mediation and/or due process. If the district does not initiate mediation or due process proceedings, the district will not be found to have violated its obligations for child find/identification or evaluation, and the district will not be deemed to have knowledge the student was a student with a disability for discipline purposes.

- When the school district proposes the initial provision of special education and related services for the first time (see *PARENT CONSENT FOR INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES)*
  - If the parent refuses to consent or fails to respond to a request to obtain consent for the initial provision of special education and related services, the district MAY NOT use mediation and/or due process in order to obtain agreement or a ruling that the services may be provided to the student. The district will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with the special education and related services for which the parent refuses to or fails to provide consent, and the district will not be deemed to have knowledge the student was a student with a disability for discipline purposes.

- When the school district conducts a reevaluation that requires assessment(s) in addition to information already available to the team (see *NEVADA CONSENT FOR EVALUATION)*
  - If the parent refuses to consent, the district may but is not required to pursue the reevaluation through mediation and/or due process. If the district does not initiate mediation or use process proceedings, the district will not be found to have violated its obligations for child find/identification or evaluation, and the district will not be deemed to have knowledge the student was a student with a disability for discipline purposes. If the parent has not responded to a request for consent for reevaluation, the district may proceed with the reevaluation if the district can document it has taken reasonable measures to obtain consent and the student's parent has failed to respond.

CONTACT THE DIRECTOR OF STUDENT SUPPORT SERVICES IN ALL INSTANCES WHERE PARENTS REFUSE TO CONSENT OR FAIL TO RESPOND TO REQUESTS TO OBTAIN CONSENT.

3. Additional information: Consent for initial provision of special education services. Informed written consent for initial provision of special education services must be obtained from parents before a student may receive services. Consent is obtained using the *PARENT CONSENT FOR INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES* form.

   In most circumstances, parents sign this form when they attend the student's initial IEP meeting. However, in instances where the parents refuse or do not attend after reasonable attempts are made to involve them in the initial IEP meeting, the school must take reasonable steps to attempt to obtain written consent for initial provision of services through other means. This might include telephone calls or correspondence. When possible, school staff could also take the form to the parent's home or place of employment. Each of these attempts must be carefully documented. If the parent withholds consent for the initial provision of special education and related services, IEP services CANNOT be provided.

The school is only required to obtain *PARENT CONSENT FOR THE INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES* once, before the student is initially placed in a program of special education. Thereafter, the procedures regarding notice and IEP development, review, and revision apply.

4. Reevaluations requiring additional data. Parent consent is not required before reviewing existing data as part of an evaluation or reevaluation, or before administering a test that is administered to all children unless consent is required of all parents. If the IEP Committee and eligibility team need additional data before completing a reevaluation, consent must be obtained.

5. Revoking consent. Consent for evaluation, reevaluation, or the initial provision of special education services may be revoked at any time. However, revocations are not retroactive. A revocation will not negate an action that has occurred after the consent was given and before the consent was revoked. For example, if a parent wishes to revoke consent for an initial evaluation, and the evaluation has already been completed, the revocation is ineffective.

   If at any time subsequent to the initial provision of special education and related services, the parent of a student revokes consent in writing for the continued provision of special education and related services, the district may not continue to provide special education and related services to the student, but the district must provide prior written notice before ceasing the provision of special education and related services. The district may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the student. The district will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services. Finally, the district is not required to convene an IEP meeting or develop an IEP for the student for further provision of special education of the student.

   If a parent who revoked consent for special education and related services later requests that his or her child be re-enrolled in special education, the school district must treat this request as a request for an initial evaluation, rather than as a reevaluation. IF A PARENT WHO REVOKED CONSENT REQUESTS RE-ENROLLENT IN SPECIAL EDUCATION, CONTACT THE DIRECTOR OF STUDENT SUPPORT SERVICESFOR ASSISTANCE.

6. Subsequent to the initial evaluation and the initial provision of special education and related services, the school must use written notice to ensure that parents understand any action the school district proposes or refuses. This might include the need to obtain consent for assessments determined necessary by the student's IEP Committee in order to provide appropriate services, or completion of a functional behavioral assessment at a time not consistent with the three-year reevaluation juncture.

7. Consent is also required in certain circumstances before the school district discloses personally identifiable information. See Confidentiality section for further information.

Prior Written Notice and Notification Regarding ET/IEP Meetings

1. Prior Written Notice. In general, prior written notice is required whenever the school proposes or refuses to take an action related to the identification, evaluation, educational placement, or provision of a free appropriate public education for a student (see *PARENTAL PRIOR WRITTEN NOTICE*).

   The following list identifies common situations where the district is required to provide parents with prior written notice:

- The school proposes to evaluate or reevaluate the student
- The school proposes to conduct an initial evaluation or reevaluation without obtaining additional data
- The school proposes to develop the student's initial or annual IEP and has specific proposals for content
- The school proposes to implement an IEP
- The school proposes to change the student's special education placement or IEP services
- The school proposes to terminate special education services (including termination of eligibility through a reevaluation process, or graduation from high school)
- The school proposes to cease special education and related services after receiving a written request by the parent revoking consent for continued provision of special education and related services
- The school proposes to change or terminate a student's related services (e.g., speech therapy, occupational or physical therapy, counseling)
- The school proposes a suspension or expulsion of a special education student which will constitute a change in placement

2. Notification regarding the student's IEP meeting. Since the IEP meeting is the most important mechanism for involving parents in educational decision making, parents must receive written notification of this meeting. The importance of parental involvement at the IEP meeting is so significant, in fact, that the case manager must take specific action to notify the parents and make reasonable attempts to assure their participation, even when they cannot be present for the meeting in person. It should be noted that the school must proceed with the IEP development without the parents if the school is unable to convince the parents that they should attend, after reasonable attempts to involve the parents have been made. See *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING.*

3. Notice regarding evaluation and reevaluation. The school district is required to send *PARENTAL PRIOR WRITTEN NOTICE* when it proposes an initial evaluation of the student's eligibility for special education and related services. Also, the school district is required to reevaluate each eligible student at least every three years unless the district and parent agree otherwise. Parent

   notice of reevaluation is provided by sending the *PARENTAL PRIOR WRITTEN NOTICE*. In all reevaluations, and in initial evaluations if appropriate, parents are also requested (by letter, telephone, or in person) to provide input as to the need for, and scope of, any additional assessments that may be needed. IDEA regulations permit the IEP Committee members and eligibility team members to review the existing evaluation data to determine whether additional assessments are needed, without a team meeting required. If additional assessments are needed, the district must ask the parent to provide written consent for any additional assessments that have been determined to be necessary in order to complete the reevaluation. If no additional assessments are needed, *PARENTAL PRIOR WRITTEN NOTICE* of the proposal to conduct a reevaluation without obtaining additional data is sent to the parents, notifying them of their right to request further assessments.

4. Notice regarding proposed changes to IEP or placement. Since the IEP Committee must make all decisions affecting a student's special education services or placement, the *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING* sent to the parents must explain the proposed changes. Parents must receive a copy of the revised IEP developed by the IEP Committee. Parents must be provided with *PARENTAL PRIOR WRITTEN NOTICE* of the district's proposal to implement the IEP.

   A change in placement to a more or less restrictive setting is considered a "change in placement." Such changes in a special education student's placement require prior written notice and must only occur through the IEP process (*PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING*).

   Graduation from high school with a regular diploma is a change in placement requiring prior written notice. For students graduating with a regular high school diploma, the *PARENTAL PRIOR WRITTEN NOTICE* form must include a statement that the student "is receiving a regular high school diploma and will no longer be eligible for special education services upon graduation." If services are ceasing because a student is graduating with an alternative or adjusted diploma, the written notice form must include a statement that the student "is eligible to receive special education services until he/she receives a regular diploma or reaches 22 years of age."

5. Notice regarding termination of eligibility for services. If the student's services are being terminated because the student is no longer eligible for services, the following procedure must be followed:

   a. The eligibility team must conduct a reevaluation and determine whether the student is no longer eligible for special education services. See Reevaluation section for all reevaluation procedures, which must be strictly followed.

   b. If the eligibility team finds the student no longer eligible, *PARENTAL PRIOR WRITTEN NOTICE* of the proposal to discontinue services based upon ineligibility must be provided to parents.

   If the student's services are being terminated because the student is no longer eligible due to graduation with a regular diploma or because the student has reached 22 years of age, the evaluation described in section (a) is not required. However, a summary of the student's academic achievement and functional performance must be developed and provided to the student and parent (see *SUMMARY OF PERFORMANCE)*.

   If the student's services are being terminated because the parent has revoked consent in writing for the continued provision of special education and related services, the district must provide prior written notice of its proposal to discontinue special education and related services based on receipt of the written revocation of consent. Within a reasonable time after providing prior written notice, the district must discontinue all special education and related services to the student.

6. Notice regarding proposals to change or terminate a student's related services. Prior written notice must be provided of the district's proposals or refusals to initiate, change, or terminate a student's related services. The IEP Committee determines a student's need for related services. Any decision to initiate, change, or terminate related services must be made by the IEP Committee in an IEP meeting. If at all possible, it is advisable to have the related service provider participate as a member of the IEP Committee. However, when this is not possible, he or she must supply the rationale for initiating, changing, or discontinuing the services.

7. Notice requirements for parental requests. Parents are encouraged, but not required, to present any requests for changes in eligibility, IEP services or placement in writing. For example, parents may request that the school district pay for an independent educational evaluation. They may also request that the school district provide additional services for their child. Parents may ask the school district to place their child in a specialized program outside of his or her zoned school. Whether the parents' requests are made in writing or not, parents must be given *PARENTAL PRIOR WRITTEN NOTICE* of the school district's decisions in response to such requests by parents. CONTACT THE DIRECTOR OF STUDENT SUPPORT SERVICES FOR ASSISTANCE IN RESPONDING TO PARENTAL REQUESTS.

8. Notice regarding suspension/expulsion. There are specific procedures that must be followed when a special education student is suspended or expelled for more than ten (10) cumulative days from school.[1] The basic procedures that must be followed regarding notice are outlined below:

   a. On the date a decision is made to implement a disciplinary removal that will result in a change of placement, the district must provide *PARENTAL PRIOR WRITTEN NOTICE* of this decision and of the intent to conduct a manifestation determination prior to implementing the removal.

   b. If the IEP Committee determines that the behavior is not a manifestation of the student's disability, the district must provide *PARENTAL PRIOR WRITTEN NOTICE* to the parents of the IEP Committee's decision and the school's intent regarding further disciplinary action.

   c. If the IEP Committee determines that the behavior is a manifestation of the student's disability, the student generally remains in the placement identified in the student's IEP. The district provides *PARENTAL PRIOR WRITTEN NOTICE* of the district's intention to conduct a functional behavioral assessment (unless one has already been done) and to develop a behavior intervention plan (or review/revise an already existing plan).

Appointment of Surrogate Parents

1. Requirement to appoint surrogate parent. A surrogate parent must be appointed by the school district when neither of the student's parents can be identified or located, or the student is a ward of the State of Nevada, or the student is an unaccompanied homeless youth. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements described below.

   A student who is eligible for special education in WPCSD and meets any of these conditions will be appointed a surrogate parent to represent the student in all matters related to special education. CONTACT THE DIRECTOR OF STUDENT SUPPORT SERVICES FOR ASSISTANCE
   REGARDING THE APPOINTMENT OF A SURROGATE PARENT.

2. Qualifications for serving as a student's surrogate parent. A surrogate parent cannot be an employee of the Nevada Department of Education, the school district, or of any other agency involved in the education or care of the student. The surrogate must have no personal or professional interest that conflicts with the interest of the student, and the surrogate must have

[1] See Section entitled DISCIPLINE PROCEDURES for a detailed explanation of the state law limitations on the suspension, expulsion and permanent expulsion of students with disabilities in Nevada.

knowledge and skills that ensure adequate representation of the student. If the student is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to whether those staff are employees of agencies involved in the care of the student, until a surrogate parent can be appointed that meets all of the requirements outlined above.

3. Rights and privileges of surrogate parents. Surrogate parents have all the same rights and privileges of biological parents pertaining to the identification, evaluation, educational placement, and the provision of a free appropriate public education for the student he or she represents. As such, surrogate parents must give consent before initial evaluation, initial provision of special education and related services, and reevaluation of the student if the reevaluation requires additional assessments. They must also be given prior written notice for any proposed or refused action by the school as described in this section. Surrogate parents have all the due process rights of natural parents in a dispute with the school district regarding the student's special education program.

Independent Educational Evaluation

A parent has the right to request an independent educational evaluation (IEE) at public expense if the parent disagrees with an evaluation obtained by the WPCSD. However, the district may initiate a hearing to show that its evaluation is appropriate. If the final decision is that the district's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense. Information regarding where an IEE may be obtained will be provided to the parent upon request for an IEE, along with the district's criteria for conducting such an evaluation. Whenever an IEE is conducted at district expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, will be the same as the criteria the district uses when it initiates an evaluation. Whether or not the school district pays for an IEE, the IEE must be considered in decisions regarding the student's special education program.

An IEE is an evaluation conducted by an examiner who is not employed by the school district but possesses qualifications similar to those of examiners employed by the school district. Parents should be encouraged but are not required to notify the school district before they obtain an IEE. All parent requests for an IEE should be forwarded to the DIRECTOR OF STUDENT SUPPORT SERVICES office for review. The Director will provide the parents with information about where an IEE may be obtained and will provide notice of the school district's decision regarding their request for an IEE.

When an IEE has been requested, the district must without unnecessary delay either provide (pay for) the IEE, or request a due process hearing to establish that its evaluation is appropriate. If the hearing officer determines that the district's evaluation is appropriate, the parent may still obtain an IEE, but at the parent's personal expense. A parent is entitled to only one IEE at public expense each time the public agency conducts and evaluation with which the parent disagrees.

Mediation

Mediation is a process where an impartial person participates in a meeting between parents and representatives of the school district in an attempt to resolve issues of disagreement about the student's special education program. Most often mediation is used as an informal method of conflict resolution when parents have filed a request for an impartial due process hearing. Mediation may not be used in place of a hearing nor can it delay the parent's right to a hearing. When disagreements between parents and school personnel over special education issues rise to the level of an impasse, the DIRECTOR OF STUDENT SUPPORT SERVICES should be involved. At the Director's discretion, mediation may be

requested, although other methods of resolution will probably be used prior to taking this step. Mediation usually produces at least some agreement between the parties. Even when parents proceed to a hearing, mediation often reduces or clarifies the issues to be heard.

The Nevada Department of Education has established a mediation system, maintains a pool of trained mediators, and will pay for the costs incurred by the mediation. Either party (the school district or the parents) can request mediation although both parties must agree to participate. Each session of mediation must be scheduled in a timely manner and must be held at a location that is convenient for the parties to the dispute. If the parties reach an agreement, the agreement must be set forth in writing and the agreement is enforceable in court.

Impartial Due Process Hearings

Although a due process hearing may be necessary to resolve a disagreement between parents and the school district, there are often other effective methods of resolution (e.g., informal negotiation or mediation). Parents and the school district should pursue alternatives to due process whenever possible as a way of reaching an agreement about the student's special education program.

CONTACT THE DIRECTOR OF STUDENT SUPPORT SERVICES IMMEDIATELY IF A PARENT REQUESTS A DUE PROCESS HEARING.

1. Impartial due process hearing. Due process is a formal means provided in the law for resolving disputes between the school district and parents. Either the school district or parents may initiate a request for a hearing on issues related to identification, evaluation, educational placement or the provision of a free appropriate public education (FAPE) for a student with disabilities (although the district may not request a hearing to dispute a parent's refusal to consent to the initial provision of special education and related services, or subsequent revocation of that consent). When a due process hearing is requested, an impartial hearing officer is appointed by the State Superintendent of Public Instruction to hear the case and render a decision. In Nevada, either party may appeal the hearing officer's decision to a state-level review officer. If the matter is not resolved at either of these levels, either party may appeal the case to a state court of competent jurisdiction or a U.S. district court.

2. Requesting an impartial due process hearing. Parents may request an impartial due process hearing by writing a letter to the school district Superintendent. A model form is available to assist parents in requesting a due process hearing on the website of the Nevada Department of Education. Within five days of receiving the request, the school district must transmit the due process hearing request to the State Superintendent of Public Instruction with a request that the Superintendent appoint a hearing officer.

Response to request.

- Within 10 days of receipt of the request for the hearing, if the district DID NOT already send a prior written notice to the parent regarding the subject matter of the hearing request, the district shall send notice that includes: ○ explanation of why the district proposed/refused action ○ description of other options the IEP team considered and why rejected
    - description of each evaluation procedure, assessment, record or report used as a basis for proposed/refused action
    - description of the factors relevant to district's proposal or refusal
- Within 10 days of receipt, if the district DID already send prior written notice, the district shall send the parent a response that specifically addresses the issues raised in the request for a hearing. A response by the district does not preclude district from asserting that the parent's due process complaint was insufficient.

If the district files the hearing request, the parent must send the district a response that specifically addresses the issues raised in the request for a hearing within 10 days of receipt of request for hearing.

Sufficiency challenge.

- Within 15 days of receipt, the nonfiling party may notify the Hearing Officer and the filing party that the receiving party believes the notice has not met content requirements
- Within 5 days of receipt of notification of insufficiency, the Hearing Officer makes determination based on the face of the request for hearing and immediately notifies parties in writing
- If insufficient, the filing party must refile and the request is treated like a new request

Resolution meetings.

- Within 15 days of receiving notice of the parents' request for a hearing, the district must convene a resolution session UNLESS the district and the parents agree in writing to waive the session, or agree to use mediation process
- Resolution session participants:
    - Parents and relevant member(s) of IEP Committee (parent and district determine relevant members to attend meeting) who have specific knowledge of the facts identified in the hearing request
        - Includes representative of district with decision making authority
        - May not include attorney of district unless parent is accompanied by attorney
- Parents discuss request for hearing and the facts that form the basis of the complaint, and the district is provided the opportunity to resolve

If a resolution agreement is reached, the parties execute a legally binding agreement that is signed by the parent and a representative of the district who has authority to bind the district. The resolution agreement is enforceable in any state court of competent jurisdiction or in a U.S. district court. A party may void the executed agreement within 3 business days of the agreement's execution.

Resolution period.

- If the district has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur

- The timeline for issuing a final decision begins at the expiration of this 30-day period
- Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process complaint to participate in

  the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held
- If the district is unable to obtain the participation of the parent in the resolution session after reasonable efforts have been made and documented, the district may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint
- If the district fails to hold the resolution session within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline

Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing starts the day after one of the following events:

- Both parties agree in writing to waive the resolution meeting
- After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible
- If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or district withdraws from the mediation process

4. Stay put.

As required by state and federal law, under most circumstances when a due process hearing has been requested the student "stays put" in the last agreed-upon placement until the issue is resolved, unless the parents and the school district agree on an alternative placement. In cases where a review officer agrees with the parents that a particular change in the current placement is appropriate, the change in placement must be treated as an agreement between the district and the parents, for purposes of "stay put" through any continuing litigation.

5. Procedures for a due process hearing. See NAC 388.306 through 388.315 for a complete description of state law requirement for due process hearings and appeals.

   a. The parent shall submit in writing to the district superintendent any request for fair and impartial due process hearing in accordance with IDEA, stating the name of the student, the residence address of the student, in the case of a homeless child or youth, available contact information for the child, the name of the school the student is attending, a description of the nature of the problem including relevant facts, and a proposed resolution of the problem to the extent known and available to the parents at the time. A copy of the request for a hearing must also be submitted by the parent to the Nevada Department of Education.

   b. The district superintendent, within five working days of the receipt of a hearing request from the parent, shall ask the State Superintendent of Public Instruction to appoint an impartial hearing officer.

   c. The State Superintendent of Public Instruction will officially appoint the impartial hearing officer and notify the parties in writing of the appointment. The hearing officer must not have a conflict of interest or be an employee of any public agency involved in the

education or care of the student. A person is not an employee of a public agency solely because the public agency compensates the person for the person's services as a hearing officer.

d. The WPCSD must also take the following additional actions upon receipt of a request for a hearing:

1. The parent shall be informed of any free or inexpensive legal services and other relevant services in the area.
2. The parent shall be informed of the right to request a resolution of the dispute through a mediation process.
3. The parent shall be informed of all procedural safeguards, including the rights listed below:

    a. At the hearing, a party to the hearing may:
        (1) Be represented by counsel;
        (2) Be accompanied by and advised by persons who have special knowledge of or training regarding the problems of students with disabilities;
        (3) Present evidence;
        (4) Object to the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;
        (5) Call, examine and compel the attendance of witnesses; and (6) Confront and cross-examine witnesses.

    b. At the hearing, the parent has the right to:

        (1) Have the student present; and
        (2) Have the hearing open to the general public.

4. The parent may examine all pertinent school records before the hearing.

5. Not less than 5 business days before a hearing, each party shall disclose to all other parties all evidence, all evaluations completed by that day and all recommendations based on the evaluations that the party intends to use at the hearing. Unless the opposing party consents, a hearing officer:

    a. May prohibit any party that fails to comply with these requirements from introducing evaluations or recommendations; and

    b. Shall prohibit any party that fails to comply with these requirements from introducing evidence other than an evaluation or recommendation.

6. The party who filed the due process complaint may not raise an issue at the hearing if the issue was not included in the due process complaint unless the parties otherwise agree.

7. The district shall make a verbatim record of the hearing either in writing or, at the option of the parent, by electronic means. The record must be made available to any party to the hearing. The district must provide a copy of the record to the parent at no cost.

8. The district shall take whatever action is necessary to ensure that the parent understands the written notice and the proceedings at the hearing, including arranging for an interpreter for a parent who is deaf or whose native language is not English.

9. The hearing officer shall transmit the written findings of fact and decision to the parties.

10. The hearing must be held at a time and place reasonably convenient to the parent and student involved. The hearing officer shall notify the parties of the time and place of the hearing.

11. The hearing officer shall base the decision solely on the evidence presented at the hearing. In addition:
    - A hearing officer's determination of whether a child received FAPE must be based on substantive grounds
    - In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:
        - Impeded the child's right to a FAPE;
        - Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the child; or
        - Caused a deprivation of educational benefits
    - A hearing officer may order a district to comply with procedural requirements
    - A parent may file a separate due process complaint on an issue separate from a due process complaint already filed

12. The hearing officer shall render the findings of fact and decision in writing and mail a copy of the decision to the parties within 45 days after the date on which one of the following occurs:

    a. The parties agree in writing to waive the resolution meeting;

    b. The parties agree in writing that an agreement is not possible through mediation or a resolution meeting and such agreement is reached after the beginning of either the mediation or resolution meeting, but before the end of the 30-day period for resolution; or

    c. The parties agree in writing to continue mediation upon the expiration of the 30-day period for resolution and a party subsequently withdraws from the mediation process.

13. The Nevada Department of Education shall make the written findings of fact and decision available to any party to the hearing. At the option of a parent, the findings of fact and decision must be made available to the parent by electronic means. The Department shall provide the findings of fact and decision to the parent at no cost.

14. The district shall pay the expenses of the hearing officer and any other expenses of the hearing using a method that avoids a conflict of interest or the appearance thereof.

15. The Hearing Officer must:
    - not be an employee of the NDE or the district that is involved in the education or care of the child
    - not have a personal or professional interest that conflicts with the person's objectivity in the hearing
    - possess knowledge of, and the ability to understand, the provisions of the IDEA, federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts;
    - possess the knowledge and ability to conduct hearings in accordance with appropriate standards of the legal practice; and
    - possess the knowledge and ability to render and write decisions in accordance with appropriate standards of the legal practice

    A person who otherwise qualifies as a hearing officer is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

16. The decision of a hearing officer is final unless the decision is appealed.

17. A party to a pending due process complaint may request the recusal of a hearing officer on the basis of bias or a conflict of interest by motion to the hearing officer. The hearing officer shall timely rule on such a motion by written order.

18. In regard to due process hearings, "business day" means Monday through Friday, excluding federal and state holidays.

Appeal from Decision of Hearing Officer

The parent and the district have the right to appeal the decision of the hearing officer to the State Superintendent of Public Instruction. The appeal must be made within 30 days after receiving the hearing officer's decision; a party to the hearing may file a cross appeal within 10 days after receiving notice of the initial appeal. If there is an appeal, a state review officer appointed by the State Superintendent of Public Instruction shall conduct an impartial review of the hearing.

The state review officer shall:

1. Examine the entire record of the hearing;

2. Ensure that the procedures of the hearing were consistent with the requirements of due process;

3. Seek any additional evidence necessary and, if a hearing is held to receive additional evidence, afford the parties the rights set forth in NAC 388.310;

4. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing officer;

5. Schedule any oral arguments at a time and place which is reasonably convenient to the parent

and student involved;

6. Make an independent decision on the completion of the review; and

7. Mail copies of the written findings and decision to the parties within 30 days after receipt of a written request for review. The review officer may extend the time for rendering a decision for a specific number of days upon the request of either party. At the option of the parent, the findings of fact and decision must be made available to the parent by electronic means.

The decision of a review officer is final unless a party brings a civil action.

Civil action. A party may appeal from the decision of the review officer by initiating a civil action in a court of competent jurisdiction within 90 days after receipt of the decision of the review officer.

Expedited hearings. A parent's request for a hearing is expedited under the following disciplinary situations:

a. Disagreement with the manifestation determination (the decision regarding the relationship of misconduct to the student's disability); and

b. Disagreement with the decision regarding the services or placement of a student with a disability who has been subjected to a disciplinary change of place and for whom services must be provided on the 11th and each subsequent day of removal in a school year.

In addition, the school district may request an expedited hearing to change the placement of a student to an appropriate interim alternative educational setting based upon substantial evidence that maintaining the current placement is substantially likely to result in injury to the student or to others. This process may be repeated as necessary.

An expedited hearing must be conducted within 20 school days of the date the hearing is requested and the determination must be made within 10 school days after the hearing. The resolution session must be held within 7 days and the resolution period is 15 days.

Private School Placement

1. Students with disabilities placed in private or religious schools by their parents, when FAPE is not at issue

The school district has an obligation to identify and evaluate all eligible students within its jurisdiction, and to offer to provide special education and related services in the public schools. The district must provide for the participation of private school students with disabilities in special education programs, and a proportionate share of federal funding must be expended for this purpose. No private school student with a disability has an individual right to receive some or all of the special education and related services the student would receive if enrolled in a public school.

After eligible students are identified and evaluated, the school district must consult with private school representatives and representatives of parents of private school students concerning child find, determinations of proportionate shares of federal funds to be expended, the consultation process, and the provision of special education and related services. When timely and

meaningful consultation has occurred, the district must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the district must forward the documentation of the consultation process to the NDE.

A services plan must be developed for each private school student receiving services in accordance with this provision of federal law.

2. Obligations to home-schooled students who have disabilities

Under Nevada state taw, the school district has the same obligation to students who are exempted from public school attendance for home schooling as it has to students in private schools.

3. Parental placement in a private or residential school at school district expense

With the exception of some very unique circumstances, parents cannot make a unilateral placement of their child in a private or residential placement at the expense of the school district. There are some specific procedures related to “notice" that parents must follow if they intend to place their child in a residential program at the expense of the school district.

If reimbursement is awarded to a parent, the cost of reimbursement may be reduced or denied—

a. If (i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the district to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the district of the information described in this section;

b. If, prior to the parents' removal of the child from the public school, the district informed the parents, through prior written notice of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

c. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Notwithstanding the notice requirement, the cost of reimbursement:

a. Must not be reduced or denied for failure to provide the notice if (i) The school prevented the parents from providing the notice; (ii) The parents had not received notice of the notice requirement; or (iii) Compliance with the requirements would likely result in physical harm to the child; and

b. May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if (i) The parents are not literate or cannot write in English; or (ii) Compliance with the requirements would likely result in serious emotional harm to the child.

Transfer of Rights at Age 18

In general, the district shall assure that all rights of the parent shall transfer to the student upon reaching majority, at age 18. An excepts when such children are legally determined to be incompetent to make education-related decisions. In these instances, the legally established guardian will continue to maintain the rights outlined in this document. An exception also exists if parents under state law have applied for and been granted approval to represent the educational interests of students with significant cognitive impairments after the student turns 18. See section below.

On or before the date when the student turns 17 (during the annual IEP meeting when the student is 16), the student's IEP must include a statement that the student has been informed of the rights that will transfer at age 18.

Application for Parents to Represent Educational Interests of NAA Students

The 2007 Nevada State Legislature passed a state statute to allow parents of students with significant cognitive impairments who participate in NAA (the state's alternative assessment) to submit an application to the school district seeking authority to represent the student's special education interests after the student turns 18 (see *NOTICE OF APPLICATION, APPLICATION, NOTICE OF DETERMINATION)*. This is the ONLY APPLICATION which may be used for this purpose in White Pine County School District. This process applies ONLY to the parents of students with significant cognitive impairments who participate in NAA. **Do not** provide this application to the parents of any other students.

Process for NAA students ONLY:

State and federal law require that at least one year prior to the student's 18th birthday, parents and students must be notified that the parent's special education rights will transfer to the student at age 18. This step is accomplished in White Pine County School District by explaining that rights will transfer during the annual IEP meeting held when the student is age 16.

1. Explain that state law allows parents of NAA students to apply to represent the student's special education interests after the student turns 18.
2. Provide the parent with the NOTICE OF APPLICATION form.
3. Retain a copy of the NOTICE OF APPLICATION and note the "Date NOTICE OF APPLICATION was provided to parent and student (prior to 18th birthday)" – see second line from bottom.
4. Explain that if the parent wishes to represent the student's special education interests, the application MUST BE SUBMITTED **no later than 90 days before the student's 18th birthday**.
5. The parent must complete the middle APPLICATION section of the document AND provide a copy of the student's IEP reflecting participation in NAA.
6. Within 30 days after receiving the APPLICATION, the district must review the application and determine whether to approve or deny the application. A decision to approve or deny must be made in consultation with the Student Support Services office. If the application is complete and the student fits within the specific criteria (**students with significant cognitive impairments who participate in NAA**) the application should be approved.
7. Immediately after decision to approve or deny, return a copy of the APPLICATION which was submitted by the parent to the parent and the student with the bottom box completed. **RETAIN A COMPLETED COPY IN THE STUDENT'S SPECIAL EDUCATION FILE.**

Unless the parents have been appointed by the district to represent the educational interests of the pupil, or a court has adjudicated the student incompetent to make decisions, the district must notify the student and parent that a transfer of rights has occurred when the student reaches ages 18. Whether the

student's educational rights have transferred to the student or remain with the parents, the district shall provide any required notice thereafter to the student and the student's parents.

IDENTIFICATION

Identifying students with disabilities is the first step in providing appropriate educational services to students who are eligible for special education and related services.

Child Find

The WPCSD's "Child Find" procedures assist the school district in locating, identifying and evaluating all individuals suspected of having a disability from the ages of birth through 21 who are not receiving early intervention or special education services.

The district works in cooperation with other agencies in White Pine to:

1. Locate all children and youth with disabilities from the ages of birth through 21 in White Pine.

2. Identify and refer individuals suspected of having a disability for evaluations.

3. Provide information to the community about the Child Find project and increase awareness about the educational rights of individuals with disabilities and their parents, through the following methods:

    a. Newspaper articles and other media
    b. Correspondence with community members
    c. Annual screenings in schools and in the community
    d. Teacher training on identifying potential disabilities

4. Maintain a child identification log indicating which children 3-21 years of age are receiving special education and related services and which children were found to be not eligible for service. The log contains the following information, if applicable, on all children referred for evaluation:

    a. Student Name
    b. Age
    c. Date Referred
    d. Date Evaluated
    e. Date Service Initiated
    f. Disability Category
    g. Reason for Not Serving

5. Coordinate with other agencies providing services to children. The STUDENT SUPPORT SERVICES OFFICE will make at least two contacts per school year with local agencies to find out if they may have knowledge of children with disabilities who are not being served, explain the referral process, and request that they refer students under the age of 22 to the school district.

General Education Interventions

If a student is experiencing an educational or behavioral difficulty but is not suspected of having a disability by the WPCSD, the district may attempt to remediate such difficulty through providing scientific, research-based interventions in general education environments.

NAC 388.325 defines the use of scientific, research-based intervention for students who are not yet suspected of having a disability. The following procedures shall be used by the school whenever targeted

scientific, research-based interventions are provided to a particular student who is experiencing academic or behavioral difficulty:

1. Develop an intervention plan for the student, to include:
   a. A description of the academic or behavior concerns, and the degree to which the student's academic or behavior performance fails to meet the demands of the educational setting;
   b. The interventions to be provided, which are targeted toward improving performance and increasing the rate of learning;
   c. The data to be collected to measure the student's level of performance and rate of learning;
   d. The frequency of data collection; a description of how the data will be summarized; a description of how intervention effectiveness will be evaluated; a schedule for evaluating intervention effectiveness.

2. Provide a copy of the intervention plan to the student's parents.

3. If the eligibility team intends to determine eligibility for SPECIFIC LEARNING DISABILITIES based upon the child's RESPONSE TO INTERVENTION, provide the "NEVADA DEPARTMENT OF EDUCATION POLICY STATEMENT – RESPONSE TO SCIENTIFIC, RESEARCH-BASED INTERVENTION" document to the student's parents. This Policy Statement is not required if the student's eligibility for SPECIFIC LEARNING DISABILITIES will be determined based upon the discrepancy analysis model.

4. Based in part on the results of the targeted, scientific, research-based intervention, determine whether the student is suspected of having a disability and should be evaluated for special education eligibility.

5. If the parent requests an initial evaluation for special education eligibility while interventions are being attempted, the district must:

   a. Provide *PARENTAL PRIOR WRITTEN NOTICE of its proposal to c*onduct the initial evaluation if the district agrees that the student is suspected of having a disability; or
   b. Provide *PARENTAL PRIOR WRITTEN NOTICE* of its refusal to conduct the initial evaluation (if the district does not agree that the student is suspected of having a disability). Any proposed refusal to evaluate a student must be discussed with the DIRECTOR OF STUDENT SUPPORT SERVICES.

If the district determines that the educational difficulty or behavior of the pupil is resistant to general education intervention, or if the district determines that the intervention requires continued and substantial effort and may require the provision of special education and related services to be effective, the district may refer the student for an initial evaluation.

REFERRAL

A student qualifies for special education and related services under the IDEA once he or she is determined to be a child with a disability as defined in the Nevada Administrative Code (NAC). Generally, students are evaluated when either the parents of the child request an evaluation, or when, as a result of the school district’s Child Find or general education intervention activities, district personnel recommend an evaluation.

If the district proposes to conduct an initial evaluation of a student, parents must be provided with prior written notice of the proposed evaluation and a copy of the Parent Rights document. Next, consent for the evaluation must be obtained before the evaluation may begin. See PROCEDURAL SAFEGUARDS section.

The initial referral process for school staff members is as follows:

1. Identify the student's academic and/or behavior concerns and initiate the special education referral process.

    a. Complete the Special Education REFERRAL FORM and include the following:
        - Vision and hearing results (must be a pass)
        - Developmental history completed
        - Student observation form completed
        - Attendance information
        - Copy of educational intervention(s) and modification(s)
        - Academic results, sample of classroom work, test scores, etc.

    b. Provide prior written notice of the proposal to evaluate the student (*PARENTAL PRIOR WRITTEN NOTICE*) with a copy of Parent Rights.

    c. Obtain parent consent to evaluate the student (*NEVADA CONSENT FOR EVALUATION*)

2. Review referral packet for appropriateness and completeness.

    a. Parent has been given *PARENTAL PRIOR WRITTEN NOTICE* of the district's proposal to evaluate the student.

    b. Parent has provided consent to evaluate prior to any individually administered assessments given on the basis of the suspicion of disability.

    c. Parent has been given a copy of Parent Rights, and rights have been explained in their primary language (e.g., Spanish).

    d. Student has passed the vision and hearing tests.
        - or has been treated by a physician to correct problem area; ● or a copy of the "passed" or "normal" results are provided.

    e. Copies of data are legible and included.

    f. All signatures appear on the REFERRAL FORM.

3. Assign designee or case manager for referral.

4. Process referral packet as follows:

    a. Send copies to the STUDENT SUPPORT SERVICES OFFICE who will forward to psychologist or other evaluation coordinator (e.g. speech therapist) to initiate the evaluation.

    b. Collect further data, if needed.

c. Send copies of referral page, copy of consent for evaluation, and relevant information to related service provider if assessment is needed and is indicated on referral form (speech therapist, occupational therapist, or physical therapist).

5. If applicable, psychologist or other evaluation coordinator (e.g., speech therapist) will complete the evaluation, write the report and forward copies to the case manager. If the speech therapist has been the evaluation coordinator, the therapist also serves as the case manager. *See EVALUATION and ELIGIBILITY* sections of this Manual for further information.

TRANSFER STUDENTS

Transfers within Nevada

Students with disabilities transferring into the WPCSD from another school district in Nevada remain eligible for special education, related services, and supplementary aids and services. Documentation of previous evaluation(s) and eligibility determination(s) must be obtained from the previous school district. If such documentation cannot be obtained, school staff should contact the STUDENT SUPPORT SERVICES OFFICE. When the parents register their child for school and indicate the student was receiving special education services at his/her previous school in Nevada, schools must send an email to the STUDENT SUPPORT SERVICES OFFICE indicating the student's name and location of the student's previous school. Records will be requested and sent to the STUDENT SUPPORT SERVICES OFFICE. Attempts to locate/obtain records will be documented. Records received will be provided to the evaluation coordinator. A copy of the IEP will be sent to the case manager.

The WPCSD must provide the student with a free appropriate public education, including services comparable to those described in the student's previous IEP, in consultation with the parents, for a period no longer than 30 calendar days, until the WPCSD develops a new IEP. See *TEMPORARY PLAN TO PROVIDE COMPARABLE SERVICES*. The *TEMPORARY PLAN TO PROVIDE COMPARABLE SERVICES* must be developed within two weeks of the student's enrollment. Services comparable to those included in the student's previous IEP may be ascertained by examining a copy of the IEP, if available, or by interviewing the parents and/or contacting the previous school.

Transfers from Out-of-State

Students with disabilities transferring into WPCSD from another state must be evaluated to determine whether they meet Nevada's eligibility requirements. The evaluation coordinator is responsible for coordinating the process needed to ensure that Nevada eligibility is determined.

The WPCSD must provide the student with a free appropriate public education, including services comparable to those described in the student's previous IEP, in consultation with the parents, until the WPCSD conducts an initial evaluation, determines whether the student is eligible in Nevada, and, if so, develops a new IEP. See *TEMPORARY PLAN TO PROVIDE COMPARABLE SERVICES*. The *TEMPORARY PLAN TO PROVIDE COMPARABLE SERVICES* must be developed within two weeks of the student's enrollment. Services comparable to those included in the student's previous IEP may be ascertained by examining a copy of the IEP, if available, or by interviewing the parents and/or contacting the previous school.

See REFERRAL, EVALUATION and ELIGIBILITY sections in this manual for specific instructions for completing the initial evaluation. If evaluation information is available, the combined members of the eligibility team and IEP Committee must complete the *DETERMINATION OF SCOPE OF EVALUATION AND NEED FOR ADDITIONAL DATA* form. Generally, because Nevada has specific assessment component requirements, even if some existing data can be used, additional data and/or analysis must be gathered. Parental consent must be obtained using the *NEVADA CONSENT FOR EVALUATION* form. If no additional data appear to be needed, contact the STUDENT SUPPORT SERVICES OFFICE for assistance. The eligibility team must meet to determine eligibility within 36 school days of obtaining the parent's written consent. If the student is eligible in Nevada, the IEP Committee must develop an IEP within 30 calendar days of the determination of eligibility. During this period of time (up to 36 school days for evaluation and eligibility decision making, followed by up to 30 calendar days to develop an IEP), the student will be receiving comparable services as described in the *TEMPORARY PLAN TO PROVIDE COMPARABLE SERVICES*.

EVALUATION

Evaluations of students suspected of having a disability are conducted through the efforts of the eligibility team (ET). The ET is a team of professional staff including the parent who plan the assessment for a student, collect the appropriate information through formal and informal assessment methods, and make a determination of eligibility based on the criteria set forth in the NAC at 388.330-440.

Evaluations of students suspected of having a disability are coordinated by an evaluation coordinator. The evaluation coordinator is a professional who is assigned to lead the ET in planning and conducting the evaluation and interpreting the results. Most often this will be the member of the ET who is most responsible for the evaluation (e.g., school psychologist or speech/language therapist).

Evaluation Procedures

Assessments/evaluation materials must be:

- selected and administered so as not to be discriminatory on a racial or cultural basis ○ provided and administered in the child's native language or other mode of communication, and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so
- used for the purposes for which the assessments are valid and reliable ○ administered by trained and knowledgeable personnel ○ administered in accordance with any instructions provided by the producer of the assessments

Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with limited sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

The child must be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

Assessments of children who transfer from one district to another in the same school year must be coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

The evaluation must be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.

Purpose

The purpose for conducting an initial evaluation of a student is to accomplish the following:

1. Determine whether the student has a particular category of disability;

2. Identify the present levels of academic achievement and related developmental needs of the student;

3. Determine whether the student needs special education and related services; and

4. Determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and to participate as appropriate in the general education curriculum.

Evaluation Process

Students who may be referred for special education services are those whose learning and/or behavior challenges appear to be beyond the scope of the general educational setting and/or have not been resolved through general education interventions.

White Pine Students	Students enrolled in the district are processed through interschool channels according to the referral procedures outlined in the REFERRAL section.
Students From Other Districts or States	Students who received special education services in another school district in Nevada or outside of the state of Nevada are processed according to procedures outlined in the TRANSFER STUDENTS section.
Private-School Students	Students enrolled in non-public schools are referred to the STUDENT SUPPORT SERVICES OFFICE.
Non-Enrolled Students	Students not currently enrolled in an educational program are referred to the STUDENT SUPPORT SERVICES OFFICE.

Consultation with Parents

After determining that the student will be referred for a special education evaluation, the principal/designee discusses with the parents the district's proposal for evaluation, as described below:

Discuss with Parents	Discuss with the parents in detail the student's educational difficulties.
Provide Notice of Proposed Evaluation	Complete the *PARENTAL PRIOR WRITTEN NOTICE* to advise parents of the proposed evaluation of the student.
Advise Parents of Rights	Advise the parents of special education rights and provides a copy of Parent Rights Document
Explain Evaluation Procedures	Explain evaluation procedures
Obtain Signatures on Consent for Evaluation	Obtain parent signature on *NEVADA CONSENT FOR EVALUATION* form
If Parent Refuses to Authorize	If the parent refuses to consent to an initial evaluation, contact STUDENT SUPPORT SERVICES OFFICE for assistance
Obtain Signatures for FERPA Exchange of Confidential Information	Obtain signature on the *AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION*, if appropriate

See additional procedures in the REFERRAL section.

Evaluation Steps

A timetable for completing the evaluation is established that includes the anticipated date of the ET meeting where assessment information regarding the student will be reviewed and eligibility will be determined. The assessment must be completed and eligibility determined within thirty-six (36) school days from the date that the parent signs the *NEVADA CONSENT FOR EVALUATION*. This date may be extended only upon written permission from the parent.

Gathering the assessment data is an integral part of the process leading to provision of special education services. The purpose of this data is to define current student performance levels, identify strengths and weaknesses, establish cause-related factors that affect an individual's performance, and to make recommendations for courses of action. Confidentiality and adherence to procedural safeguards are imperative throughout the process.

1. Designate school psychologist (or other evaluation coordinator)

2. Gather evaluation data

    a. Gather initial data

        1. Review all available information.

            a. Confidential folder.
            b. Cumulative file.
            c. Personal interviews with appropriate staff relating to referred students
            d. Additional information from parent (see *HEALTH HISTORY AND ASSESSMENT)*

        2. If appropriate in instances where there is evaluation information available (e.g., out-of-state transfers, or infant/toddlers transitioning from Part C early intervention programs to school district services at age three), determine whether additional data are needed by meeting with or contacting combined members of ET and IEP Committee (see *DETERMINATION OF SCOPE OF EVALUATION AND NEED FOR ADDITIONAL DATA)*. Parents are contacted by letter, telephone, or in person to review existing data and ascertain whether they believe additional data are needed. Members are not required to sign the form; if the staff member contacts team members by telephone he or she can simply note the name of the person, the date contacted, and whether or not that person thinks additional data are needed. Consensus is not required. If any one member of the evaluation team believes additional data are required, the issue must be addressed by the team in designing the scope of the evaluation.

    b. Collect new information

        1. Obtain *NEVADA CONSENT FOR EVALUATION*.
        2. If needed, conduct a classroom observation (or utilize observation data previously collected) to include:

            a. A description of the relevant behavior noted during the observation of the student.
            b. A statement of the relationship of that behavior to the academic functioning of the student.

            c. Administer assessments as appropriate to disability category, which may include standardized assessments

d. Prepare a report of the results of the evaluation

The evaluation information gathered according to the NAC requirements will constitute the educational evaluation, and the results of that evaluation will be documented in a report.

ENGLISH LANGUAGE LEARNERS (ELs) AND SPECIAL EDUCATION EVALUATIONS

An EL student may be referred for a comprehensive special education evaluation in the same manner as all other children. Established procedures for evaluation will be followed, including notice to parents, parent consent for evaluation, and parent participation in evaluation and eligibility decision making.

In order to ensure that the student is being assessed correctly, several safeguards have been added to the process. At the elementary level, an EL/LEP teacher will participate on any intervention team and the ET to ensure that academic difficulties are not related to language acquisition and that students are assessed in their primary language and English by qualified staff. In addition, at the secondary level, a pre-referral conference will be held for each referred EL/LEP student. A team consisting of the department chair from the school, the EL/LEP teacher, and the referring teacher will meet to determine whether or not academic testing in the student's primary language needs to be completed.

No student shall be placed in special education on the basis of limited English language proficiency alone. If limited English language proficiency is due to a learning or other disability, a student may be placed in special education.

Referral to Speech

No EL/LEP student shall be placed in a speech therapy program solely on the basis of limited English proficiency. If a teacher believes that a student has a language problem other than one due to second language acquisition, or if there appears to be a severe articulation problem due to causes other than second language acquisition, after consultation with the EL/LEP teacher and the speech therapist, the student may be referred for evaluation.

ELIGIBILITY

The purpose for convening the ET meeting is to determine whether the student is eligible for special education and related services, and to ensure that all sources of information are considered when determining a student's eligibility.

As the final step in the evaluation process, the case manager schedules a meeting to examine the results of assessments and other information regarding the student in relationship to eligibility criteria. Minimum membership must include the persons specified in the NAC for each disability category.

ET meetings are to be held separate from IEP Committee meeting(s), although one meeting may immediately follow the other if parents have been properly noticed and participants that are required by NAC for both ET and IEP meetings are present.

At the ET meeting, the group may:

1. Determine that the student is eligible for special education and related services according to NAC criteria for eligibility;
3. Determine that the student is not eligible according to NAC criteria for eligibility. The parents must be informed of their rights to dispute this decision by requesting a due process hearing. *PARENTAL PRIOR WRITTEN NOTICE* is provided to the parent if the ET determines that the student is not eligible for special education.

Eligibility Statements will be completed by ET members. This statement will document the student's eligibility (or non-eligibility) for special education and related services.

Disagreement Among the Team

If a member of the Eligibility Team (other than a parent) disagrees with the eligibility decision, a written minority report must be prepared that provides the following information (a minority report must be prepared in an LD eligibility decision and may be prepared for other disability categories):

Basis	1) The basis of disagreement with the majority opinion;
Evidence	2) Evidence from assessment information, observations, or other sources that support the dissenting opinion; and
Alternatives	3) Alternative recommendations, if any, pertaining to the student's eligibility or educational program.

The minority report must be attached to each copy of the Eligibility Statement and a copy included in the student's confidential special education file. A copy of both the Eligibility Statement and the minority report must be sent to the DIRECTOR OF STUDENT SUPPORT SERVICES within five (5) working days of the ET meeting.

Eligibility Decision Making Steps

1. Eligibility decision making

    a. Prepare evaluation report

        1. Psychologist (or other evaluation coordinator) gathers all pertinent data and summarizes it in a written report to address eligibility criteria and considerations. Included in the report should be statements regarding developmental history and social/emotional development. For students evaluated for Learning Disabilities,

specific content is required in the evaluation report (including the scores from the computerized LDDA formula if discrepancy analysis has been used in the determination of eligibility). For students in other disability categories, the report must summarize the assessments conducted and their results, the instructional implications of the assessment results, and any other relevant information.

2. A copy of the evaluation report must be given to the parent either during or shortly after the eligibility meeting.

b. Determine eligibility for special education

A determination of eligibility must be made within 36 school days from the date the parent signed the consent for evaluation.

1. Parent is notified of the eligibility team meeting (may be combined with an IEP meeting) (*PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING)*.
2. During the meeting, team members share and discuss all information.
3. Parent presents any additional information.
4. Eligibility or non-eligibility is determined during the eligibility team meeting.
5. Appropriate Eligibility Statement is completed consistent with eligibility team's decision. A copy of the Eligibility Statement must be given to the parent. The original is sent to the STUDENT SUPPORT SERVICES OFFICE and uploaded into EasyIEP.
6. If student is eligible for special student services, the special educator (as IEP Committee chair) shall convene a meeting of the IEP Committee including the parent of the student to determine the appropriate educational program for that student based on identified educational needs. This meeting may be held immediately following the meeting of the eligibility team, so long as all required IEP Committee members are present and the parent was given prior written notice of the IEP meeting.

   Once a student for the first time has been determined eligible for special education, an IEP meeting must be held within thirty (30) calendar days from the date of eligibility determination.

   For students making the transition from Part C early intervention programs (i.e., Nevada Early Intervention Services) at age three, the eligibility determination must be made and an IEP must be developed and implemented by the student's third birthday.

c. Eligibility criteria

Eligibility criteria for each disability category are defined in applicable provisions of the Nevada Administrative Code, Chapter 388.

REEVALUATION

Each student receiving special education services will be reevaluated if conditions warrant, or if the student's parent or teacher requests a reevaluation, but at least once every three years ("triennial" evaluation).

Purposes

Reevaluations of previously identified students with disabilities will be conducted for one or more of the following purposes:

1. Determine whether the student continues to have a disability;

2. Identify the present levels of academic achievement and related developmental needs of the student;

3. Determine whether the student continues to need special education and related services; and

4. Determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and to participate as appropriate in the general education curriculum.

Reevaluation Process

1. *PARENTAL PRIOR WRITTEN NOTICE* must be given of the district's proposal to reevaluate the student's eligibility for special education services.

2. Reevaluations must be conducted by the triennial anniversary date. For example, a child found eligible on June 6, 2021, must be reevaluated and the student's eligibility must be reconfirmed on or before June 6, 2024.

3. Students eligible under the category of Developmental Delay must be **reevaluated** before their sixth birthday to determine if they remain eligible for special education and related services under another disability category.

4. The combined members of the ET and IEP Committee **must** be contacted by letter, telephone, or in person review existing data and to determine whether additional data or assessments are needed to determine continued eligibility. In general, a meeting of these individuals is used for the purpose of reviewing existing data, but it a meeting is not required. Use *DETERMINATION OF SCOPE OF EVALUATION AND NEED FOR ADDITIONAL DATA* to document the review of existing data against the NAC assessment requirements and to document the determination of whether additional data are needed to address those requirements. If no additional data are needed, the parent must be given *PARENTAL PRIOR WRITTEN NOTICE* of this decision and the reasons for it, including the parent's right to request additional assessments.

   See Table 1 for the Combined Members of the Eligibility Team and IEP Committee, per disability category.

5. Consent must be obtained before any new assessments can be conducted. See *NEVADA CONSENT FOR EVALUATION.* If the parent does not respond to a request for consent, the district may proceed with the reevaluation if the district can document it has taken reasonable

measures to obtain consent and the student's parent has failed to respond. Documentation of these reasonable measures include:

a. Detailed records of telephone calls made or attempted and the results of those calls.
b. Copies of correspondence sent to the parents and any responses received.
c. Detailed records of visits made to parent's home or place of employment and the results of those visits.

6. Follow EVALUATION and ELIGIBILITY procedures previously outlined to complete the reevaluation process.

Reevaluation Resulting in Termination of Eligibility

On occasion, either the WPCSD or the parents may have reason to believe that a student no longer satisfies the criteria as a student with a disability eligible for special education and related services. When this situation arises, a reevaluation must be conducted to determine whether the student remains eligible for special education and related services.

1. A comprehensive reevaluation must be conducted prior to determining that a student is no longer eligible for special education and related services. The WPCSD must comply with each reevaluation procedure outlined above, paying particular attention to the requirements for prior written notice and review of existing data to determine whether additional data are needed.

2. The parents must be provided notice of eligibility team meeting (*PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING*—note that this *PARENTAL PRIOR WRITTEN NOTICE* must provide notice of the proposal to determine the student's eligibility).

3. An eligibility team meeting **must** be held and the team must discuss:

   a. Evaluation of progress toward annual goals
   b. Review of recent reevaluations
   c. Information concerning present levels of functioning that may suggest the student either (1) no longer has a disability and/or (2) is no longer in need of special education (student must both have a disability and require special education in order to be eligible for services).

4. A Report of the Results of the Reevaluation must be prepared. An Eligibility Statement must be completed, stating that the student is no longer eligible for special education. Copies must be given to parent.

5. Parent must be provided notice of proposed change in eligibility after the student has been determined not to be eligible (*PARENTAL PRIOR WRITTEN NOTICE*). This notice is required even if parents participated in and agreed with the decision that the student is no longer eligible. Check box "proposing" and "other." Add a statement "termination of special education services because student is no longer eligible." If parent disagrees, review the statement of parent rights with the parent.

INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP)

No student may be placed in special education programs or have changes made to the student's IEP or placement without going through the IEP development process.

The purposes for developing an IEP are as follows:

Plan the Program	1. To develop an individual program for the student which includes specially designed instruction in areas of disability which adversely affect educational performance
Facilitate Communication	2. To facilitate communication between parents and school personnel for proper and effective implementation in the IEP
Manage Services	3. To serve as a management tool to ensure students receive services as determined by the IEP Committee
Commit Resources	4. To set forth a written commitment of resources to provide a free appropriate public education for the student
Evaluate Progress	5. To serve as an evaluation tool to determine if the student has reached the goals and objectives developed by the IEP Committee

The following IEP development procedures apply to IEP meetings convened to develop a student's initial IEP after the student's initial eligibility determination, to develop annual IEPs, and to revise an annual IEP.

Timing of IEP Meetings

1. A meeting to develop the initial IEP must be held within thirty (30) calendar days from date of initial eligibility determination.

2. Review and revision of IEPs must be conducted periodically, but not less than annually. The IEP annual review meeting must be on or before the date of the last annual IEP (which may have been the student's initial IEP). For example, a child whose IEP was written on September 2, 2021, will have to have a new IEP in place on or before September 2, 2022.

3. Nevada state regulations require that the parents of a child who is 3, 4 or 5 years of age must be given an opportunity to participate in a review of the child's progress every six months. An IEP meeting may be convened for conducting this review, but is not strictly required.

Required Members of IEP Committee

1. LEA Representative: principal or administrative designee (must hold administrative or special education license in Nevada)

    a. Must be qualified to provide or supervise the provision of specially designed education for children with disabilities.
    b. Must be knowledgeable about the general curriculum; and
    c. Must be knowledgeable about the availability of resources of the district.

    In addition, the LEA representative must have the authority to commit the resources of the district.
2. Regular classroom teacher of the student or regular classroom teacher qualified to teach the student.

3. Special education teacher of the student.

4. Parent of student, or student if 18 or older.

5. The student, beginning at age 14, when transition services will be discussed.

6. If not otherwise a member of the Committee, a person who is familiar with the tests and other assessments performed on or by the student and their results who can interpret the instructional implications of the results of the evaluation.

7. If not otherwise a member of the Committee, a person who has personal knowledge about the personnel and options for placement available to provide special education and related services to the student.

8. If transition services are being discussed, a representative of any agency that may be responsible for providing or paying for the transition services. Consent under FERPA must be obtained from the parent before inviting such persons to participate in an IEP meeting (see *AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION).* **Additional Members of IEP Committee, When Appropriate**

1. Student at any age - when appropriate.

2. Related Service Providers (speech/language therapist, OT, PT, counselor, etc.).

3. Others at discretion of the parent or school district.

4. If the student is transitioning at age 3 from a Part C early intervention program (e.g., Nevada Early Intervention Services), and the parent requests, the WPCSD will invite the service coordinator or other representative of the early intervention program to participate in the initial development of the student's IEP.

5. If the WPCSD is placing a student in a private school or facility, a representative of the private school or facility. If the representative is unable to attend, records are kept of other methods to ensure participation, including individual or conference telephone calls.

IEP Meetings and Participants – Attendance Not Necessary, Excusal, Revision Without a Meeting

Federal and state law permit the WPCSD and the parent to agree in writing:

1. that the participation of an IEP committee member is not necessary if that person's area of curriculum or related services is not being modified or discussed in the meeting; or

2. that the participation of an IEP committee member whose area of curriculum or related services IS being modified or discussed in the meeting may be excused, but the member must submit written input to the parents and the IEP committee prior to the IEP meeting; or

3. that an annual IEP may be revised without convening an IEP meeting.

See *PARENT AGREEMENT AND CONSENT*. No staff member in WPCSD may enter into any of these agreements with parents without prior approval from the DIRECTOR OF STUDENT SUPPORT SERVICES.

Parent Participation in IEP Meetings

1. The case manager will ensure that the parent is afforded the opportunity to participate in IEP development by scheduling the meeting at a mutually agreed upon time and place.

    a. Written notice of the IEP committee meeting must be given sufficiently far in advance of the meeting to enable the parent to make arrangements to attend (see *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING*). In order to satisfy the requirement to provide a copy of parent rights at least once per year, a copy of parent rights will be sent to parents with notification of each annual IEP meeting.

    The *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING* will:

    1. indicate the purpose, date, time, and location of the meeting;
    2. include a list of the persons who will attend the meeting (individuals may be indicated by name or by position only).
    3. inform parents of their right to invite to the meeting individuals whom the parents believe to have knowledge or special expertise about the student;
    4. inform parents that if the student is transitioning from Part C services, they may request that the local Part C coordinator or other representative be invited to participate in the initial IEP team meeting; and

    5. Beginning not later than the first IEP to be in effect when the student turns 14, or younger if determined appropriate by the IEP team;
        a) indicate that transition services and post-secondary goals will be discussed at the meeting; and
        b) indicate that the school will invite the student beginning at age 14.

    b. If parent does not acknowledge receipt of the first notice, two additional notices shall be sent. If there is still no response, the school shall attempt to notify parent by telephone.

    c. If the parent is unable to attend the committee meeting in person, the school district shall use alternative methods to ensure the participation of a parent, including the use of a video conference, a telephone conference call, or other means.

    d. Copies of all *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING* forms sent for any reason will be maintained in the student's IEP file.

2. The case manager shall document all reasonable efforts to contact parent.

    a. Indicate <u>all</u> letters, phone calls, and or personal contacts.

    b. Keep record of all attempts within the student's special education file.

3. If the reasonable efforts of the WPCSD to convince the student's parents to attend or participate in the meeting through the use of alternative methods are unsuccessful, the parents shall be deemed unavailable and the WPCSD will conduct the meeting and develop an IEP without the parents.

4. If the parent agreed to the meeting date/time (confirmed by signature on notice to parent or notation in the file based on other communication with the parent) and does not appear for the meeting (or call to explain absence and reschedule) a "no show" must be documented and if it is

not possible to reschedule the meeting, the WPCSD will conduct the meeting and develop an IEP without the parents. A reasonable request to by the parent will be accommodated. Contact the DIRECTOR OF STUDENT SUPPORT SERVICES if a meeting rescheduled at the specific request of parents will result in a delay in developing an IEP beyond the annual timeline. No delays are permitted based on staff schedules.

5. A copy of any IEP developed without the participation of the parents must be sent home, with a letter of explanation. The letter should detail the reasons why the IEP meeting was held, and advise the parents that they may request another IEP meeting if they wish. Additionally, the parents must be given *PARENTAL PRIOR WRITTEN NOTICE* of the district's intent to implement the IEP.

Student Notification of IEP Meetings Beginning at Age 14

1. Beginning with the first IEP meeting conducted after the student turns 14, students must be provided with *PARENTAL PRIOR WRITTEN NOTICE/NOTIFICATION OF MEETING.*

2. Documentation that notice has been provided to the student must be maintained.

DRAFT IEPs

1. If a draft IEP is to be used, a reasonable attempt will be made to provide the parent a copy at least five days before the scheduled IEP meeting.

2. Any draft documents must be clearly indicated as such.

Copy of IEP to Parents

1. A copy of any IEP document (initial, annual, revision) developed by WPCSD must be provided at no cost to the parents.

2. Documentation that a copy has been provided to the parents must be maintained.

IEP Revisions

If circumstances change relative to the program individually designed for the student, the IEP must be revised through the IEP process. The following circumstances would necessitate a revision:

1. A change in the amount of time that the student will spend removed from regular education environments.

2. A change in the type of program in which the student participates.

3. Achievement of the current goals and objectives that would necessitate writing new goals and objectives for the student.

4. Any lack of expected progress toward the student’s annual goals.

5. Addition, change to, or deletion of a related service.

6. A change from one level to another, as from elementary school to middle school and middle school to high school that requires changes in the IEP. Generally when this occurs, an annual IEP is developed rather than a revision of the current IEP.

> Revision of a student's IEP does not change the current date of review of the IEP. Only completion of a complete annual IEP changes that date.

Prior Written Notice of IEP Implementation

1. When the IEP is completed, a *PARENTAL PRIOR WRITTEN NOTICE* will be provided to parents with the "implementing the IEP" box checked and the date of the IEP filled in.

2. Documentation that prior written notice of IEP implementation has been provided to the parents must be maintained.

IEP Development Follow-up Activities

1. Completed IEPs must be delivered to the OFFICE OF STUDENT SUPPORT SERVICES within five (5) working days of completion.

2. Implementation of the IEP must take place immediately after completion of the entire IEP process.

3. Each regular classroom teacher, special education teacher, persons who provide related services, and any other service provider who is responsible for carrying out the IEP must have access to the IEP and be informed of any specific responsibilities these individuals have to implement the student's IEP.

4. Each regular classroom teacher, special education teacher, persons who provide related services, and any other service provider who is responsible for carrying out the IEP must be informed of any specific accommodation, modification or support that must be provided to the student in accordance with the student's IEP.

Exit IEP Meetings

When a student is ready to exit the special education program because the student reaches maximum age, or is graduating from secondary school, an IEP meeting is scheduled with the parents, and the student's current level of performance will be reviewed. Note that only an Eligibility Team reevaluation process can determine that a student is no longer eligible for special education—this is not an IEP Committee decision. Except for turning 22 or graduating with a regular diploma, other determinations that the student is no longer eligible require a reevaluation.

Another purpose for an Exit IEP meeting is to review the student's plans for exit and to indicate whether the student remains eligible for FAPE. Students exiting at age 22 or graduating with a regular diploma

cease to be eligible for FAPE. Students graduating with an alternative or adjusted diploma remain eligible for FAPE until they graduate with a regular diploma or reach the age of 22.

The first page of the IEP should be completed to indicate participants in the meeting, but because the student is exiting special education, the remainder of the IEP does not need to be completed because the student will not be provided IEP services upon exit.

EXTENDED SCHOOL YEAR SERVICES

Provision of ESY services is an IEP Committee decision that involves appropriate school personnel and the parents. ESY services are defined as special education and related services provided in addition to the normal 180-day school year for the purpose of minimizing significant regression of identified skills and for enhancing recoupment of those skills when the regular school year resumes. These identified skills may involve areas of learning related to self-sufficiency, academic, social and/or emotional skills.

There are no specific standards set forth in IDEA for determining when ESY services are needed. Regression and the speed of recoupment are factors for the IEP committee to consider while making the decision. Regression is defined as the loss of previously mastered skills when an extended break in instruction occurs. The recoupment of those skills is defined as the ability to regain a skill within a reasonable period of time to previously achieved levels prior to an extended break in instruction. Regression could be considered significant if the student takes more than four to six weeks to relearn skills mastered the previous year. The IEP committee might base its decision regarding ESY services upon a history of regression during summer months.

Regression and recoupment are not the only standards upon which to base a decision of the need for ESY services. Other factors that need to be considered by the IEP Committee include the severity of the student's disability; a review of the student's progress over time; a determination that the student is at a critical learning stage; any information available to the IEP Committee relating to the student's behavior or physical needs; or curricular areas that are of significant concern for the individual student. It is important to remember that ESY services are based upon the individual needs of the student.

Steps for making and documenting ESY decisions are as follows:

a. Provision for ESY is determined annually and is an IEP Committee decision.

b. ESY services are designed to maintain acquired skills. New goals and objectives are not added to a student's IEP for implementation in the ESY program unless those goals and objectives are determined by the IEP Committee to be necessary to maintain the skills, behaviors, or other student performance for which ESY services are designed.

c. If related services, such as occupational therapy, physical therapy, and/or speech and language therapy, are being considered, the appropriate professional must be involved in the IEP decision-making. The need for specific related services must be documented, and must be required for the student to benefit from his or her special education program. The fact that a student currently receives related services does not, in itself, guarantee that the services will be required during ESY.

d. The IEP Committee should identify the specific goals to be addressed during ESY instruction, if the student requires more than four to six weeks at the beginning of the school year to regain previously mastered skills, an ESY program should be considered.

e. The IEP Committee decisions concerning ESY are documented on the *EXTENDED SCHOOL YEAR SERVICES* form, which assists the district in planning for or providing the ESY services.

ESY is not the same as summer school, which refers to educational programming made available to students for enrichment or remedial purposes. A student with a disability who meets the criteria for a summer school program may attend that program without regard to a specific need for ESY. However, unless the student needs the regular summer school program to implement the IEP or for compensatory

education purposes, the parent must pay any fees that apply to all students enrolled in the program. ESY, on the other hand, must be provided at no cost to the student's parent.

Related services shall be provided to the child during ESY when necessary to support the goals and objectives being implemented during the program.

PLACEMENT

Placement decisions in WPCSD are made at the IEP meeting with parental involvement. Placement should be at the student's neighborhood school site unless special circumstances exist.

Least Restrictive Environment

To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, shall be educated with students who are not disabled, and special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when 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.

The student may not be placed in a special class, in a school different than the one the student would normally attend, or otherwise removed from the regular educational environment unless the IEP otherwise provides. Justification for any removal from regular education environments must be explained in detail in students' IEPs.

Before the school district may conclude that a student with a disability should be educated outside the regular classroom, it must consider whether supplemental aids and services would permit satisfactory education in the regular classroom. The school district must consider the whole range of supplemental aids and services, including resource rooms and itinerant instruction.

Students Placed Outside Home School or Receiving Homebound Instruction

Contact the DIRECTOR OF STUDENT SUPPORT SERVICES for assistance when considering placing any students with disabilities outside the school in which they are zoned to attend, or providing homebound instruction to students with disabilities.

Incarcerated Special Education Students

If a special education student has been incarcerated in a juvenile justice facility, detention facility, jail, or prison located in White Pine, contact the DIRECTOR OF STUDENT SUPPORT SERVICES for guidance in providing services.

DISCIPLINE PROCEDURES

INTRODUCTION

During the 2019 and 2021 sessions of the Nevada Legislature, significant restrictions were placed on the authority of public-school officials to suspend, expel, and/or permanently expel students, including students with disabilities. For nearly every instance of misconduct, students with disabilities under the age of 11 may not be suspended, expelled, or permanently expelled. There are two exceptions. First, a student with a disability at any age may be expelled or permanently expelled for possession of a firearm or dangerous weapon, in accordance with state law requirements. Second, in extraordinary circumstances, a school may request an exception from the school board to permanently expel a student with a disability under the age of 11. However, no removal of a student with a disability who has an IEP may occur unless the district has complied with relevant provisions of the IDEA.

A summary of the state law requirements and limitations, along with the IDEA mandated procedures is described below.

NOTE

State law requires that before suspending, expelling, or permanently expelling any student with a disability who has an IEP, the WPCSD designee, the DIRECTOR OF STUDENT SUPPORT SERVICES, must be contacted to ensure that the proposed removal is in compliance with IDEA requirements.

SUSPENSION, EXPULSION, PERMANENT EXPULSION UNDER NEVADA LAW

Suspension

"Suspend" or "suspension" means the disciplinary removal of a student from the school in which the student is currently enrolled for not more than one school semester.

Students with disabilities who are age 11 or older and who have an IEP may be suspended from school for not more than 5 days for each occurrence of misconduct.

Before suspending a student with a disability who has an IEP, the DIRECTOR OF STUDENT SUPPORT SERVICES must be contacted to review the circumstances and determine that the suspension is in compliance with the IDEA.

Additional IDEA Procedures

There are no IDEA mandated procedures that are required prior to imposing a suspension up to and including the first 10 cumulative days of suspension in a school year. See ***THE FIRST 10 DAYS OF SUSPENSION IN A SCHOOL YEAR*** below.

If a proposed suspension will result in a removal from school beyond the first 10 cumulative days of suspension in a school year, IDEA procedures must be followed. See ***PROCEDURES FOR MAKING A DISCIPLINARY CHANGE OF PLACEMENT*** below.

SPECIAL NOTE: Removals to an Interim Alternative Educational Setting (IAES) for Illegal Drugs, Controlled Substances, Weapons, or Infliction of Serious Bodily Injury. Under federal law school personnel may remove a student with a disability to an interim alternative educational setting (IAES) for not more than 5 school days (state law limitation on days) without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student: ● carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the district

- knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the district
- has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the district

FEDERAL LAW DEFINITIONS FOR IAES REMOVALS

Controlled substance: means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).

Illegal drug: means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used.

Serious bodily injury: means 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

Weapon: means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.

Expulsion

"Expel" or "expulsion means the disciplinary removal of a student from the school in which the student is currently enrolled for more than one school semester with the possibility of:

1. Except as otherwise provided in subsection 2, returning to the school in which the student is currently reenrolled or another public school within the school district after the expulsion; and
2. Enrolling in a program or public school for alternative education for students who are expelled or permanently expelled during the period of expulsion.

Students with disabilities who are age 11 or older and who have an IEP may be expelled from school.

Before expelling a student with a disability who has an IEP, the DIRECTOR OF STUDENT SUPPORT SERVICES must be contacted to review the circumstances and determine that the expulsion is in compliance with the IDEA.

Additional IDEA Procedures

Because an expulsion by definition will result in a removal from school for more than 10 days in a school year, IDEA procedures must be followed. See ***PROCEDURES FOR MAKING A DISCIPLINARY CHANGE OF PLACEMENT*** below.

Permanent Expulsion

"Permanently expelled" means the disciplinary removal of a student from the school in which the student is currently enrolled:

1. Except as otherwise provided in subparagraph (2), without the possibility of returning to the school in which the student is currently enrolled or another public school within the school district; and
2. With the possibility of enrolling in a program or public school for alternative education for students who are expelled or permanently expelled after being permanently expelled.

Students with disabilities who are age 11 or older and who have an IEP may be permanently expelled from school.

Before permanently expelling a student with a disability who has an IEP, the DIRECTOR OF STUDENT SUPPORT SERVICES must be contacted to review the circumstances and determine that the permanent expulsion is in compliance with the IDEA.

Additional IDEA Procedures

Because a permanent expulsion by definition will result in a removal from school for more than 10 days in a school year, IDEA procedures must be followed. See ***PROCEDURES FOR MAKING A DISCIPLINARY CHANGE OF PLACEMENT*** below.

Exception to Age Limit for Expulsion and Permanent Expulsion for Possession of Firearms or Dangerous Weapons

Nevada law requires that **any student of any age, including a student with a disability**, who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than one year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school.

Nevada law defines "dangerous weapon" as follows. "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

Nevada law defines "firearm" as follows. "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

Before expelling or permanently expelling a student with a disability who has an IEP, the DIRECTOR OF STUDENT SUPPORT SERVICES must be contacted to review the circumstances and determine that the expulsion or permanent expulsion is in compliance with the IDEA.

Additional IDEA Procedures

Because an expulsion or a permanent expulsion by definition will result in a removal from school for more than 10 days in a school year, IDEA procedures must be followed. See **PROCEDURES FOR MAKING DISCIPLINARY CHANGE OF PLACEMENT** below.

Exception for Permanent Expulsion of Students Under Age 11

Nevada law states that in extraordinary circumstances, a school may request an exception from the board of trustees to the general rule that a student who is less than 11 years of age must not be permanently expelled from school.

Additional IDEA Procedures

Because a permanent expulsion by definition will result in a removal from school for more than 10 days in a school year, IDEA procedures must be followed. See **PROCEDURES FOR MAKING DISCIPLINARY CHANGE OF PLACEMENT** below.

THE FIRST 10 DAYS OF SUSPENSION IN A SCHOOL YEAR

Under federal law, during the first 10 school days that a student is suspended in a school year, there are no requirements to provide services, conduct a manifestation determination, develop a plan for or conduct a functional behavioral assessment (FBA), or develop or review a behavior intervention plan (BIP). This 10-day period, whether consecutive or cumulative, is sometimes referred to as the "10 free days. However, during the "10 free days" districts must adhere to the discipline requirements that apply to all students.

Days that "count" toward the accumulation of 10 school days

Any disciplinary removal of a student from school grounds "counts" toward the accumulation of 10 school days. Only in-school suspensions, under certain circumstances, can be configured so as to avoid "counting" as disciplinary removals. See below.

Under the federal regulations, "school day" means any day, including a partial day, that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including children with and without disabilities.

Under the federal regulations, "business day" means Monday through Friday, except for federal and state holidays (unless holidays are specifically included in the designation of "business day," as defined in federal regulations at §300.148(d)(1)(ii)).

Ordinary in-school disciplinary procedures do not "count" toward the accumulation of 10 school days The U.S. Supreme Court in Honig v. Doe (1988) stated that ordinary in-school disciplinary measures are not considered disciplinary removals, including "the use of study carrels, time-out, detention, or the restriction of privileges." School officials should avoid excessive use of any of these measures, without considering the need to reconvene the student's IEP committee to review behavior needs.

In-school suspensions, bus suspensions, or portions of a school day "counted" toward the accumulation of 10 school days

In-School Suspensions

In-school suspensions do not "count" toward the accumulation of 10 school days as long as the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP and continue to participate with nondisabled children to the extent they would have in their current placement.

Portions of a School Day

Portions of a school day do "count" toward the accumulation of 10 school days:

Bus Suspensions

Bus suspensions "count" when transportation is a related service in the student's IEP. Note that the U.S. Office for Civil Rights which administers Section 504 and other civil rights laws has taken the position that suspensions from the school bus are governed by the same disciplinary procedures as other suspensions.

PROCEDURES FOR MAKING A DISCIPLINARY CHANGE OF PLACEMENT

A disciplinary change of placement occurs when a student is suspended for more than 10 consecutive days, OR when a student is subjected to a series of suspensions of 10 days or less, but a "pattern" of removals has occurred. Before making a disciplinary change of placement under either of these two scenarios, the district must determine whether the student's behavior is a manifestation of the student's disability. Generally, the White Pine County School District treats removals beyond 10 cumulative school days as a disciplinary change of placement.

General Rules

1. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a removal is appropriate for a child with a disability.
2. Services must be provided to a student who has been removed from his/her placement on the 11th and any subsequent day of removal in a school year.
3. WPCSD generally considers any removal beyond the first ten days as constituting a disciplinary change of placement, which triggers procedural requirements for notice and a manifestation determination.
5. IDEA requires that in the case of a student whose behavior impedes the student's learning or the learning of others, the IEP committee must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
6. If a parent requests a due process hearing to challenge disciplinary decisions (including the outcome of the manifestation determination, the setting for services provided during a disciplinary removal, and/or the services provided in the removal setting), the student remains in the disciplinary setting until the hearing officer reaches a decision, or until the disciplinary removal expires, whichever occurs first. Parents and the district may agree otherwise. A hearing under this circumstance is "expedited"—which means that no extensions of the timeline are permitted.

Services must be provided to the student on the 11th and each day of removal thereafter in any school year. So even if the district is permitted to make a disciplinary change of placement (because the behavior is NOT a manifestation of the student's disability), the resulting suspension and/or expulsion cannot occur without providing services

BEFORE IMPLEMENTING A REMOVAL THAT WILL TAKE THE STUDENT BEYOND THE FIRST TEN DAYS IN A SCHOOL YEAR

1. School personnel make decision to seek removal of student that will take the student beyond the first ten days in a school year.

2. On the day a decision is made to make a removal that constitutes a change of placement (generally in WPCSD, a removal that will take the student beyond the first ten days in a school year), the district must provide "parental prior notice" of the proposed disciplinary removal, the proposed manifestation determination, **and** the proposed IEP meeting if there is a need to determine the removal setting and services to be provided. Parents must also be provided a copy of the Rights document.

3. School personnel give student prior written notice of the charges against him/her, an explanation of the evidence, and an opportunity for a "hearing" (in this context, an opportunity for the student to present his/her side of the story). Follow district procedures for the hearing required depending upon the disciplinary sanction being proposed.

4. Before implementing a removal that will take the student beyond the first ten days in a school year, a manifestation determination must be conducted.

5. If the conduct **IS** a manifestation of the student's disability:

   - the student must be returned to the placement from which the student was removed, unless the parent and the district agree to a change of placement via IEP process
   - an FBA must be conducted, unless one had been conducted before the behavior that resulted in the proposed change of placement
   - a BIP must be implemented (if one already exists, it must be reviewed and modified as necessary)

6. If the conduct **IS NOT** a manifestation of the student's disability:
   - the district may take the disciplinary action that was planned and impose disciplinary sanctions that it would otherwise apply to a student without disabilities, in the same manner, for the same duration
   - **services must be provided on the 11th and any subsequent day of removal during the school year**; the district conducts an IEP meeting, and the IEP committee determines the removal setting and the extent of the services that must be provided:
   - to enable the student to continue to participate in the general education curriculum
   - to progress toward meeting the goals in the student's IEP
   - if appropriate, the student must receive an FBA and BIP services designed to address the behavior so it does not recur

7. Once a student has been removed for more than 10 days in a school year, these steps are repeated for each subsequent proposed removal. Manifestation determinations must be conducted as soon as possible and prior to implementing the proposed removal, and in-school suspension may be used pending completion of the manifestation determination.

MANIFESTATION DETERMINATION

1. Before implementing a removal that will constitute a disciplinary change of placement (in WPCSD, before implementing a removal beyond the first 10 days of removal in a school year), a manifestation determination must be conducted.

2. The manifestation determination is conducted by a representative of the district, the parent, and relevant members of the student's IEP committee.

3. **Relevant members are determined by the parent and the district, so there must be contact with the parent to discuss "relevant" members of the IEP committee.**

4. The group must:
   - review all relevant information in the student's file
   - review the student's IEP
   - review any teacher observations
   - review any relevant information provided by the parents

5. The group must 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 district's failure to implement the IEP (if so, the district must take immediate steps to remedy failure to implement the IEP)

ADDITIONAL PROVISIONS OF WPCSD POLICY AND NRS APPLICABLE TO STUDENTS WITH DISABILITIES

Following is a list of NRS provisions that are applicable to students with disabilities, along with a reference to the WPCSD Policies that implement the NRS requirements. The list is not exhaustive.

1. Nevada state law contains prohibitions on the use of aversive interventions and imposes limitations on the use of physical and mechanical restraints on students with disabilities. See NRS 388.471 *et seq.* See WPCSD Policy 6810.

2. Nevada state law contains requirements for mandatory reporting when staff and volunteers have reasonable cause to believe that students, including students with disabilities, are now being or may have been subjected to abuse and neglect, sexual conduct, luring, or corporal punishment. See NRS 432B and 392.275 *et seq*. .

3. Nevada state law requires that WPCSD provide safe and respectful learning environments for all students, including students with disabilities. These requirements specifically prohibit bullying, cyber-bullying and discrimination based on race. See NRS 388.121 *et seq.* See WPCSD Policy 9110.

TABLE 1

REQUIRED MEMBERSHIP FOR COMBINED IEP & ELIGIBILITY TEAMS

DISABILITY CATEGORY	PERSONS RESPONSIBLE FOR SCOPE OF EVALUATION[2]
AUTISM	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist; Speech/Language Specialist.
HEARING IMPAIRMENT	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; Teacher or specialist in field of hearing impairment; not fewer than three persons with expertise in one or more of the following areas: (1) audiology or the interpretation of an audiological report, (2) hearing impairment, (3) the interpretation of an assessment of health, communication skills and disorders, and/or academic achievement.
VISUAL IMPAIRMENT	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; Teacher or specialist in field of vision impairment; not fewer than three persons with expertise in one or more of the following areas: (1) vision, (2) vision impairment, (3) the interpretation of an assessment of health or academic achievement.
DEAF/BLIND	LEA Representative; a Teacher of Special Education or Regular Classroom Teacher of the pupil or, if none, a person qualified to teach the pupil; a speech and language specialist; a person qualified to interpret an assessment of the health of the pupil; Parent; if not otherwise a member of the team, one or more persons qualified to interpret the required comprehensive audiological and vision examinations
ORTHOPEDIC IMPAIRMENT	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Nurse or other person qualified to interpret an assessment of health; One of the following: (1) physical therapist; (2) occupational therapist; (3) Any other specialist whose presence is deemed appropriate.
HEALTH IMPAIRMENT	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist; School Nurse or other person qualified to interpret an assessment of health.
SPEECH AND LANGUAGE IMPAIRMENT	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; Speech and Language Specialist.
TRAUMATIC BRAIN INJURY	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist; Speech and Language Specialist; School Nurse or other person qualified to assess the health of the student.
INTELLECTUAL DISABILITY	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist; Speech and Language Specialist.
EMOTIONAL DISTURBANCE	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist.
SPECIFIC LEARNING DISABILITIES	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist.
DEVELOPMENTAL DELAY	LEA Representative; Special Education Teacher; Regular Education Teacher; Parent; School Psychologist.
MULTIPLE IMPAIRMENTS	See requirements for INTELLECTUAL DISABILITY plus any other condition OTHER THAN specific learning disabilities, developmental delay, deaf-blindness or a speech and language impairment.

[2] The eligibility teams for most disability categories require, e.g., “If not otherwise a member of the team, one or more persons qualified, because of personal knowledge of the pupil, to interpret information relating to the pupil’s health, family, and social emotional condition. This person may be, without limitation, a school administrator, school nurse, school counselor, school psychologist or any other certificated or licensed professional.” (NAC 388.430.2(d)). Because such a person is generally already a member of the team, this requirement is not repeated in this table.