

EVALUATION

Consent for Evaluation: 34 C.F.R. 300.300(a)

Either the school or the parent may initiate a request for an initial evaluation, but before the school may conduct the evaluation, it must provide prior written notice and obtain informed written consent from parent. Consent is not required if the team is merely reviewing existing data as part of an evaluation or administering an assessment to all children.

If a parent refuses to consent to the evaluation, the school may pursue consent through mediation or the due process system. Consent to evaluate does not constitute consent to provide services.

Procedures:

- 1) The school will provide a meeting notice to the parent for a review of existing data.
- 2) The parent and school will conduct a review of the existing data.
- 3) The school will obtain written consent from the parent using the "Parent Consent for Evaluation" form.
- 4) Once the school has obtained written consent for testing from the parent, the school psychologist will be contacted to begin the evaluation.

Evaluation Timeline: 34 C.F.R. 300.301(a), A.A.C.R7-2-401(E)(3) and (4)

Schools are required to conduct a full and individual evaluation before the initial provision of special education and related services to a child with a disability. The initial evaluation must be completed within **60 calendar days*** unless the school and the parents agree in writing to an extension not to exceed an additional 30 days. In Arizona, the 60-day time frame begins on the date the school receives a written parental request for an evaluation (a teacher must notify Mrs. Smith immediately upon receipt of any request for special education services or testing), or, if initiated by the school, the date the school receives informed consent from the parent. The 60 days conclude the day the MET makes a determination concerning eligibility. Exceptions to this rule are permitted in situations where the student changes schools while the evaluation process is underway or if the parent repeatedly fails or refuses to produce the student for the evaluation.

*monitored by the ADE Special Education Spreadsheet

Procedures:

- 1) After receipt of informed consent from the parent, Mrs. Smith will populate the spreadsheet for timelines and notify the team of the deadlines.
- 2) Mrs. Smith (or her assistant) will contact the school psychologist of the need for an evaluation and schedule the evaluation.
- 3) The evaluation will be conducted.
- 4) The evaluation results will be given to the school.
- 5) A MET team meeting will be convened to review the evaluation results and all other existing data.

Independent Educational Evaluation: 34 C.F.R. 300.502

If parents disagree with an evaluation conducted by the school, they have a right to an Independent Educational Evaluation (IEE), which is an evaluation conducted by a qualified examiner who is not employed by the school responsible for the child's education. Upon request for an IEE, the school must provide parents with information about where to obtain an IEE, and the criteria the school uses for its evaluations. The federal regulations that implement the IDEA allow schools to ask parents for an explanation of why they object to the agency's evaluation; however, parents are not required to provide such explanation.

When a parent requests an IEE (a teacher must notify Mrs. Smith immediately if they receive this request, regardless of whether the request is verbal or written) the school must, without unreasonable delay, ensure that an IEE is provided at public expense—that is, at no cost to the parent—or initiate a due process hearing to show that its evaluation is appropriate. If an administrative law judge determines that the school's evaluation is appropriate, the parent is still entitled to an IEE, but not at public expense.

An IEE at public expense or one paid for by the parent (so long as the evaluation meets the agency's criteria) must be considered by the team in any decision made regarding the provision of FAPE to the child.

Parents are entitled to only one IEE at public expense each time the school conducts an evaluation with which the parents disagree.

Procedures:

- 1) Notify Mrs. Smith of the request.
- 2) Mrs. Smith will provide the parent with the agency criteria as well as the method for obtaining the IEE.
- 3) After the parent is provided with the agency criteria and the method for obtaining the IEE, the need to complete the evaluation lies with the parent.
- 4) If the IEE is completed, the school must consider this evaluation in any decision regarding a free and appropriate public education (FAPE). The Director will review the IEE and then will notify the parent whether a meeting is needed immediately or whether the information will be considered the next IEP meeting.

IEP MEETING

Schools are responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEPs of children with disabilities.

The parent will be contacted within 5 school days after receiving a parent request for an IEP meeting to schedule the IEP meeting. The IEP meeting must be held within 15 school days (or not to exceed 30 school days based on a mutual schedule between the parent and school). Teachers must notify Mrs. Smith immediately upon receiving a request for an IEP meeting.

The IEP team members will consist of (at least):

- 1) not less than one of the child's parents, or the adult student, if legal rights have transferred;
- 2) not less than one of the child's regular education teachers (if the child is or may be participating in the regular education environment);
- 3) not less than one of the child's special education teachers, or where appropriate, not less than one of the child's special education providers;
- 4) a representative of the child's school who:
 - a. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - b. is knowledgeable about the general curriculum; and
 - c. is knowledgeable about the availability of the school's resources
- 5) a qualified person to interpret test results.

IEP SERVICE DOCUMENTATION: R7-2-401(G)(4), 34 C.F.R. Sec 300.320(a)(4) and (7)

The IEP document:

At the beginning of each school year, schools must have an IEP in effect for each child with a disability. Schools are required to give the parent a copy of the child's IEP free of charge. In developing IEPs, teams must consider the following:

- 1) the child's strengths;
- 2) the parents' concerns for enhancing their child's education;
- 3) the results of the child's initial evaluation or most recent evaluation; and
- 4) the child's academic, developmental, and functional needs.

The IEP document must contain:

- 1) a statement of the child's present levels of academic achievement and functional performance (PLAAFP), including how the child's disability affects his or her involvement and progress in the general curriculum (the same curriculum as for nondisabled children);
- 2) measurable annual goals (academic and functional) designed to meet the child's educational needs and to be involved in and make progress in the general curriculum, which must be aligned

with the Arizona Academic Standards and address grade-level expectations and grade-level content, and for children who take alternate assessments (i.e. children with significant cognitive disabilities), a description of benchmarks or short-term objectives;

- 3) how the child's progress toward meeting goals will be measured and a description of how parents will be regularly informed of the child's progress toward meeting those goals;
- 4) a statement of the special education and related services and supplementary aids and services—based upon peer-reviewed research to the extent possible—that the school will provide to the child, any program modifications or supports for school personnel so that the child can make progress towards achieving annual goals, be involved in and make progress in the general education curriculum, participate in extracurricular and other nonacademic activities, and participate with both disabled and nondisabled children in these activities;

Although IDEA does not define the term "supplementary aids and services," the United States Department of Education suggests several possibilities including, but not limited to, modification of the regular class curriculum, behavior management techniques, assistance of an itinerant teacher with special education training, special education training for the regular class teacher, use of assistive technology, provision of note-takers, and use of a resource center or a combination of these.

- 5) an explanation of the extent, if any, to which the child will participate with nondisabled children in the regular classroom setting and in other activities;
- 6) a statement of any individual accommodations that are necessary to measure the child's academic and functional performance on State and district-wide assessments. If the IEP team determines that the child will take an alternate assessment, the IEP must include a statement of why the child cannot participate in the regular assessment and what particular alternate assessment the student will take;
- 7) the projected date that services and/or modifications will begin and the anticipated frequency, location, and duration of those services and modifications; and
- 8) beginning at age 16, appropriate measurable postsecondary goals that:
 - a. are based on age appropriate transition assessments that take into account the child's strengths, interests, and preferences;
 - b. include the areas of employment and education and/or training, and independent living skills where appropriate;
 - c. are accompanied by a coordinated set of transition activities aimed at assisting the child in reaching those goals, which are specifically designed as an outcomes oriented process that promotes movement from school to post-school life; and,
- 9) beginning no later than one year before the child reaches the age of majority (18 in Arizona), a statement that the child has been informed of the rights, if any, that will transfer to him or her upon reaching the age of majority.

During the development of the IEP, Young Scholar's Academy shall discuss the delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, the state statutes, and the State Board of Education rules, to include the entire continuum of services. Young Scholar's Academy will include all options, from the least

restrictive option through the most restrictive option, and all combinations therein in order to provide the least restrictive environment for the special education student.

The following special factors must also be considered:

- 1) In the case of a child whose behavior impedes the child's learning or that of others, the IEP team needs to consider the use of positive behavioral interventions and supports, or other strategies, to address the behavior;
- 2) In the case of a child who is limited English proficient, the team must consider the child's language needs as they relate to the IEP;
- 3) In the case of a child who is blind or visually impaired, the IEP team must consider the use of Braille, as appropriate for the child;
- 4) In the case of a child who is deaf or hard of hearing, the IEP team must consider the child's communication needs; and
- 5) The IEP team must consider whether a child needs assistive technology devices and services.

A parent or Young Scholar's Academy may request in writing a review of the IEP and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.

PROCEDURAL SAFEGUARDS

In accordance with IDEA, procedural safeguards shall be given to parents once a year and/or: (a) upon initial referral for evaluation by the school or parental request for an evaluation; (b) upon receipt of the first State administrative complaint or the first due process complaint in the school year; (c) when a school removes a student for disciplinary reasons and the removal constitutes a change of placement; and (d) upon request by the parent. The procedural safeguards notice must provide an explanation of the following topics:

- Independent educational evaluations (IEE)
- Prior written notice
- Parental consent
- Access to educational records
- Dispute resolution (including State administrative complaints, due process, mediation, appeals, civil actions, and attorneys' fees)
- Child's placement during the pendency of a due process hearing
- Procedures for students who are subject to placement in an interim alternative educational setting
- Requirements for unilateral placement by parents of children in private schools at public expense

Delivery of the Procedural Safeguards Notice to the parent may be documented on the IEP paperwork, and/or on the Prior Written Notice form, and/or on the MET form, and/or on an additional statement documenting delivery of the PSN (34 C.F.R. 300.504). This will be documented on the upper right corner of the appropriate form by writing 'PSN delivered on DATE' and will include the initials of the person delivering the PSN.

PRIOR WRITTEN NOTICE

The IDEA requires schools to provide written prior notice to the parents of a child with a disability in a timely manner any time the school *proposes* or *refuses* to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education.

This notice, called a “prior written notice” or “PWN,” must include the following items:

- 1) a description of the action proposed or refused by the school;
- 2) an explanation of why the school proposes or refuses to take the action;
- 3) a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- 4) a statement that the parents of a child with a disability have protection under the procedural safeguards provided in the IDEA and how a copy of those procedural safeguards may be obtained (unless a PWN is given because of an initial referral, in which case, the parents will already be receiving a copy of their procedural safeguards);
- 5) sources for parents to contact to obtain assistance in understanding the IDEA;
- 6) a description of other options considered by the IEP team and the reason why those options were rejected; and
- 7) a description of other factors that are relevant to the school’s proposal or refusal.

The notice must be written in language understandable to the general public and provided in the native language or in the mode of communication used by the parent, unless it is clearly not feasible to do so. If the parent’s native language or other mode of communication is not a written language, the school must take steps to ensure that the notice is translated orally and that the parent understands the content of the notice; the school must maintain written evidence that these steps were undertaken.

Schools must give PWN in the following situations:

Identification: PWN must be provided when a student is referred by the school for an initial evaluation. Parents of a preschool or school-aged child identified through child-find measures as being a child with a possible disability must be given a PWN.

Evaluation:

o Collection of additional data: Schools must provide PWN before obtaining consent for the collection of additional data or after the IEP team determines that no additional data is needed in the evaluation process.

o Eligibility: PWN must be provided after the IEP team has determined a student's eligibility for special education as this completes the evaluation process.

Educational placement: Schools must provide PWN when there is a proposal or refusal to change a child's educational placement.

- When a child first enters special education, PWN for placement must be given.
- When the IEP team decides to change the child's placement to a different level of service within the continuum of alternate placements, PWN must be given.
- When a child is determined by a multidisciplinary evaluation team to no longer be eligible for special education services and therefore will no longer be in special education, a PWN for change of placement must be given.

o Graduation from high school with a regular high school diploma is a change of educational placement, and therefore, a PWN must be provided.

In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the PEA proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or provision of FAPE to the child, but before the decision is implemented.

Free Appropriate Public Education (FAPE): PWN must be provided when there is a change or refusal to change the provision of a FAPE, before implementation of the initial IEP, or before a revised IEP can be implemented.

Disciplinary actions: PWN must be given THE DAY a decision is made to impose a discipline removal on a child that constitutes a change of placement. Those times are when a discipline removal will result in more than ten consecutive days of removal or when a removal will result in more than ten cumulative days of removal that the school director determines constitutes a change of placement.

One PWN may address numerous issues, to the extent appropriate, but should be drafted clearly and carefully to include required information for each issue being addressed.

PWN must be given to parents *after* decisions have been made, but *prior to* implementation.

Procedure:

1) The special education staff will send a meeting notice to the parent for MET or IEP meetings. This will inform the parent of the date and time the meeting will be held. In addition, the special

education teacher will attempt to contact the parent by phone regarding the meeting notice date and time.

2) After holding a meeting and discussing all possible options, needs, placements, etc., a Prior Written Notice will be given to the parent within a reasonable amount of time (and prior to any changes in services taking effect). This Prior Written Notice will serve to notify the parent of proposals or refusals related to the child.

3) All Prior Written Notices will be placed in the student's permanent file.

DISCIPLINE
34 C.F.R. 300.530-300.536

Procedures:

- 1) Staff will refer all serious discipline situations to the school's Director. This includes continued violations of rules which may not be serious in nature in and of themselves.
- 2) All in-school suspensions or out-of-school suspensions will be assigned ONLY by the school's Director.
- 3) The school's Director will consult with the student's teachers to determine the appropriate punishment, including whether any type of suspension will be assigned.

Disciplinary Actions

The 10-day rule: (otherwise known as the "FAPE-free zone")

School personnel may remove a child with a disability who commits a violation of the student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days, to the extent such alternatives are applied to students without disabilities. That is, if a student with a disability is removed from the educational setting for less than 10 days in a school year, the school is not required to convene an IEP team meeting, conduct a manifestation determination, do a functional behavioral assessment, develop a behavior intervention plan, or provide services, if educational services are not provided to students without disabilities who are similarly removed.

The school Director, in coordination with other involved school staff members, will determine the appropriate discipline, after considering all relevant information.

Change of Placement

In determining whether to order a change of placement for a student with a disability who violates a student code of conduct, school personnel may consider any unique circumstances on a case-by-case basis. A change of placement occurs if:

- 1) The student is removed for more than 10 consecutive school days.
- 2) The student is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

In-school suspensions, partial days, and bus suspensions

The comments to the federal regulations address these tricky areas as follows:

- In-school suspensions are not counted toward the 10 days if the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive services as set forth in his or her IEP, and continue to participate with nondisabled peers to the extent he or she would in the current placement.
- Portions of a day that a child is suspended do count toward the 10 cumulative days.

□ Bus suspensions count if transportation is part of the student's IEP and no alternative transportation is provided.

Manifestation Determination

A manifestation determination is required if the school is considering removing a child with a disability from his or her educational placement for more than 10 school days in a given school year when that removal is deemed a change of placement or placement is made in an interim alternative educational setting (IAES).

The manifestation determination: The manifestation determination must be conducted by “the local educational agency, the parent, and relevant members of the IEP team (as determined by the parent and the local educational agency).” The law does not specify who “relevant members of the IEP team” are, but logic dictates that they would be those team members with an expertise regarding the student's disability and teachers or administrators with direct knowledge of the student and/or the disciplinary incident.

Procedures: The manifestation determination must take place within 10 school days of any decision to change the placement of a child with a disability due to a violation of the student code of conduct. The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent.

Standard of review: The conduct shall be deemed to be a manifestation of the child's disability if either of the following applies:

- 1) The conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- 2) The conduct in question was the direct result of the Young Scholar's Academy's failure to implement the IEP.

If the behavior is a manifestation: If the team conducting the manifestation determination determines that the behavior is a manifestation of the child's disability, the IEP team must:

- 1) Conduct a functional behavioral assessment (FBA), if one has not already been done;
- 2) Implement a behavior intervention plan (BIP), if one has not already been implemented.
- 3) If a BIP is already in place, review it and revise it as necessary to address the current behavior.
- 4) Return the child to the placement from which the child was removed *unless*:
 - a. The offense involved “special circumstances” (drugs, weapons, or serious bodily injury); or
 - b. Parents and school agree to a change of placement as part of the modification of the BIP.

If the behavior is *not* a manifestation: If the team conducting the manifestation determination determines that the behavior is not a manifestation of the child's disability, the school may go forward with regular disciplinary action, but must continue to provide the student with a free appropriate public education (FAPE).

Provision of Services

If the disciplinary action that gave rise to the removal was not a manifestation of the student's disability, the school may apply the relevant disciplinary procedures to a child with a disability in the same manner and for the same duration as for a nondisabled child. However, in the case of a student with a disability who has been removed from his or her current placement for more than 10 days in a given school year, for the remainder of the removal period, the school must provide services to the extent necessary to enable the child to progress in the general curriculum and appropriately advance toward achieving the goals set out in his or her IEP. Services may be provided in an interim alternative educational setting.

If a series of short suspensions constitutes a change of placement, the IEP team determines the extent to which services are necessary to enable the child to progress in the general curriculum and appropriately advance toward achieving the goals set out in his or her IEP during future removals. If the same series of short suspensions does *not* constitute a change of placement, the school principal in consultation with at least one of the child's teachers decides what educational services to offer.

Special Circumstances 20 U.S.C. § 1415(k)(7)(A) and (B);

21 U.S.C. § 812(c)

20 U.S.C. § 1415(k)(7)(D);

18 U.S.C. § 1365(h)(3)

20 U.S.C. § 1415(k)(7)(C); 18 U.S.C. § 930(g)(2)

School personnel may remove a student with a disability to an interim alternative educational setting (IAES) for not more than 45 *school days*, regardless of whether the behavior is a manifestation of the student's disability in the following cases:

- 1) The child carries or possesses a weapon to or at school, on school premises, or to or at a school function;
- 2) The child 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; or
- 3) The child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

The term "weapon" means a 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.

The term "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.

The term "serious bodily injury" does not apply to every assault, but applies in situations that do not involve a weapon, but that involve:

- 1) substantial risk of death;
- 2) extreme physical pain;
- 3) protracted and obvious disfigurement; or

4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Disciplinary Action Procedures:

- 1) For discipline removals that are more than ten consecutive days, the school's Director will automatically generate a PWN for change of placement and a meeting notice to conduct a manifestation determination.
- 2) The Director will give the PWN and meeting notice to the parent on the same day the change of placement decision occurs. If the parent needs to reschedule the meeting, it will be done by the Director, but will not exceed 10 school days from the date of change of placement.
- 3) a) If the IEP team determines that the behavior is a manifestation of the child's disability, the discipline will stop and the child will return to his regular placement. The school's Director will determine if he/she can return to the same classroom or if a different classroom is warranted (so long as the level of placement is maintained).
b) If the behavior is not a manifestation of the child's disability, the IEP team will decide how to provide the student services while suspended or expelled. The school's Director will issue a PWN to document proposals and refusals about how this student will receive a FAPE while serving discipline removal.
- 4) Beginning on day 11, providing a student's FAPE will be documented in writing by the person or persons providing services to the student (as determined by the IEP team). The school's Director will review this documentation weekly and consult with the provider(s) to ensure that the proper services are being provided to the student during the period of removal.

Disciplinary removals that accumulate to more than ten days but are NOT a change of placement as determined by the school's director:

For a discipline removal that is more than ten cumulative days and is not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the manner in which services are provided, so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the IEP goals.

Upon receiving a written request, Young Scholar's Academy shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). Young Scholar's Academy shall also forward records to any other person or agency for which the parents have given signed consent.