

**WESTPORT COMMUNITY  
SCHOOLS**

**SPECIAL EDUCATION  
PROCEDURE MANUAL**

School Year 2017-2018

*The district provides annual training on the IEP process, individual feedback on completing the IEP, and periodic information regarding the quality of content.*

**WESTPORT COMMUNITY SCHOOLS  
SPECIAL EDUCATION PROCEDURE MANUAL  
2017-2018  
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**Purpose:** It is the purpose of this procedure to ensure the appropriate selection of assessments and interpretation of results for students referred for an initial or re-evaluation determination of eligibility for special education services.

**Procedures:**

**SE 1 Assessments are appropriately selected and interpreted for students referred for evaluation**

1. The school Psychologist reviews the records of all students whose reevaluation is due in the upcoming school year prior to the end of the school year to determine the appropriate assessments for the reevaluation. For initial referrals, the psychologist reviews the referral form and any supporting documents and may contact the teacher and parent for information. This information is provided to the special education clerk who starts the process as described in SE2.
2. Tests and other evaluation materials are:
  - a. validated
  - b. administered and interpreted by trained individuals
  - c. tailored to assess specific areas of educational need and related developmental needs
  - d. selected and administered to reflect aptitude and achievement levels and related developmental needs
  - e. as free as possible from cultural and linguistic bias
  - f. provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally
  - g. not the sole criterion for determining an appropriate educational program
  - h. not only those designed to provide a single general intelligence quotient
  - i. are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or the other factors the test purports to measure
  - j. technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors
3. In interpreting evaluation data and making decisions, the district:
  - a. uses information from a variety of sources to gather relevant functional and developmental information, including information provided by the parent
  - b. ensures that information obtained from these sources is considered
  - c. ensures that the placement decision conforms with placement in the least restrictive environment
  - d. includes information related to enabling the student to be involved in and progress in the general curriculum

**State Requirements**  
603 CMR 28.04; 28.05

**Federal Requirements**  
34 CFR 300.304; 300.305; 300.306(c)

## **SE 2 Required and optional assessments**

1. Required assessments: The following assessments are completed by appropriately credentialed and trained specialists for each referred student:
  - a. Assessment(s) in all areas related to the suspected disability (ies) including consideration of any needed assistive technology devices and services and/or instruction in Braille.
  - b. Educational assessment by a representative of the school district, including a history of the student's educational progress in the general curriculum.
  - c. Educational assessment by a teacher(s) with current knowledge regarding the student's specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district's general education curriculum, as well as an assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults.
  - d. For a student being assessed to determine eligibility for services at age three (3), an observation of the student's interactions in the student's natural environment or early intervention program is strongly encouraged together with the use of current assessments from Early Intervention Teams to avoid duplicate testing.
2. Optional assessments: The administrator of special education may recommend or the parent may request one or more of the following:
  - a. A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records.
  - b. A psychological assessment by a certified school psychologist, licensed psychologist, or licensed educational psychologist, including an individual psychological examination.
  - c. A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of the parent
  - d. At the re-evaluation of a student, if no additional assessments are needed to determine whether the student continues to be eligible for special education, the school district recommends to the student's parents the following:
    - that no further assessments are needed and the reasons for this; and
    - the right of the parents to request an assessment.
3. Upon receipt of an **initial referral** for special education services, the receiving school-based clerk or special education secretary completes the identifying and referral sections of the **Notice of Evaluation Form**.
4. The sped clerk logs in the information into a log on a shared drive which is available to sped clerks and the special education office.
5. Sped clerks receiving referral requests send the form and any supporting documentation to the special education office secretary.
6. The sped secretary gives the request form and supportive information to the school psychologist who reviews the information and determines appropriate assessments and assignments and returns the form to the special education clerk who completes the N1.
7. The sped clerk gives the completed N1 to a special education administrator who returns it to the sped clerk to be sent to the parent after it's been reviewed.

**SE 2- continued**

8. Within 5 days of receipt of the referral, a written notice (N1), including an **Evaluation Consent Form** is sent to the parent requesting consent for the district to complete the proposed assessments. The clerk includes a **Parent Information Form** and a copy of the **Procedural Guidelines** with the consent form sent to the parent.
9. If consent is not received within 14 school days, the consent form is resent to the parent. Additional attempts to gain consent are documented by the sped clerk on the Notice of Evaluation Form and may include calling or emailing the parent, sending the form home with the student, and seeking assistance of other agencies which might be involved and the district has a release.
10. The student will not be assessed unless the parent/guardian has given written consent by signing and returning the Evaluation Consent Form.
11. If consent is not received and the district feels that FAPE cannot be provided, a Request for hearing will be filed with the BSEA.
12. Upon receipt of consent, the special education secretary or clerk sends copies of the Notice of Evaluation form to the staff assigned to complete assessments.
13. Prior to the start of each school year, the psychologist will review the list of students due for re-evaluation during the up-coming school year.
14. The psychologist will review the records of the students on the re-evaluation list and give the assessment information to the sped clerks who will complete the Notice of Evaluation, Consent for Evaluation form and the N1 according to timelines.
15. The consent form will be send to the parent 12 weeks prior to the re-evaluation due date.
16. Before the consent form is sent, any new information provided by teachers or school support teams will be considered with regard to the need for additional assessments.

Attachments:

**SE2: State Requirements**

603 CMR 28.04 (1) and (2)

**Federal Requirements**

34 CFR 300.304; 300.305; 300.324(a)(2)(v)

*Also see* Administrative Advisory 2004-3: College Testing Information.

### **SE 3 Special requirements for determination of specific learning disability (SLD)**

1. When a student suspected of having a specific learning disability is evaluated, the Team creates a written determination as to whether or not he or she has a specific learning disability, which is signed by all members of the Team, or if there is disagreement as to the determination, one or more Team members document their disagreement.
2. If SLD is the existing or suspected disability, the special education clerk will check *Observation* on the Evaluation Consent Form.
3. The sped clerk will provide the observation forms to the sped contact who will identify an teacher who will observe the student and complete the forms.
4. The tester or person presenting the evaluation results presents a specific learning disability determination form for completion and signature at meetings for all students for whom this area was assessed as a suspected disability category.
5. Staff sign agreement with the designation of the disability area.
6. Team members who are in disagreement with the determination of a specific learning disability provide written documentation of their disagreement on the form.
7. Once determined, the presence of a specific learning disability is reassessed at subsequent re-evaluation meetings.

#### **State Requirements**

#### **Federal Requirements**

34 CFR 300.8(c)(10); 300.311

*See also* Memorandum on Specific Learning Disability-Eligibility Process/Forms  
(See <http://www.doe.mass.edu/sped/iep/sid/>)



### **SE 3A Special requirements for students on the autism spectrum**

\* Whenever an evaluation indicates that a child has a disability on the autism spectrum, which includes autistic disorder [autism], pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, and Rhett's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-V, 2013), the IEP Team shall consider and shall specifically address the following:

- 1.) the verbal and nonverbal communication needs of the child
- 2.) the need to develop social interaction skills and proficiencies
- 3.) the needs resulting from the child's unusual responses to sensory experiences
- 4.) the needs resulting from resistance to environmental change or change in daily routines
- 5.) the needs resulting from engagement in repetitive activities and stereotyped movements
- 6.) the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder
- 7.) and other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.

1. During Convocation September 2014, the Autism Spectrum Disorder Team Considerations Form was presented for immediate implementation. The form is available at the Special Education Office.
2. A sign off sheet will be placed in each school and the principal will be responsible to ensure that all special education teachers review the form and procedure and sign off on understanding and implementation. In ensuing years the form will be included as part of the Procedure Manual sign off.
3. The form will be included in the special education packet for the Chairperson to be reviewed and completed by the Team at IEP meetings for students with autism.
4. The content of the form will be used by Special Education Staff in developing the IEP and included in the sections of the IEP as indicated in the form (ie: PLEP A or B). This may be in addition to other information deemed necessary by the Team and IEP writer.
5. The form will be attached to the IEP.

#### **State Requirements**

#### **Federal Requirements**

*See also* Technical Assistance Advisory SPED 2007-1: Autism Spectrum Disorder  
(See [http://www.doe.mass.edu/sped/advisories/07\\_1ta.html#](http://www.doe.mass.edu/sped/advisories/07_1ta.html#))

#### **SE 4 Reports of assessment results**

1. Each person conducting an assessment shall summarize in writing the procedures employed, the results, and the diagnostic impression, and shall define in detail and in educationally relevant and common terms, the student's needs, offering explicit means of meeting them. Assessors may recommend appropriate types of placements, but shall not recommend specific classrooms or schools.
2. Summaries of assessments are completed prior to discussion by the Team and, upon request, are made available to the parent at least two days in advance of the Team discussion.
3. Assessments are completed within 30 days of receipt of consent and prior to discussion by the Team.
4. A Team meeting is convened within 45 days of the receipt of consent.
5. Upon request, assessments are made available to the parent at least two days in advance of the Team discussion. The special education clerk contacts the parent to arrange for the parent receipt of the assessments if requested.

#### **State Requirements** 603 CMR 28.04(2)(c)

**Purpose:** The purpose of this procedure is to ensure that all students with disabilities, including those enrolled in out-of-district placements, are included in the Massachusetts Comprehensive Assessment System (MCAS) and other district-wide assessment programs.

**Procedure:**

**SE 5 Participation in general state and district-wide assessment programs**

1. All students with disabilities, including those enrolled in out-of-district placements, are included in the Massachusetts Comprehensive Assessment System (MCAS) and other district-wide assessment programs.
2. The district's IEP Teams designate how each student will participate and, if necessary, provide an alternate assessment.
3. The superintendent
  - a. files an MCAS performance appeal for a student with a disability when the student's parent or guardian or the student, if 18 or over, requests it, provided that the student meets the eligibility requirements for such an appeal;
  - b. obtains the consent of the parent or guardian or the student, if 18 or over, for any MCAS performance appeal filed on behalf of a student with a disability;
  - c. includes in the MCAS performance appeal, to the extent possible, the required evidence of the student's knowledge and skills in the subject at issue.
4. IEP Teams address each page and section of the IEP, including IEP 7: State or District-Wide Assessment and designate how the student will participate in the MCAS and other district-wide assessment programs.
5. Special education contacts ensure that accommodations are appropriately applied and those required during district and state assessments are provided routinely throughout the instructional day.
6. The special education office will provide access to all special education teachers by posting the *MCAS Requirements for Students with Disabilities* on the district's website under the Special Education Department. Teachers are expected to be familiar with the accommodation requirements. MSAC accommodations will be reviewed annually with special education teachers who attend school-based IEP trainings.
7. A copy of the manual will also be available in each school to all instructional staff. Follow-up teaching will be provided individually through individual plan reviews and at school staff meetings and small group sessions as requested by the school principal.
8. The Team will consider all MCAS assessment options, including alternate assessment. Teams will refer to *MCAS Requirements for Students with Disabilities* as indicated when developing the IEP.
9. If a parent or student wishes to appeal high school MCAS results, the appeal is made to the school principal. Student must meet the following three eligibility criteria:
  - a. For ELA and mathematics, the student must have taken the test at least three times. For science, the student must have taken the test at least twice.
  - b. The student must have maintained the 95% minimum attendance rate during the previous and current school year.
  - c. The student must have participated in tutoring or other academic support services provided or approved by the district.

In addition, the student must have a cohort group of at least seven students in the school who took the same sequence of course as the student did AND who passed the MCAS test in the subject area of the appeal.

10. A night school or summer school course in Physical Science, Biology, English or Math does not give the student a cohort option. Therefore, night and summer school for these courses is not recommended if a student has a score of below 220 on MCAS Math, English or Science.
11. Contracts with out-of-district schools include language requiring MCAS testing as required in regulations.

**State Requirements**

St. 2003, c. 140, s. 119;  
603 CMR 30.05(2),(3),(5)

**Federal Requirements**

20 U.S.C. 1412(a)(16)

*SE 5 is related to State Performance Plan Indicator 3. (See <http://www.doe.mass.edu/sped/spp/>.)*

*Also see Administrative Advisories SPED 2002-4-REVISED: Special Education Students in Out-of-District Placements – Participation in MCAS Testing and High School Graduation Standards and SPED 2004-2: AYP and Students with Disabilities.*

**Purpose:** The purpose of this procedure is to ensure that the IEP Team discusses the student’s transition needs annually, beginning no later than when the student is 14 years old, and documents its discussion on the IEP and the Transition Planning Form.

**Procedure:****SE 6 Determination of transition services**

1. The Team discusses the student’s transition needs annually, beginning no later than when the student is 14 years old, and documents its discussion on the Transition Planning Form.
2. The Team reviews the Transition Planning Form annually and updates information on the form and the IEP, *Additional Information, Vision, and goals*, as appropriate.
3. For any student approaching graduation or the age of 22, the Team determines whether the student is likely to require continuing services from adult human service agencies. In such circumstances, the administrator of special education makes a referral to the Bureau of Transitional Planning in the Executive Office of Health and Human Services in accordance with the requirements of M.G.L. c. 71B, §§12A-12C (known as Chapter 688), and subsequently invites the agency representative to all future IEP meetings.
4. In cases where the IEP included needed transition services and a participating agency other than the school district fails to provide these services, the Team reconvenes to identify alternative strategies to meet the transition objectives.
5. All students 14 years and older are invited to IEP meetings and parents are encouraged to allow them to attend for all or part of the meeting.
6. IEP Teams address each page and section of the IEP, including IEP 8: Additional Information which addresses transition and the need for a 688 referral.
7. The Team chair incorporates transition planning resulting in the completion of a Transition Plan into the annual meeting of all students aged 14 and older.

**State Requirements**

M.G.L.c.71B, Sections 12A-C  
603 CMR 28.05(4) I

**Federal Requirements**

34 CFR 300.320(b); 300.321(b);  
300.322(b)(2); 300.324(c)

*SE 6 is related to State Performance Plan Indicators 1, 13, and 14.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*For the Transition Planning Form, see  
[http://www.doe.mass.edu/sped/IDEA2004/spr\\_meetings/iep.html](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/iep.html) – tpform*

**SE 7 Transfer of parental rights and student participation and consent at age of majority**

1. One year prior to the student reaching age 18, the district informs the student and the parent/guardian of the rights that will transfer from the parent/guardian to the student upon the student’s 18<sup>th</sup> birthday. The notification provided to both the student and the parent/guardian must explicitly state that all rights accorded to parents under special education law will transfer to the 18 year old. (17 year letter)
2. Upon reaching the age of 18, the school district implements procedures to obtain consent from the student with decision-making authority to continue the student’s special education program. (18 year letter)
3. The district continues to send the parent written notices and information after the student turns 18, but the parent will no longer have decision-making authority, except as provided below.
  - a. If the parent has sought and received guardianship from a court of competent jurisdiction, then the parent retains full decision-making authority. The parent does not have authority to override any decision or lack of decision made by the student who has reached the age of majority unless the parent has sought or received guardianship or other legal authority from a court of competent jurisdiction.
  - b. The student, upon reaching the age of majority and in the absence of any court actions to the contrary, may choose to share decision-making with his or her parent (or other willing adult), including allowing the parent to co-sign the IEP. Such choice is made in the presence of the Team and is documented in written form. The student’s choice prevails at any time that a disagreement occurs between the adult student and the parent or other adult with whom the student has shared decision-making.
  - c. The student, upon reaching the age of majority and in the absence of any court actions to the contrary, may choose to delegate continued decision-making to his or her parent, or other willing adult. Such choice is made in the presence of at least one representative of the school district and one other witness and is documented in written form and maintained in the student record.
4. The high school special education clerk monitors the age of majority process, sends out notices, and schedules a meeting for parents and the student to come in to the sped office or school when the decision time comes. Documentation is kept in a separate folder in the student’s ‘current year’ folder in the sped file.
5. The discussions of the age of majority takes place at the IEP meeting and is documented on The Additional Information page of the IEP. The decision-making authority is decided by the student in the presence of the Team or in the presence of a representative of the school district and one other witness.
6. The high school special education clerk sends the student and parent of all 17 year old students a letter informing them of the student’s right at age 18 to decide to make all decisions in relation to special education programs and services. A copy of the Procedural Guidelines is enclosed with the letter.
7. Upon reaching the age of 18, the high school special education clerk provides the parent and student with a second letter regarding the student’s options for decision-making authority for his/her special education program, including whether to continue services.
8. The sped contact contacts the parents to schedule a time for the parent to come to the high school and participate with the student and school representatives in the student’s decision regarding delegation of educational decision-making authority.
9. The student is asked to sign the current IEP unless s/he gives authority to another person or has a court appointed guardian or other legal documentation assigning rights to another person.

**State Requirements**  
603 CMR 28.07(5)

**Federal Requirements**  
34 CFR 300. 320I, 300.520

**Purpose:** The purpose of this procedure is to ensure that the make up of the IEP Team includes those persons mandated by regulations.

**Procedure:**

**SE 8 IEP Team composition and attendance**

1. The Westport Community Schools schedules IEP meetings using the state mandated letter of invitation and notices. In addition, a letter is sent or a call is made to the parent by the special education clerk to schedule a mutually agreed upon and convenient meeting time. The same staff member also makes a courtesy call to the parent a day or two before the meeting as a reminder to the parent. The first scheduling contact is made at least four weeks prior to the meeting due date to allow for sufficient lead time to offer varied dates and methods of meeting and still get the invitation to the parent at least 10 days before the meeting due date.
2. If attempts to communicate with the parent/guardian are unsuccessful and a mutually agreed upon date cannot be set, the sped clerk will schedule the meeting. The parent will be informed of the date and time in a final phone call and the invitation sent within the time frame of parent receipt at of at least 10 days prior to the meeting date.
3. Services providers and teachers are also provided the invitation as soon as a date is arranged, at least 10 days before the meeting due date.
4. If neither parent can attend, the district uses other methods to ensure parent participation, including individual or conference telephone calls, or video conferencing.
  - The parent is sent a form with the invitation which offers the opportunity to request that the meeting be held without the parent being physically in attendance in the event the parent becomes unable to attend. Follow-up with the parent after the meeting and the option to convene the team with some or all members present completes this alternative method of participation. This alternative method can only be implemented if the excusal form is signed by the parent and returned to the school.
  - If an emergency occurs and the parent cancels on the morning of the meeting or does not show up for the meeting, a phone call is made to the parent's home and/or work to ask if they can participate by phone.
  - If, in any case, the parent refuses an alternate method or says the meeting requires his/her presence, the meeting is rescheduled to a time when the parent can attend and a second invitation with the form which presents alternate methods of participation.
  - The Westport Community Schools makes reasonable efforts to get parents to attend and participate in all IEP meetings schedules, if necessary reschedules meetings to a convenient time, and offers the parent an alternate meeting each time a meeting is scheduled or the parent cannot attend.
6. If three attempts ('reasonable efforts') to invite parents are made with unsuccessful outcomes and parents have not agreed to an alternative meeting plan based on the IDEA 2004 (sec614 (a) (I)(ii)(II)) the district conducts the Team meeting with the assurance that the student's special education contact will contact the parent following the meeting to convey the content of the meeting.
7. The special education clerk documents efforts made to schedule and reschedule IEP meetings with information from direct communication with the parent or from information provided by other team members who may have communicated with the parent.
8. Members of the Team attend all Team meetings, unless the school district and that parent agree that the member's attendance is not necessary, with any input that s/he has related to the IEP. The parent's agreement to excuse is documented in writing (attachment#3). If an excused Team member has input considered necessary to the development of the IEP, that member may contact the parent to discuss the student prior to the meeting and provide a written report. Input from the excused members is attached to the IEP.
9. After every IEP meeting the parent is asked to complete an informational survey regarding his/her experience with the IEP process. The surveys are reviewed with special education staff at mid-year to ensure quality programming and address issues or concerns.

10. The following persons are members of the IEP Team and may serve in multiple roles:
  1. The student's parents.
  2. A representative of the school district who acts as Chairperson and who is
    - (a) qualified to supervise or provide special education;
    - (b) is knowledgeable about the general curriculum; and
    - (c) is knowledgeable about the availability of resources of the district.
  3. A representative of the school district, as designated by the Principal, who has the authority to commit the resources of the district (and who may act as the chairperson).
  4. If the student *may* be involved in a general education program, a general education teacher. If the student *is* involved in a general education program, a general education teacher of the student. If the student is participating in a special education program, a special education teacher of the student or, if appropriate, a special education provider for the student.
  5. The student, if one purpose of the meeting is to discuss transition services or if otherwise appropriate and if he/she chooses.
  6. Other individuals at the request of the student's parents. The parent may bring persons whom s/he feels have relevant input into the development of the IEP or to provide support.
  7. An individual who is qualified to interpret the instructional implications of evaluation results, who may be any one of the persons identified in parts 2 – 4 above.
  8. Other individuals who may be necessary to write an IEP for the student, as determined by the administrator of special education.
  9. When one purpose of the Team meeting is to discuss transition services, with the consent of the parent(s) or student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services is invited to the Team meeting. This person is the representative identified from the 688 agency. As soon as the district sends in the 688 referral, that agency becomes a member of the student's IEP Team. If the representative(s) does not attend the meeting, the school district takes other steps to obtain the participation of these agencies.
  10. When one purpose of the Team meeting is to discuss placement, a person knowledgeable about placement options is present at the meeting.
  11. The Principal chairs each IEP meeting unless s/he specifically delegates the responsibility to another staff person. By delegating the responsibility of chairmanship, the Principal is authorizing the person to commit the resources of the district during the team meeting.
  12. Parents may tape record the meeting if the district is informed of the intent in advance. In the event the parent records the meeting, the district may also make a recording.
  13. If a parent brings legal counsel to the meeting without informing the district, the district may elect to reschedule the meeting for a time when it can also have legal counsel present.
  14. The school-based special education clerk prepares an IEP meeting packet prior to each meeting. The packet contains the required documentation needed depending on meeting type and grade level.
    - a) Initial and re-evaluation meetings: eligibility flow chart, meeting notes form, meeting summary, invitation/ attendance sheet, blank excusal forms, Medicaid form, parent input form, completed assessments (including copies for parents), SLD forms if applicable,
    - b) Review meetings: meeting summary, meeting notes form, invitation/ attendance sheet, blank excusal forms, Medicaid form, parent input form, parent survey.
    - c) High school meetings: Transition-related documents including a blank 688 form, 17 year or 18 year letter, and age of majority documents, as indicated.



15. The school-based special education clerk monitors the meeting dates of IEP meetings, sends invitations to Team members at least ten days prior to the meeting date, provides the Team chair with required documents, and tracks the completion and submission of the IEP and related documents.

**State Requirements**

603 CMR 28.02(21)

**Federal Requirements**

34 CFR 300.116(a); 300.321; 300.328  
See also, in the IDEA 97 regulations, 34  
CFR Part 300, Appendix A, Question #22

*Part 1 of SE 8 is related to State Performance Plan Indicator 8.*

*Parts 5 and 10 are related to State Performance Plan Indicators 13 and 14.*

(See <http://www.doe.mass.edu/sped/spp/>.)

**Purpose:** The purpose of this procedure is to ensure that the determination of eligibility and provision of documentation to the parent meets the mandated timelines. The district also ensures that the determination process includes all of the required elements and appropriate response to the Team's analysis of the information and Team decision.

**Procedure:**

**SE 9 Timeline for determination of eligibility and provision of documentation to parent**

1. Within 45 school working days after receipt of the parent's written consent to an initial evaluation or a reevaluation, the school district determines whether the student is eligible for special education and provides to the parent either a proposed IEP and (except in cases covered by 603 CMR 28.06(2)(e)) proposed placement or a written explanation of the finding of no eligibility.
2. If the school is making a request for evaluation for evaluation, the Principal sends the special education clerk a referral form and supporting data. The special education clerk logs in receipt of the referral and sends it to the school psychologist. Requests from the school-based Instructional Support Team (IST) must be accompanied by a complete IST packet.
3. If a request is received directly from the parent or services provider, the same process is followed, except that the school psychologist calls the parent to discuss the request and the classroom/ homeroom teacher completes the special education referral.
4. The school psychologist reviews the data, collects other information as deemed necessary and assigns assessments and evaluators and gives the assessment information to the sped clerk.
5. The sped clerk completes the N1 and sends it and an optional Student Information form to the parent.
6. The school-based sped clerk sends the completed N1 to the parent within 5 days of receiving the request.
7. Upon receipt to the signed Parent Consent Form, the sped clerk logs it in completes a Notice of Evaluation which lists the staff assignments for the testing and sends the form to each person assigned to conduct an evaluation and the special education contact person.
8. The Notice of Evaluation contains the date by which assessments must be completed, 30 days after the receipt of parental consent, and the date by which the meeting must be held, 45 days from the receipt of consent.
9. The special education clerk convenes a Team meeting, sends invitations to Team members, and other required documents to the sped contact.
10. The school-based special education clerk tracks the timelines and required IEP documentation through the eligibility process, determination of eligibility and placement if indicated.

**State Requirements**

603 CMR 28.05(1); 28.06(2)(e)

*SE 9 is related to State Performance Plan Indicator 11.*

*(See <http://www.doe.mass.edu/sped/spp/>.)*

## **SE 9A Elements of the eligibility determination; general education accommodations and services for ineligible students**

1. To determine whether a student is eligible for special education, the school district:
    - a. provides an evaluation or re-evaluation
    - b. convenes a Team meeting
    - c. determines whether the student has one or more disabilities
    - d. determines if the student is making effective progress in school
    - e. determines if any lack of progress is a result of the student's disability
    - f. determines if the student requires special education and/or related services in order to make effective progress or if the student requires related services in order to access the general curriculum.
  2. The Team reviews and analyzes assessments and input from Team members and others in attendance and after discussion, responds to the questions on the eligibility Flow Chart.
  3. If a Team determines that a student is not eligible for special education but may be eligible for accommodation(s) for disability(ies) under Section 504, the student is referred for consideration by the district for eligibility under that general education program.
1. When the student does not need any direct services, the Team makes a finding of no eligibility and appropriate services are provided through the district's general education program.
  2. When the student's lack of progress is due to a lack of instruction in reading or mathematics, limited English proficiency, social maladjustment, or is due to an inability to meet the school discipline code but is not due to a disability, the district makes a finding of no eligibility for special education and may refer the student to a more appropriate instructional program or support service.
  3. If the student is found to be *not eligible*, the Team discusses and includes in the Meeting Summary, programs, accommodations, and services that may be provided or are available through general education. The recommended programs are described in the *relevant factors* response on the N2.
  4. The Team may recommend a referral to the 504 team or to the Principal for a District Accommodation Plan. This recommendation may also be included in the N2 (*relevant factors*).
  5. If the student is found eligible, the IEP is developed, the sped contact provides the parent with a copy of a Team Meeting Summary describing proposed services and the focus of IEP goals.
  6. If additional information is needed to develop an IEP for an eligible student, an extended evaluation may be proposed.
  7. If a student is found eligible, the IEP Team must consider whether the student possesses the skills and proficiencies needed to respond to bullying/harassment/teasing for students whose disability/disabilities impact social skills development; make him/her vulnerable to bullying/harassment/teasing. Documentation of the discussion is included in the "Additional Information" section of the IEP for students whose disability/disabilities: impact social skills development; make him/her vulnerable to bullying/ harassment/teasing; or are on the autism spectrum. (*See Procedure Se18A for suggested wording.*)
  8. The N1 or N2 is completed by the special education teacher assigned to attend the meeting and sent to the parent with a copy of the procedural guidelines within 10 days of the meeting provided a Meeting Summary is completed.

### **State Requirements**

603 CMR 28.05(1) and (2)

### **Federal Requirements**

34 CFR 300.8; 300.306

*Also see* Administrative Advisory SPED 2001-4: Finding of No Eligibility for Special Education.

**SE 10 End of school year evaluations**

1. If consent is received between 30 and 45 school working days before the end of the school year, the school district ensures that a Team meeting is scheduled so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible no later than 14 days after the end of the school year.
2. The special education director identifies the dates of the 30<sup>th</sup> and 45<sup>th</sup> days before the end of the school year and provides the dates to the special education secretary and school-based sped clerks.
3. If consent is received between the 30 and 45 day dates, the determination meeting is scheduled and eligibility determined, and a proposed IEP or N2 is provided to the parent no later than 14 days after the end of the school year.

**State Requirements**  
603 CMR 28.05(1)

**Federal Requirements**  
34 CFR 300.323

*SE 10 is related to State Performance Plan Indicator 11. (See <http://www.doe.mass.edu/sped/spp/>.)*

### **SE 11 School district response to parental request for independent educational evaluation**

1. If a parent disagrees with the initial evaluation or re-evaluation completed by the district, and the parent requests an independent evaluation, the information is provided by the special education contact or clerk to the special education secretary who contacts the parent and follows the established IEE procedure:
  - a. The Director of Special education contacts the parent to determine the areas of dissatisfaction. The parent is asked to put the request in writing for the students file. An NI is sent to the parent within 5 days of the discussion with the sped director or receipt of a letter, whichever comes first, when evaluations are identified. If the request is by letter, and the district is agreeing to provide the assessments, the parent is called to discuss assessments and process.
  - b. At the initial point parent is asked if s/he has someone in mind to provide the evaluation(s). A list of evaluators may be provided to the parent. All independent educational evaluations funded by the district are conducted by qualified persons who are registered, certified, licensed, or otherwise approved and who abide by the rates set by the state agency responsible for setting such rates.
  - c. Unique circumstances of the student are to be justified when an individual assessment rate is higher than that normally allowed.
  - d. The district offers parents the option of participating in an income eligibility program for free or reduced cost independent educational evaluations that are equivalent to the types of assessments done by the school district.
  - e. The district asks that parent if s/he is willing to use insurance to pay for all or part of the evaluation. The district usually agrees to pay the balance not covered by insurance if the parent agrees to cost-share.
  - f. The district extends the right to a publicly-funded independent educational evaluation (only if cost shared or funded for state wards or for students receiving free or reduced cost lunch) for 16 months from the date of the evaluation with which the parent disagrees.
  - g. If the parent is requesting an evaluation in an area not assessed by the school district, or if the student does not meet or the parent does not choose to share the financial documentation regarding the income eligibility standards for free or reduced cost independent educational evaluation, then the WCS responds in accordance with the requirements of federal law by paying for the independent educational evaluation or, within 5 school days, proceeding to the Bureau of Special Education Appeals (BSEA) to show that its evaluation was comprehensive and appropriate.
  - h. Whenever possible, the independent educational evaluation is completed and a written report sent no later than 30 days after the date the parent requests the independent educational evaluation. If publicly funded, the report is sent to the parents and to the school district.
  - i. The independent evaluator's report summarizes, in writing, procedures, assessments, results, and diagnostic impressions as well as educationally relevant recommendations for meeting identified needs of the student. The independent evaluator recommends appropriate types of placements but does not recommend specific classrooms or schools.
  - j. Within 10 school days from the time the school district receives the report of the independent educational evaluation, the Team reconvenes and considers the independent educational evaluation (which may be publicly or privately funded) and whether a new or amended IEP is appropriate.

#### **State Requirements**

603 CMR 28.04(5)

#### **Federal Requirements**

34 CFR 300.502

*Also see Administrative Advisories SPED 2001-3: Guidance on Using a Sliding Fee Scale*

## **SE 12 Frequency of re-evaluation**

1. When the student's needs warrant it or a parent or teacher requests it, the school district, with parental consent, conducts a full re-evaluation consistent with the requirements of federal law, provided that:
  - a. a re-evaluation is conducted every 3 years unless the parent and district agree that it is unnecessary, and
  - b. a re-evaluation is conducted no more frequently than once a year unless the parent and district agree otherwise.
2. The district implements re-evaluation procedures in all cases where it is suspected that a student is no longer eligible for special education, except that no re-evaluation is required before the termination of eligibility because a student has graduated with a general high school diploma or exceeded the age of eligibility.
3. The school psychologist will review the list of reevaluations due prior to the start of the school year and, based on disability and placement; will identify those students who will be evaluated during the upcoming year and at least 90 day before the evaluation due date, provide the sped clerk with the appropriate assessments to include on the consent form. If re-evaluation is not indicated a recommendation not to re-evaluate may be made to the parent and a waiver requested.
4. Re-evaluation will be provided if the parent does not accept the recommendation not to reevaluate.
5. The psychologist gives a list of assessments to the sped clerk who completes the evaluation consent form and sends it to the parent at least 90 days prior to the due date. When the consent form is returned, the Notice of Evaluation is completed, signed by the special education director and distributed to evaluators.
6. The district will initiate a re-evaluation if it is suspected that the student is no longer eligible for special education, but not in the cases of graduation or exceeding the age of eligibility.
7. Upon agreement between the parent and district, the re-evaluation may be provided earlier than 3 years, but not less than 1 year.
8. The special education clerks monitor and track all times and paperwork associated with the reevaluation process.

**State Requirements**  
603 CMR 28.04(3)

**Federal Requirements**  
34 CFR 300.303; 300.305(e)

### **SE 13 Progress reports and content**

1. Progress reports provide written information on the student's progress toward annual IEP goals.
2. Parents receive reports on the student's progress toward reaching the goals set in the IEP at least as often as parents are informed of the progress of non-disabled students, which in Westport is concurrent with the report card schedule.
3. The sped contact is responsible for ensuring that related service providers enter progress reports into the IEP computer program. If progress reports are not completed by providers by several days before the due date, the sped contact will inform the sped clerk who will contact the provider.
4. Two- three weeks prior to the end of the term, the sped clerk emails the sped contact to remind them that the progress reports are due and must be sent to parents, and to ask that the clerk be informed when they are completed in the computer.
5. High school progress reports may be sent to the parent under separate cover from the report card because progress in the goal may reference grades which are not known until the report cards are distributed. In this case, reports are sent right after the grades are made public.
6. The sped contact informs the sped clerk when the progress reports are complete, and the clerk prints out copies for distribution and the file.
7. The sped clerk ensures that progress reports are attached to the back of file copies and copies of staff.
8. The sped clerk files the progress reports as described above in the central file at the special education office.
9. The special education contact completes a Summary of Student Performance, and an N1 proposing termination of special education for all students who graduate from high school or exceed the age of eligibility. The sped contact sends copies to the school-based sped clerk who sends a copy to the student, parent if there is designated or shared decision-making, and places a copy in the student's special education file.

**State Requirements**  
603 CMR 28.07(3)

**Federal Requirements**  
34 CFR 300.305(e)(3); 300.320(a)(3)

#### **SE 14 Review and revision of IEPs Annual Review/ Re-evaluation:**

1. At least annually, on or before the anniversary date of the IEP, a Team meeting is held to consider the student's progress and to review, revise, or develop a new IEP or refer the student for a re-evaluation, as appropriate.
2. The IEP Team reviews and revises the IEP to address any lack of expected progress towards the annual goals and in the general curriculum.
3. The school-based sped clerk provides each special education contact with a list of assigned students which includes IEP service information (start and end dates, last review date, and next review and re-evaluation dates) at the beginning of each school year.
4. The school-based special education clerk monitors the date of the last IEP meeting, and six weeks prior to that date, contacts the parent to set an annual review meeting. (review or re-evaluation meeting as indicated)
5. The IEP meetings are scheduled at times convenient to the parent. Parents are given at least two weeks written notice of the scheduled IEP meeting. (The district tries to schedule the meetings to provide the parent with 30 days to review the IEP after the plan is sent to the parent)
6. Special education clerks provide an 'IEP packet' to the special education contact person which contains forms to facilitate the completion of required paperwork. The packet may include an invitation, attendance sheet, excusal form, teacher and parent/ student input forms, flow chart, extended evaluation form, age of majority letters and form, 688 form, meeting summary, and release form, as indicated by the type of meeting and circumstances.
7. Related service providers must have completed their portions of the IEP for discussion at the meeting. It is not expected that the sped contact will need to "chase" providers for their information.
8. The Chair of the IEP facilitates the meeting and development of the IEP using the suggested *IEP Development Meeting Guidelines*.
9. The Team Chair completes a Meeting Summary and provides a copy to the parent at the end of each IEP meeting. The parent is asked to initial receipt of the summary.
10. The sped contact completes or ensures the completion of all sections of the IEP and related documents and submits them to the sped clerk within 5 school days after the meeting. The sped clerk attaches a completed self assessment, the IEP Checklist, as the cover of the IEP packet.
11. The sped contact informs the sped clerk, the Principal and Sped Director if any responsible staff person does not complete his/she IEP documentation by the 5 day timeframe.
12. The sped clerk logs in receipt of the IEP packet and sends it to the special education office within one day of receipt.
13. The reviewed packet is returned to the sped clerk who sends two copies of the proposed IEP to the parent/guardian within 10 days of the conclusion of the meeting.
14. District staff may not unilaterally make changes to the IEP. Changes may be made to the proposed IEP prior to parent acceptance at the request of the parent/ district as agreed upon by the district and parent.

#### **Amendments:**

1. In between annual IEP meetings the district and parent may agree to make changes to a student's IEP, documented in writing, without convening a meeting of the Team. Upon request, a parent is provided with a revised copy of the IEP with the amendments incorporated.
2. If the sped contact feels that the IEP needs a minor revision, s/he contacts the parent who may agree to make changes with or without a Team meeting.
3. If the parent contacts the special education contact asking for an amendment to the IEP, the contact will bring the issue to the school-based sped administrator and action determined.
4. If the parent wants to come in to discuss the proposed changes, a meeting will be scheduled.
5. All major changes to the IEP require a Team meeting.
6. IEP completed amendments are sent to the parent for acceptance. Plan revisions cannot be implemented until an acceptance signature is received.



7. The sped clerk will send a revised IEP copy with change(s) incorporated at the parent's request, otherwise changed pages will be sent with the explanation described in the amendment documentation. .
8. The accepted amendment will be provided to all service providers who will attach it to the front of the accepted IEP.

**State Requirements**  
603 CMR 28.04(3)

**Federal Requirements**  
34 CFR 300.324(a)(4), (6) and (b)

**Purpose:** The purpose of this procedure is to ensure that the District identifies and contacts local agencies and organizations that provide educational services to children who may have a current need or who may through promotion or transfer enter the Westport Community Schools in need of special education services.

**Procedure:****SE 15 Outreach by school district**

1. The special education administrator and early childhood coordinator collaborate to send notices containing referral information to groups which may be in the position to identify students in need of special education annually (each spring). Each notice includes a request for response.
2. Outreach may include the following groups:
  - professionals in community,
  - private nursery schools,
  - day care facilities,
  - group homes,
  - parent organizations,
  - clinical /health care agencies,
  - early intervention programs,
  - private/parochial schools,
  - agencies serving migrant and/or homeless persons pursuant to the McKinney-Vento Education Act for Homeless Children.
3. The special education administrator and early childhood coordinator review the responses and respond back to the group as indicated.
4. District staff communicates and/or meet with referring agencies on an as-needed, or ongoing basis as indicated.
5. District staff provides at least annual contact with providers of eligible students through annual review meetings and on other occasions as requested or indicated.

**State Requirements****Federal Requirements**

34 CFR 300.111; 300.131; 300.209

*SE 15 is related to State Performance Plan Indicator 12.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

## **SE 16 Screening**

1. The early childhood coordinator coordinates annual screening for all children of age to enter kindergarten to review development and to assist in the identification of a referral for eligibility for special education.
2. Entering kindergarten students are scheduled for screening upon registration for kindergarten. Screenings are scheduled beginning in May prior to the student's kindergarten school year. Students enrolled in the Macomber Primary School Preschool are screened by their preschool teachers in May.
3. Entering kindergarten students are screened using the Brigance K & 1-Screen-II. The Brigance K & 1-Screen-II is designed to identify potential learning delays and giftedness in language, motor, self-help, social-emotional, and cognitive skills. A Developmental Questionnaire is administered to the caregivers to provide further information about the student's developmental history.
4. Three and four year old students not entering kindergarten are screened upon request by parent/guardian or early childhood provider. Three and four year child screenings are conducted by the Early Childhood Coordinator throughout the year.
5. The community is informed of the option for screening of three and four year olds through the district's website, local community access channel, and through Student Find outreach, which includes annual direct mailings to local early childhood providers.
6. Three and four year olds are screened using the Brigance Preschool Screen-II, which is designed to identify potential learning delays and giftedness in language, motor, self-help, social-emotional and cognitive skills.
7. Parents/guardians are informed of the results following the screening. If a need for further evaluation is indicated by the screening results, parents/guardians are informed of this and Consent for Evaluation is sought.
8. Parents are informed in the screening announcement that participation in the screening for three and four year olds is optional on the part of the parent.

**State Requirements**  
603 CMR 28.03(1)(d)

**Federal Requirements**

**SE 17 Initiation of services at age three and early intervention transition procedures**

1. Where at all possible the school district accepts referrals from the Department of Public Health, other agencies, and individuals for young children who are two-and-one-half years old or older in order to ensure continuity of services and to ensure the development and implementation of an IEP for eligible children by the date of the student's third birthday in accordance with federal requirements.
2. Children referred prior to their 3<sup>rd</sup> birthday are determined eligible (or not) and an IEP developed as indicated by the student's 3<sup>rd</sup> birthday.
3. The district implements procedures to ensure the effective transition of young children with disabilities from Early Intervention Programs through participation in transition planning conferences arranged by such programs.
4. The early childhood coordinator/designee participates in transition planning activities to ensure effective transition from Early Intervention Programs.

**State Requirements**  
603 CMR 28.06(7)(b)

**Federal Requirements**  
34 CFR 300.101(b); 300.124; 300.323(b)

*Part 1 of SE 17 is related to State Performance Plan Indicator 12.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**Purpose:** The purpose of this procedure is to ensure that, upon determining a student eligible for special education, the District convenes an IEP Team, develops an IEP, and identifies an appropriate placement located in the least restrictive setting for which the services can be delivered and implements the accepted IEP without delay.

**Procedure:**

**SE 18A IEP development and content**

1. The Principal chairs each IEP meeting unless s/he specifically delegates the responsibility to another staff person. By delegating the responsibility of chairmanship, the Principal is authorizing the person to commit the resources of the district during the team meeting. A list of people authorized to commit resources is created by each Principal and a copy is located in the special needs office.
2. Upon determining that the student is eligible for special education, the Team, including the parent(s), develops an IEP at the Team meeting.
3. The IEP is completed addressing all elements of the most current IEP format provided by the Department of Elementary and Secondary Education.
4. The school district ensures that the IEP will not be changed at a higher administrative level within the district. At the conclusion of an initial IEP Team meeting where a student is found eligible for special education, an IEP is developed.
5. The district provides annual training on the IEP process, individual feedback on completing the IEP, and periodic information regarding the expectation and quality of content.

The chairperson follows a meeting format that contains the following elements:

- Greeting and identification of the chairperson.
  - Introductions and signing of attendance sheet. Complete excusal form if needed.
  - The reason for the meeting. The three main meeting types are *Initial* which determines that the student has a disability which requires specialized instruction or related services to make educational progress; *Reevaluation* which determines the need for continued special education services, usually every three years; *Review* which annually reviews progress, updates goals, and discusses the need to reduce or increase services and proposes the appropriate action.
  - Development of the IEP page by page. Each section has a statement of what information needs to be provided. Do not skip any sections or questions.
  - Determine placement: the most appropriate setting for services to be provided. (See SE18B)
  - Related documentation, such as the Transition Planning Form is completed.
  - Completed the meeting summary and ask the parent to initial. (See SE18B)
  - Before ending the meeting is ended, review IEP packet to be sure that all documents have been completed.
6. The IEP Team considers the need to address skills and proficiencies that the student needs to avoid and respond to bullying, harassment, or teasing if the evaluation indicates that a student's disability affects social skills development, or when the student's disability makes him or her vulnerable to bullying, harassment, or teasing and addresses the need on the IEP in a goal, PlepB, and / or Additional Information. Suggested wording included in Additional Information, to be individualized for the student follows.

*The IEP Team considers and specifically addresses the skills and proficiencies needed for students identified with a disability on the autism spectrum to avoid and respond to bullying, harassment, or teasing and addresses the need on the IEP in a goal, PlepB, and / or Additional Information. "At the TEAM meeting on ....., the TEAM reviewed.....'s needs in the area of social skills development, emotional resilience and the development of his/her self-advocacy skills in order to avoid and respond to bullying and*

teasing. The TEAM agreed that .....is in need of further assistance in these areas. Therefore, these skills are specifically addressed on PLEP B as well as in goal., objective....with services by the .....

**OR**

“At the TEAM meeting on ....the TEAM reviewed.....’s needs in the area of social skills development, emotional resilience and the development of his/her self-advocacy skills in order to avoid and respond to bullying and teasing. The TEAM agreed that....demonstrates age appropriate skills in this area and that no further intervention or specific instruction is needed at this time. The TEAM will revisit the issue on an ongoing basis.”

9. Draft IEP:

- A Draft IEP may be developed by the district prior to the IEP meeting and used as the basis of the discussion at the meeting. If this is the case, a Draft copy is provided to the parent at the meeting.
- The current IEP may be used as a basis of discussion and revised and updated as the meeting progresses.
- If the meeting results in the development of an IEP with which the parent is in agreement, s/he may sign acceptance at the meeting.
- A meeting summary is completed at the conclusion of each IEP meeting and presented to the parent to sign agreement that the content of the summary reflects what was discussed at the meeting.
- Initialing the summary is not acceptance of a plan, nor is it inclusive of what the district may propose in the IEP.
- A draft IEP, meeting summary, input provided by parents, students, and other team members and /or meeting notes may be used to develop a new IEP that is written by the district after the meeting and proposed for review and action to the parent in a timely manner.

10. When Team members are unable to agree on the IEP:

- The Chairperson facilitates to determine the reason(s) for the disagreement. If additional information is needed, a course of action, such as an extended evaluation or additional assessments may be proposed.
- Team members may decide to reconvene and continue the meeting at another time if additional time is needed to develop the IEP. In this case the IEP is considered ‘paused’ and resumed at another date with the initial meeting date used as the annual meeting review date. The meeting is recorded as requiring two (or more) meeting dates with attendance sheets.
- If staff have provided input at the first part of the meeting, and are no longer needed for the second half, their absence is not considered an absence and would not require an excusal form.
- If the disagreement is because the parents are rejecting services proposed by the district and agreement cannot be met. The district concludes the meeting recognizing the disagreement and informing the parent/ guardian of the procedural guidelines including the appeals process.
- The district develops the IEP and/ or N1 or N2. The proposal or decision is provided to the parent for response.
- If the meeting results in an N2 or termination of services, Procedural Guidelines are sent with the notice.

**State Requirements**  
603 CMR 28.05(3)

**Federal Requirements**  
IDEA-97: 34 CFR Part 300, Appendix A, and Question #22

### **SE18B Determination of placement**

1. At the Team meeting, after the IEP1-8 has been fully developed, the Team determines the appropriate placement to deliver the services on the student's IEP.
2. Unless the student's IEP requires some other arrangement, the student is educated in the school that he or she would attend if s/he did not require special education.
3. The decision regarding placement is based on the IEP, including the types of related services that are to be provided to the student, the type of settings in which those services are to be provided, the types of service providers, and the location at which the services are to be provided.
4. If the placement decision is complex, (i.e. change in placement) a separate placement meeting may be held within 10 days of the IEP meeting or later at the request of the parent.

### **Provision of the IEP to parent**

1. Immediately following the development of the IEP, the district provides the parent with two (2) copies of the proposed IEP and proposed placement along with the required notice, except that the proposal of placement may be delayed according to the provisions of 603 CMR 28.06(2)(e) in a limited number of cases (#4 above).
2. At the conclusion of the meeting, a Meeting Summary is provided to the parent.
3. By the fifth day after the meeting, the special education contact completes all sections of the IEP as described in the Meeting Summary, writes a District Proposal which formally proposes the student's IEP to the parent (guardian, adult student), attaches all other relevant documentation, uses the IEP Checklist to self-check for completeness, and sends the entire packet to the school-based sped clerk who logs-in and checks to ensure the inclusion of all required forms and pages are completed.
4. The sped contact informs the sped clerk, the Principal and Sped Director if any responsible staff person does not complete his/she IEP documentation by the 5 day timeframe.
5. The sped clerk sends the complete IEP packet to the assigned special education administrator for a final review against the checklist.
6. If the final review indicates that all sections of IEP and supporting documents have not been comprehensively addressed, The IEP is returned to the sped contact and the corrections made. No changes are made to the content of the IEP services, goals or placement as developed at the meeting.
7. On occasion, the parent may request minor changes to the IEP after s/he has received and reviewed the proposal, but before signing acceptance. In this case, the parent may meet with the special education director and if both agree in writing (i.e. initial changes on IEP), the changes can be made without reconvening the Team. *(PQA Q & A Fall 2003 Q#18)*
8. Two copies of the proposed IEP (signed by the Principal), placement page and Notice of Proposed School District Action (N1) indicating two copies, are provided to the parent no later than 10 days after the meeting.

#### **State Requirements**

603 CMR 28.05(6) and (7); 28.06(2)

#### **Federal Requirements**

34 CFR 300.116; 300.325

*In connection with part 5, see the Memorandum on the Implementation of 603 CMR 28.05(7): Parent response to proposed IEP and proposed placement at <http://www.doe.mass.edu/news/news.asp?id=3182>*

**SE 19 Extended evaluation**

If the Team finds the evaluation information insufficient to develop an IEP, the Team, with parental consent, may agree to an extended evaluation period.

1. If the Team finds the student eligible for special education, but finds the evaluation information insufficient, a full or partial IEP is developed and
2. If the Team finds a student eligible for special education and finds the evaluation information insufficient to develop a full or partial IEP, the Team, with the parents' consent, agrees to an extended evaluation period and completed an Extended Evaluation Form.
3. The extended evaluation period is not used to deny programs or services determined to be necessary by the Team. If, prior to the extended evaluation, the Team determines that sufficient information is available to determine, in part, necessary annual goals and services, the Team writes a partial IEP that, if accepted by the parent, is immediately implemented by the district while the extended evaluation is occurring.
4. The extended evaluation period is not used to allow additional time to complete the required assessments.
5. If the parent consents to an extended evaluation, the Team documents its findings and determines what evaluation time period is necessary and the types of information needed to develop an IEP. The Team may decide to meet at intervals during the extended evaluation, but in all cases reconvenes promptly to develop an IEP when the evaluation is complete.
6. The extended evaluation may extend longer than one week, but does not exceed eight school weeks.
7. The extended evaluation is not considered a placement.

**State Requirements**  
603 CMR 28.05(2)(b)

**Federal Requirements**



**SE 20 Least restrictive program selected**

1. The program selected is the least restrictive environment for students, with consideration given to any potential harmful effect on the student or on the quality of services that he or she needs.
2. If the student is removed from the general education classroom at any time, the Team states why the removal is considered critical to the student’s program and the basis for its conclusion that education of the student in a less restrictive environment, with the use of supplementary aids and services, could not be achieved satisfactorily.(NPJ)
3. The district does not remove an eligible student from the general education classroom solely because of needed modification in the curriculum.
4. If a student’s IEP necessitates special education services in a day or residential facility or an out-of-district educational collaborative program, the IEP Team considers whether the student requires special education services and support when ready to transition back to a placement in a less restrictive program, and documents the transition plans in *Additional Information*.
5. Educating the student in the least restrictive setting is the goal of the IEP Team. Removal from the general education setting is justified on the Nonparticipation Justification section on IEP 7. The removal discussion also includes the potential harm of being removed from a setting that is less restrictive to one that is more restrictive. The benefit of the removal is included in the statement.
6. After the IEP has been fully developed, the Team determines the appropriate placement to deliver services.
7. The location of a proposed placement may be delayed if the Chairperson, with parent input, determines the need for a Placement Meeting, which must held within 10 days, or longer at the request of the parent, of the original IEP meeting.
8. The sped contact arranges for the parent to visit proposed programs and classrooms, prior to the placement meeting.

**State Requirements**  
M.G.L. c. 71B, s. 3  
603 CMR 28.06(2)

**Federal Requirements**  
34 CFR 300.114 – 120

*SE 20 is related to State Performance Plan Indicator 5.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*See also Administrative Advisory SPED 2003-1: Students placed in day or residential facilities or out-of-district educational collaborative programs.*

## **SE 21 School day and school year requirements**

1. The Team routinely considers the need for an educational program that is less than or more than the regular school day or school year, including extended day, year, and/or residential services, and indicates on the IEP why the shorter or longer program is necessary.
2. The daily duration of the student's program is equal to that of the regular school day unless the Team states that a different duration is necessary to provide a free appropriate public education to the student. In this case the Team specifies the daily duration of the program and states the reason for the different duration on the IEP.
3. Specialized transportation schedules do not impede a student's access to a full school day and program of instruction.
4. An extended day or year program is identified if the student has demonstrated or is likely to demonstrate substantial regression in his or her learning skills and/or substantial difficulty in relearning such skills if an extended program is not provided.
5. If residential services are required, the IEP clearly specifies the reasons for such determination and how such services will be coordinated with the day education services provided to the student. Additionally, the annual goals and services on the student's IEP reflect the comprehensive nature of the educational program required.
6. Camping or recreation programs provided solely for recreational purposes and with no corresponding IEP goals or specially designed instruction are not to be considered for extended year programs.
7. The Team Chair ensures that each page of IEP 8 is addressed in the development of the IEP.
8. The needs for a shorter or longer (extended) day or school year are considered at each meeting where an IEP is developed. Extended day and school year decisions are based on data and staff expertise that shows a regression of skills without the extension.
9. The Team describes the reason for the need of a day or year that is more or less than the regular school day or year, the duration of the proposed day or year and documents the information on the appropriate pages of the IEP: IEP -7 modified school year, and /or IEP 8- additional information, and /or IEP 5- service delivery grid.
10. Extended year and day programs must have corresponding IEP goals or specially designed instruction.

### **State Requirements**

M.G.L. c. 69, s. 1G  
603 CMR 28.05(4)(d) and (5)(c)

### **Federal Requirements**

34 CFR 300.106

*Also see Sped Advisory 2004-1*

## **SE 22 IEP implementation and availability**

### **New IEP:**

1. Where the IEP of the student in need of special education has been accepted in whole or in part by that student's parent, the school district provides the mutually agreed upon services without delay.
  2. At the beginning of each school year, the district has an IEP in effect for each eligible student within its jurisdiction.
  3. Each teacher and provider described in the IEP is informed of his or her specific responsibilities related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student under it.
  4. Upon receipt by of the signature pages designating a fully or partially accepted IEP by the school-based special education clerk, original signatures are sent to the special education office and filed with the IEP packet.
  5. Within 2 days of the receipt of acceptance, the sped clerk makes a copy of the accepted plan and the IEP Summary + the additional information page and Plep B, (as indicated) for the assigned special education contact.
  6. The sped contact makes copies of the IEP summary and gives them to all other persons providing special or regular education services to the student and places a copy in the school file within 2 days of receipt or the accepted IEP. Persons receiving an IEP Summary are informed that a complete IEP is available in the school files.
  7. Related service providers print their own copy of the IEP.
  8. Teachers working with teacher assistants or paraprofessionals make an IEP Summary available and review its contents in regards to their responsibilities to students.
  9. Services to the student begin without delay, but not before the district receives a signed agreement.
  10. All staff are instructed that they must implement the accepted portions of a partially accepted plan and follow the last accepted plan and continue to provide the portions in that plan that constitute 'stay-put': those portions that the parent rejected in the new plan, but were provided in the old.
  11. Partially accepted and rejected IEP's are sent to the BSEA within 5 days of receipt as required to report the rejected portions of the plan.
  12. The district contacts the parent to schedule a time to meet to try to resolve the rejected portions.
- IEP provided to staff:**
13. Each eligible student has an IEP in effect at the beginning of each school year.
  14. Principals develop class rosters and assign special education students to classes in accordance with the IEP.
  15. A student roster is provided to each special education contact person and related service provider prior to the start of the school year.
  16. Prior to the start of the student's school year, one copy of the active IEP (two IEPs may be provided if portions are rejected) and one ( or 2) copy of an IEP summary is provided to the sped contact.
  17. The sped contact makes copies of the meeting summary and provides one to each of the regular education teachers, and paraprofessionals who provides services to the student.
  18. The sped contact reviews the goals and accommodations with the regular education teachers and support staff, addressing specific responsibilities.
  19. Support staff responsibilities are assigned and monitored by the sped contact throughout the school year. The sped contact maintains ongoing communication with regular education teachers and incorporates feedback into progress reports.
  20. Related services staff prints out their own IEPs from the computer.
  21. All staff are instructed that they must implement the accepted portions of a partially accepted plan and follow the last accepted plan and continue to provide the portions in that plan that constitute 'stay-put': those portions that the parent rejected in the new plan, but were provided in the old.
  22. If a plan is completely rejected, the teacher dose not receive a signed copy, therefore knowing that the old. 'stay-put' plans stays in effect.

**Implementation and monitoring:**

23. School Principals (or designee) sign the IEP as the LEA Representative for the district and is responsible for ensuring and monitoring that the IEP is implemented as written.
24. Principals are provided with an IEP summary ensure that teachers and related service providers are fully implementing the IEP for each special education student.
25. Principals are provided with IEP summaries for each eligible student
26. Principals develop class rosters and assign special education students to classes and teachers in accordance with the IEP before the start of the school year.
27. Related service providers submit documentation of the provision of services to the school-based special education clerk each month.
28. Documentation of related services, including nursing and counseling, is sent by the clerk to the special education secretary who submits the documentation to the Medicaid school-based service program.
29. Consultation logs are kept in the school by staff providing consultation and updated as consultation is provided.
30. If the district cannot implement the IEP because of lack of personnel or classroom space, available services are provided to the extent possible; the parent is informed in writing with actions the district is taking to address the issue, and offers alternative methods to meet the IEP goals. Upon agreement, the district implements alternative methods until the issues are resolved.

**State Requirements**

603 CMR 28.05(7)(b); 28.06(2)(d)(2)

**Federal Requirements**

34 CFR 300.323

*SE 22 is related to State Performance Plan Indicator 3. (See <http://www.doe.mass.edu/sped/spp/>.)*

**Purpose:** The purpose of this procedure is to ensure that the District

**Procedure:**

**SE 24 Notice to parent regarding proposal or refusal to initiate or change the identification evaluation, or educational placement of the student or the provision of FAPE**

1. A student may be referred for an evaluation by a parent or any person in a care-giving or professional position concerned with the student's development.
2. When a student is referred for an evaluation to determine eligibility for special education, the school district sends written notice to the student's parent(s) within 5 school days of receipt of the referral, along with the district's notice of procedural safeguards. The written notice meets all of the content requirements set forth in M.G.L. c.71B, §3, and in federal law, seeks the consent of the parent for the evaluation to occur, and provides the parent with the opportunity to express any concerns or provide information on the student's skills or abilities and to consult regarding the evaluators to be used.
3. For all other actions, the district gives notice complying with federal requirements within a reasonable time.
4. A **Notice of Procedural Safeguards** is sent home with each eligible student by the end of the second week of the new school year. A copy is also sent at a *Finding of No Special Needs* and when any services is terminated or refused during the IEP period.
5. A request for an evaluation may come to the district in several ways: the parent, other person in a care giving or professional position concerned with the student's development, or the school's Teacher Assistance Team.
6. Within 5 days of the receipt of the referral one of the following responses is made to the referral request:
  - a. If the referral comes from within the district, it is accompanied by supporting documentation including current performance and intervention data in the areas of concern or suspected disability. This information is reviewed by the school psychologist and or related service providers who complete the evaluation request form and gives it to the school-based special education clerk. The sped clerk uses the information to complete the N1 and **Evaluation Consent** form and sends it to the parent/ guardian.
  - b. If the referral comes from the parent to either the school or special education office, it is given to the school psychologist who reviews the school record and contacts the parent ascertain what information the parent expects from the evaluation. The psychologist completes the evaluation request form and gives it to the special education clerk. The sped clerk uses the information to complete the N1 and **Evaluation Consent** form and sends it to the parent/ guardian.
  - c. If the referral comes from a caregiver to either the school or special education office, it is given to the school psychologist who reviews the school record and contacts the parent ascertain what information the parent expects from the evaluation. The psychologist completes the evaluation request form and gives it to the special education clerk. The sped clerk uses the information to complete the N1 and **Evaluation Consent** form and sends it to the parent/ guardian.
1. The clerk completes a District Proposal (N1) and **Evaluation Consent** form using the information provided by the psychologist. The sped clerk sends the notice to the student's parent(s) along with the district's notice of procedural safeguards. Sped clerks complete these forms under the direction of the psychologist or sped administrator.
2. A **Parent Information** form is sent with the Evaluation Consent and the parent is asked to voluntarily complete the form and send it to the special education office with the consent form response. The form will give the parent the opportunity to express any concerns or provide information on the student's skills or abilities and to consult regarding the evaluators to be used. Parents are informed that they should not delay responding to the Evaluation Consent form by feeling there is a requirement that the Input form must be received before the evaluation process can begin.
3. A copy of the Procedural Safeguards is sent with the Evaluation Consent form.

4. The Evaluation Consent form contains a section for the student's parent(s) to request an opportunity to consult with the special education administrator or his/her designee to discuss the reasons for the referral and the nature of the proposed evaluation.
5. The school district does not limit a parent's right to refer a student for timely special education evaluation because the district has not fully explored and/or attempted some or all of the available instructional support programs or other interventions available in general education that may be described in the district's curriculum accommodation plan, including any pre-referral program.
6. The Westport Community Schools refuses to conduct an initial evaluation only when the circumstances of a student make clear that there is no suspicion of a disability and that there is no concern about the student's development. If the district refuses to evaluate, the refusal is sent to the BSEA with the request for a Hearing.
7. Procedural safeguards are sent home under the following circumstances:
  - a. with each special education student by the first Friday of the school year
  - b. with a proposal requesting consent for evaluation(s)
  - c. with the notice when special education services are terminated or refused
  - d. with the notice of a determination of Not Eligible for special education

**State Requirements**

M.G.L. c. 71B, Section 3;  
603 CMR 28.04(1)

**Federal Requirements**

34 CFR 300.503; 300.504(a)(1)

*Parts 2, 4, and 5 of SE 24 are related to State Performance Plan Indicator 8.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

## **SE 25 Parental consent**

**In accordance with state and federal law, the school district obtains informed parental consent as follows:**

1. The school district obtains written parental consent on an Evaluation Consent Form before conducting an initial evaluation and before making an initial placement of a student in a special education program. Written parental consent is obtained before conducting a reevaluation and before placing a student in a special education placement subsequent to the initial placement in special education.
2. The school district obtains consent by asking the parent to accept the district's recommendation for an extended evaluation as described on an Extended Evaluation Form before initiating extended evaluation services.
3. The district obtains acceptance of the services proposed on a student's IEP before providing such services.
4. A parent is informed that consent may be revoked at any time. Except for initial evaluation and initial placement, consent may not be required as condition of any benefit to the student. When a parent (or student over 18 years without a guardian) revokes consent or requests that special education service(s) or the IEP be terminated in writing, service(s) are stopped immediately and an N1 is sent.
5. When the participation or consent of the parent is required and the parent fails or refuses to participate, the multiple attempts to secure the consent of the parent are implemented and tracked by the special education clerk. If the student is involved with a community service agency and permission to share information has been provided, the special education clerk or secretary may ask the agency for assistance.
6. If, subsequent to initial evaluation and initial placement and after following the procedures required by the regulations, the school district is unable to obtain parental consent to a re-evaluation or to placement in a special education program subsequent to the initial placement, or the parent revokes consent to such re-evaluation or placement, the school district considers with the parent whether such action will result in the denial of a free appropriate public education to the student. If, after consideration, the school district determines that the parent's failure or refusal to consent will result in a denial of a free appropriate public education to the student, it seeks resolution of the dispute through the BSEA.

### **State Requirements**

603 CMR 28.07(1)

### **Federal Requirements**

34 CFR 300.300

*SE 25 is related to State Performance Plan Indicator 8.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**SE 25A Sending of copy of notice to the Bureau of Special Education Appeals**

1. Within 5 calendar days of receiving a notice that a parent is requesting a hearing or has rejected an IEP, proposed placement, or finding of no eligibility for special education, the school district sends a copy of the notice to the BSEA.

**State Requirements**  
603 CMR 28.08(3)(b)

**Federal Requirements**

**SE 25B Resolution of disputes**

1. The Director of Special Education sends a copy of the notice to the BSEA within 5 days of receiving a notice that a parent is requesting a hearing or has rejected an IEP, proposed placement, or finding of no eligibility for special education.
2. Within 15 days of receiving notice that a parent has made an official hearing request to Special Education Appeals, the special education office convenes a meeting with the parent(s) and the relevant member(s) of the IEP Team, including the Director of Special Education or designee authorized with decision-making authority, to try to resolve the dispute. The resolution session may be waived if the district and the parents agree in writing to do so or if they agree to use mediation instead.
3. If the dispute is resolved at the resolution session, the parent(s) and a representative of the district with the authority to do so sign a legally binding agreement, enforceable in state or federal court.
4. Any party may void this agreement within 3 business days of the signing.

**State Requirements**

**Federal Requirements**  
34 CFR 300.510



## **SE 26 Parent participation in meetings**

1. The district ensures that one or both parents of a student are members of any group that makes decisions on the educational placement of their student, and that they are notified in writing of any Team meeting early enough to ensure they have the opportunity to attend.
2. The Westport Community Schools schedules IEP meetings using the state mandated letter of invitation and notices (attachment#1). In addition a call is made and, in some cases a letter is sent, to the parent by the special education clerk @ four weeks prior to the due date to arrange a mutually agreed upon and convenient time.
3. If attempts to schedule a meeting with the parent/guardian are unsuccessful and a mutually agreed upon date cannot be set, the sped clerk will schedule the meeting. The parent will be informed of the date and time in a final phone call and the invitation sent within the time frame of parent receipt at of 10 days prior to the date of the meeting.
4. The sped clerk also makes a courtesy call to the parent a day or two before the meeting. The first scheduling contact is made at least four weeks prior to the meeting due date to allow for sufficient lead time to offer varied dates and methods of meeting and still get the invitation to the parent at least 10 days before the meeting due date.
5. If neither parent can attend, the district uses other methods to ensure parent participation, including individual or conference telephone calls, or video conferencing.
  - The parent is sent a form with the invitation which offers the opportunity to request that the meeting be held without the parent being physically in attendance in the event the parent becomes unable to attend. Follow-up with the parent after the meeting and the option to convene the team with some or all members present completes this alternative method of participation. This alternative method can only be implemented if the excusal form is signed by the parent and returned to the school.
  - If an emergency occurs and the parent cancels on the morning of the meeting or does not show up for the meeting, a phone call is made to the parent's home and/or work to ask if they can participate by phone. If there is no response, the meeting is rescheduled.
  - If, in any case, the parent cannot attend, refuses an alternate method, or says the meeting requires his/her presence, the meeting is rescheduled to a time when the parent can attend and is sent a second invitation with the form which presents alternate methods of participation.
  - The Westport Community Schools makes reasonable efforts to get parents to attend and participate in all IEP meetings schedules, if necessary reschedules meetings to a convenient time, and offers the parent an alternate meeting each time a meeting is scheduled or the parent cannot attend.
  - A Parent Input form, which asks the parent to provide information regarding concerns about educational progress, student strengths and interests, goals for the student for the next IEP period, and 1 to 4 year vision, is attached to the invitation with the request that the parent complete the form and bring it to the IEP meeting. A student form is provided to 8<sup>th</sup> graders and high school students.
6. If three attempts ('reasonable efforts') to invite parents are made with unsuccessful outcomes and parents have not agreed to an alternative meeting plan based on the IDEA 2004 (sec 614(a)(1)(ii)(II)) the district conducts the Team meeting with the assurance that the student's special education contact will contact the parent following the meeting to convey the content of the meeting.
7. The special education clerk is responsible implementing and monitoring the scheduling process, and documents in writing efforts made to schedule and reschedule IEP meetings with information from direct communication with the parent or from information provided by other team members who may have communicated with the parent.

### **SE26: State Requirements**

### **Federal Requirements**

603 CMR 28.02(21)

34 CFR 300.322; 300.501

*SE 26 is related to State Performance Plan Indicator 8.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**SE 27 Content of team meeting notice to parents**

1. The parent notice of any Team meeting states the purpose, time, and location of the meeting as well as who is expected to be in attendance.
2. One or both parents of a student are members of any group that makes decisions on the educational placement of their student and are notified in writing and invited to any Team meeting with at least ten days notice to parents in order to ensure parents an opportunity to attend.
3. A Parent Input form, which asks the parent to provide information regarding concerns about educational progress, student strengths and interests, goals for the student for the next IEP period, and 1 to 4 year vision, is attached to the invitation with the request that the parent complete the form and bring it to the IEP meeting. A student form is provided to 8<sup>th</sup> graders and high school students.
4. The district schedules the meeting at a mutually agreed upon time and place; and documents such efforts. If neither parent can attend, parents are offered other methods to ensure participation, including individual or conference telephone calls. If, after reasonable efforts, the district is unable to obtain the parents' participation in Team meeting discussions and decisions, the district conducts the Team meeting and documents its attempts to facilitate the parents' participation on the Additional Information section of the IEP (IEP 8).

**SE27: State Requirements**

**Federal Requirements**

34 CFR 300.322(b)(1)(i)

*SE 27 is related to State Performance Plan Indicator 8.*

*(See <http://www.doe.mass.edu/sped/spp/>.)*

**SE 29 Communications are in English and primary language of the home**

1. Communications with parents are in clear and commonly understood words and are in both English and the primary language of the home if such primary language is other than English as requested by the parent. Any interpreter used in fulfilling these requirements is fluent in the primary language of the home and familiar with special education procedures, programs, and services.
2. If the parents or the student are unable to read in any language or are blind or deaf, communications required by these regulations are made orally in English with the use of a foreign language interpreter, in Braille, in sign language, via TTY, or in writing, whichever is appropriate, and all such communications are documented.
3. If the district provides notices orally or in some other mode of communication that is not written language, it keeps written documentation (a) that it has provided such notice in an alternate manner, (b) of the content of the notice and (c) of the steps taken to ensure that the parent understands the content of the notice.

**SE29: State Requirements**

M.G.L. c. 71B, section 3;

1.a.i.a.603

R 28.03(1)(a)(4); 28.07(4)

**Federal Requirements**

### **SE 32 Parent advisory council for special education**

1. The school district has established a district-wide parent advisory council on special education.
2. Membership on the council is offered to all parents of students with disabilities and other interested parties.
3. The parent advisory council duties include but are not limited to: advising the district on matters that pertain to the education and safety of students with disabilities; and meeting regularly with school officials to participate in the planning, development, and evaluation of the school district's special education programs.
4. The parent advisory council has established by-laws regarding officers and operational procedures.
5. The parent advisory council receives assistance from the school committee without charge, upon reasonable notice, and subject to the availability of staff and resources.
6. The school district conducts, in cooperation with the parent advisory council, at least one workshop annually within the district on the rights of students and their parents and guardians under the state and federal special education laws.

#### **State Requirements**

M.G.L. c. 71B, section 3;  
603 CMR 28.03(1)(a)(4); 28.07(4)

#### **Federal Requirements**

*SE 32 is related to State Performance Plan Indicator 8.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**Purpose:** The purpose of this procedure is to ensure that the District provides a program of curriculum to students with IEPs with the goal, as it is for all students, of providing a free and appropriate public education (FAPE). In addition, the District ensures that all education occurs in the least restrictive setting, a continuum of services is available through the age of 21, specialized equipment is available, and that it responds to eligible students in parent-funded private school settings as stipulated in regulations.

**Procedure:**

**SE 33 Involvement in general curriculum**

1. At least one member of all IEP Teams is familiar with the general curriculum and is able to discuss an eligible student's appropriate access to the general curriculum.
2. The IEP describes special education services, all other time in learning is provided in the general education setting because the student is able to be successful in that educational environment. The district documents the student's participation in the general curriculum on the Additional Information section of the IEP (IEP 8) when details of the participation are relevant to the student's special education program as information not otherwise included in the IEP.
3. Documentation is also provided to the state by the completion and reporting of data on the PL2 and PL3.

**State Requirements**

603 CMR 28.05(4)(a) and (b)

**Federal Requirements**

34 CFR 300.320(a)(1)(i) and a(2)(i)(A);  
300.321(a)(4)(ii)

SE 33 is related to State Performance Plan Indicators 1, 3, and 5.  
(See [http://www.doe.mass.edu/sped/spp/.](http://www.doe.mass.edu/sped/spp/))

**SE 34 Continuum of alternative services and placements**

1. The district provides or arranges for the provision of each of the elements of the IEPs of students in need of special education from the ages of three through twenty one, ensuring that a continuum of services and alternative placements is available to meet the needs of all students with disabilities, and takes all steps necessary to ensure compliance with all elements of the IEPs, including vocational education.
2. Each eligible special education student, from the ages of three through twenty one, is assigned a special education contact person who will provide or coordinate special education or related services to the student.
3. A qualified special education or related service provider is assigned to provide each service designated on the IEP.
4. The district ensures that a continuum of services and alternative placements is available to meet the needs of all students with disabilities, and takes all steps necessary to ensure compliance with all elements of the IEPs, including vocational education.

**State Requirements**  
603 CMR 28.05(7)(b)

**Federal Requirements**  
34 CFR 300.109; 300.110; 300.115

*SE 34 is related to State Performance Plan Indicator 5.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*See also Administrative Advisory SPED 2002-3: Vocational Educational Services for Students with Disabilities.*

**SE 35 Assistive technology: specialized materials and equipment**

1. Specialized materials and equipment specified in IEPs are provided.
2. The school district provides evidence that assistive technology is considered for each eligible student and—if the student needs it in order to receive a free, appropriate public education--described in the IEP and provided by the district.
3. Specialized materials and equipment are specified on the PlepB page of the IEP and are provided as described.
4. The need for assistive technology is considered for each eligible student and, if the student needs it in order to receive a free and appropriate public education, it is described in the IEP and provided by the district in the PlepB and may also be addressed in Additional Information.
5. Assistive Technology is considered by the psychologist when a student is referred for special education and consent for evaluation is requested as needed. Assistive technology is also considered by any staff person completing a special education referral and teachers and related service providers in an ongoing manner as they work with students throughout the school year.

**State Requirements**

**Federal Requirements**

34 CFR 300.105; 300.324(a)(2)(v)



### **SE 36 IEP implementation, accountability, and financial responsibility**

1. The district provides ongoing oversight through progress reports, annual review meetings, and other communication as indicated, of the full implementation of each in-district and out-of-district IEP which has been proposed and consented to by a student/ student's parents.
2. School principals are responsible for the oversight and implementation of the IEP for eligible students in each school building. Out-of-district special education services are monitored by a special education administrator or designee and a Monitoring Report Form completed and put in the student's file.
3. All agreed upon and accepted programs and services are provided to eligible students without expense to the student's parents.
4. Each time the school district proposes to access the parent's private insurance to support the costs of IEP implementation, the school district obtains the parent's consent and informs the parents that their refusal to permit the school district to access their private insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents. These actions are documented in the IEP documentation as appropriate: N1, and in professional notes if an IEP is developed.
5. Parent consent is obtained before any action is taken or services are provided for all initial evaluations or IEPs. The district documents efforts to obtain initial consent and may appeal the lack of response to the BSEA if it believes that FAPE cannot be provided without special education.
6. The district, through the sped clerk, documents efforts to obtain consent for reevaluation assessments, but will proceed with a reevaluation using previous assessments and staff input to develop a new IEP if consent for new evaluations is not obtained. Services cannot be terminated without updated evaluations.
7. Efforts to obtain parent acceptance of a proposed IEP are documented. If efforts are unsuccessful after 30 days and there is no action toward resolution a letter is send to the parents reminding them that the new IEP services cannot begin unless the IEP is accepted. If continued efforts don't result in action toward resolving issues which make parents not sign, the plan is sent to the BSEA as rejected.
8. Efforts to obtain parent participation in the IEP process are included on the Additional Information section of the IEP (IEP8). In addition, the NI accompanying an IEP developed, after 3 failed attempts, without parent input at the meeting, or with previous assessments because consent was not provided, states even though the parent was not in attendance or did not provide consent that the IEP was developed by those present and is being sent to the parent for review and action. The district also offers to reconvene the IEP team at the parent's request. The district informs the parent that it still has a responsibility to (continue to) implement the last accepted IEP. This statement is on the meeting summary which is provided to the parent.
9. Efforts to obtain consent or acceptance are ongoing until a response is received or the district determines that FAPE would not be provided without services, at which time an appeal is made to the BSEA.

### **SE 37 Procedures for approved and unapproved out-of-district placements**

1. **Individual student program oversight:** The school district monitors the provision of services to and the programs of individual students placed in public and private out-of-district programs. Documentation of monitoring plans and all actual monitoring are placed in the files of every eligible student who has been placed out-of-district. To the extent that this monitoring requires site visits, such site visits are documented and placed in the students' files for review. The duty to monitor out-of-district placements is not delegated to parents or their agents, to the Department of Elementary and Secondary Education, or to the out-of-district program.
2. **Student right to full procedural protections:** The school district retains full responsibility for ensuring that the student is receiving all special education and related services in the student's IEP, as well as all procedural protections of law and regulation. Any Team meetings conducted during the time that a student is enrolled in the out-of-district program are initiated by the school district in coordination with the out-of-district program.
3. **Preference to approved programs:** The school district, in all circumstances, first seeks to place a student in a program approved by the Department pursuant to the requirements of 603 CMR 28.09. Preference is given to approved programs located within the Commonwealth of Massachusetts if the choice of such program is consistent with the needs of the student and the choice of such program complies with LRE requirements. When an approved program is available to provide the services on the IEP, the district makes such placement in the approved program in preference to any program not approved by the Department.
4. **Written contracts:** The school district enters into written contracts with all public and private out-of-district placements. At a minimum, such contracts meet the content requirements of 28.06(3)(f)(1-5), and specifically include a statement that the district shall not contract with any out-of-district placement that discriminates on the grounds of race, color, religion, sexual orientation, gender identity or national origin, or that discriminates against qualified person with disabilities.
5. **Use of unapproved programs:** A school district that places a student in a program that has not been approved by the Department according to the requirements under 603 CMR 28.09 ensures that such programs and services are provided in appropriate settings by appropriately credentialed staff able to deliver the services on the student's IEP. Students placed by the school district in such programs are entitled to the full protections of state and federal special education law and regulation.
6. **Placement documentation:** The following documentation is maintained by the school district pursuant to its placement of students in unapproved out-of-district programs:
  - a. **Search:** The administrator of special education documents the search for and unavailability of a program approved by the Department. The administrator places such documentation in the student record.
  - b. **Evaluation of facility:** The administrator of special education or his/her designee thoroughly evaluates the appropriateness of any unapproved facility prior to placement of the student in such program. Such evaluation determines whether the unapproved facility can appropriately implement the student's IEP in a safe and educationally appropriate environment. Such evaluation determines whether the unapproved facility can and will provide the student with all the rights that are accorded to the student under state and federal special education law. Such evaluation is documented in detail and placed in the student record for review. To the extent that this evaluation requires a site visit, such site visits are documented and placed in the student record for review. The duty to evaluate the appropriateness of any unapproved facility is not delegated to the parents or their agents or the proposed unapproved facility.
  - c. **School district approval to operate a private school in Massachusetts:** If services in an unapproved program are provided in a school setting, the administrator of special education ensures that such school has received approval from the school committee where the private school is located under M.G.L. c.76, §1 and a copy of such approval is retained in the student record.
  - d. **Pricing:** Pursuant to the requirements for Compliance, Reporting, and Auditing for Human and Social Services at 808 CMR 1.00, the administrator obtains pricing forms required to set program prices for programs receiving publicly-funded students. Such pricing forms are completed by the proposed

placement and document that the price proposed for the student's tuition is the lowest price charged for similar services to any student in that program.

e. Notification of the Department of Elementary and Secondary Education: Prior to placement, if the Team determines that placement in such facility is appropriate, the administrator notifies the Department of the intent to place the student and the name and location of the proposed placement before placing the student into the program by sending a completed mandated 28M3 form titled "Notice of Intent to Seek Approval for Individual Student Program" and all the required supporting documentation (i.e., completed pricing forms, signed written contract that will govern such placement, and monitoring plan pursuant to 603 CMR 28.06(3)(b)). The district maintains copies of this documentation, as well as any documentation of the Department's objections to such placement and the steps the district has taken in regard to such objection. The district maintains documentation of the approved price for publicly-funded students as set by the state agency responsible for setting program prices. The district maintains documentation of actual monitoring of the unapproved placement, including any site visits made and other monitoring activities undertaken by the school district.

f. Out of state programs: If out-of-district programs are provided in a placement outside of Massachusetts, and such school has not received approval by the Department under 603 CMR 28.09, the administrator of special education ensures that such school has received approval from the host state.

**State Requirements**

M.G.L. c. 76, s. 1  
603 CMR 18.00; 28.02(14);  
28.06(2)(f) and (3); 28.09  
808 CMR 1.00

**Federal Requirements**

34 CFR 300.2(c)

*Also see Administrative Advisories SPED 2002-5: Special Education Contracts Between School Districts and Out-of-District Programs; SPED 2004-4: School District Responsibility for Children in Special Education Day Schools Who Are Transferred to a Residential School by the Department of Social Services; 2008 ESE Memo regarding Revised Procedures to Use When Seeking ESE Approval for Individual Student Program and revised 28M3 Form.*

### **SE 38 Special education in institutional settings (SEIS)**

Department of Elementary and Secondary Education responsibility: In cases where the Department provides certain special education services to eligible students in certain facilities operated by or under contract with the Department of Mental Health, the Department of Youth Services, County Houses of Corrections, or the Department of Public Health, the Department retains the discretion to determine, based upon resources, the type and amount of special education and related services that it provides in such facilities.

School district responsibility:

1. The district implements its responsibilities to students in institutional settings by acting on requests for evaluation, issuing proposed IEPs in a timely manner, and providing special education and/or related services in accordance with state and federal law.
2. Where a student's IEP requires a type or amount of service that the facility does not provide, it remains the responsibility of the parent's school district to implement the student's IEP by arranging and paying for the provision of such service(s).
3. The parent's school district coordinates with the state agency to ensure that the student receives an evaluation, an annual review, and special education services as identified at a Team meeting convened by the parent's school district.
4. The special education office acts on requests for evaluation, issuing proposed IEPs in a timely manner, and providing special education and/or related services in accordance with state and federal law to students in institutional settings.
5. It is the responsibility of the parent's school district to implement the student's IEP by arranging and paying for the provision of service(s) when a student's IEP requires a type or amount of service that the facility does not provide,.
6. The Westport Community Schools special education office coordinates with the state agency to ensure that the student receives an evaluation, an annual review, and special education services as identified at a Team meeting convened by the district.

**State Requirements**

M.G.L. c. 71B, section 2  
603 CMR 28.03(1)(e)

**Federal Requirements**

34 CFR 300.130-144; 300.300(d)(4)

*Also see Administrative Advisory SPED 2007-2: IDEA 2004 and Private School Students.*

**SE 39A Procedures used to provide services to eligible students enrolled in private schools at private expense whose parents reside in the district**

1. The district conducts student find activities--comparable to those for public school students--for all students enrolled at private expense in private schools in the district. The district consults with private schools in accordance with federal requirements:
  - An announcement informing the community of the Child Find process is posted on the district's web site and advertised in the local newspaper.
  - An informational letter is sent to local private schools and child care providers. The letter explains the Child Find process, asks for information, and invites schools and organizations to meet with the district to clarify roles and responsibilities and obtain feedback on the calculation and use of the proportionate share of federal funds.
  - Inviting a private school representative to IEP meetings for children in their care.
2. The district calculates the proportionate share of Federal Special Education Entitlement funds (Fund Code 240) required to be spent on eligible private school students (including all eligible students attending private school in the district whether their parents reside in the district, in another Massachusetts district, or out of state) and documents the spending of at least this amount of federal entitlement funds (Fund Code 240) on one or more of the eligible private school students attending private school in the district whose parents reside in the district or out of state.
3. The district provides or arranges for the provision of an evaluation for any private school student whose parent resides in the district who is referred for evaluation. The evaluation may take place in the public school, the private school, or an appropriate contracted facility.
4. As part of its consultation with the private school, the district ensures that a representative of the student's private school is invited to participate as a member of the Team pursuant to §28.05. Consultation may also be shown on the service grid (A-box) if the parent/ student is electing not to receive direct services and described in additional information. Consultation is defined in general as follows with the statement individualized for the student:
  - *Consultation is provided by the district through a special education teacher to XXXX's mother and/or the designated school contact. Consultation may be provided through meetings, email, telephone, face-to-face conversations, written communication, and includes review of data, preparation of materials, and any other activities related to XXXX. Progress reports are not required for consultation services, but the district generally asks the receiving school for period reports on student progress. Consultation contacts are recorded by the consultant from the district in a consultation log.*
5. The district provides an IEP for any such private school student who is found eligible for special education and/or related services.
6. The district provides special education and/or related services designed to meet the needs of eligible students, who are attending private schools at private expense and whose parents reside in the district, and does so according to a properly developed IEP. The district provides to such students genuine opportunities to participate in a public school special education program consistent with state constitutional limitations.
7. In providing or arranging for the provision of the special education and/or related services described by the student's IEP, the district determines with the parent where services shall be provided and ensures that special education services funded with state or local funds are provided in a public school facility or other public or neutral site.
8. When services are provided using only federal funds, services are provided on public or private school grounds.
9. When the student attends a private school located outside of the district, the district makes reasonable efforts to provide or arrange for the provision of services for the student in the community where the school is located.
10. The district does not withdraw or withhold services from a student whose parents reside in the district solely because the district has met the spending requirements of federal law.

11. Special education services and/or related services for a private school student whose parents reside in the district are comparable in quality, scope, and opportunity for participation to those provided to public school students with needs of equal importance.
12. An expedited special education evaluation, which is limited to a student's physician statement unless there is a clear indication of the need or unless the parents request additional evaluation, is conducted and services provided to eligible students whose parents reside in the district within 15 calendar days of the district's receipt of the student's physician statement.

**State Requirements**

603 CMR 28.02(7); 28.04; 28.05(2)

**Federal Requirements**

34 CFR 300.130-144; 300.301-311

*See also* Administrative Advisory SPED 2007-2: IDEA 2004 and Private School Students.

**SE 39B Procedures used to provide services to eligible students who are enrolled at private expense in private schools in the district and whose parents reside out of state**

1. The district conducts student find activities--comparable to those for public school students--for all students enrolled at private expense in private schools in the district.
2. For students enrolled at private expense in private schools in the district and whose parents reside out of state, the district consults with the private schools in accordance with federal requirements. Consultation about out-of-state residents who attend private school in Massachusetts includes:
  - Inviting private school representatives to attend the IEP meeting.
  - If the student is found eligible, the district describes how, where, and by whom special education and related services will be provided, including a discussion of types of services - direct services and alternate service-delivery mechanisms.
  - If funds are insufficient to serve all students such services will be apportioned on a first-come, first-served basis this decision will be made at the IEP meeting when the IEP is developed.
  - If the school district representatives disagree with the views of the private school officials on any aspect of services for eligible out-of-state residents, the district will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.
3. The district conducts evaluations and determines eligibility in accordance with state and federal requirements.
4. If the district provides services to any eligible private school student from out of state, it does so using an individual services plan which addresses how, where, by whom and what type of special education and related services will be provided.
5. The district calculates the proportionate share of federal special education entitlement funds (Fund Code 240) required to be spent on eligible private school students (including all eligible students attending private school in the district whether their parents reside in the district, in another Massachusetts district, or out of state) and documents the spending of at least this amount of federal entitlement funds (Fund Code 240) on one or more of the eligible private school students attending private school in the district whose parents reside in the district or out of state.

**State Requirements**

603 CMR 28.02(7); 28.04; 28.05(2)

**Federal Requirements**

34 CFR 300.130-144; 300.301-311

*See also Administrative Advisory SPED 2007-2: IDEA 2004 and Private School Students.*

**Purpose:** The purpose of this procedure is to ensure that the District provides a program instruction to students with IEPs with the goal, as it is for all students, of providing a free and appropriate public education (FAPE). Students removed from the general education setting are appropriately grouped with consideration of class size, staffing, age, age span, and specific requirements for children aged 3 and 4 years.

**Procedure:**

**SE 40 Instructional grouping requirements for students aged five and older**

1. The size and composition of instructional groupings for eligible students receiving services outside the general education classroom are compatible with the methods and goals stated in each student's IEP.
2. Instructional grouping size requirements are maximum sizes and the school district exercises judgment in determining appropriate group size and supports for smaller instructional groups serving students with complex special needs.
3. When eligible students are assigned to instructional groupings outside of the general education classroom for 60% or less of the students' school schedule, group size does not exceed
  - 8 students with a certified special educator,
  - 12 students if the certified special educator is assisted by 1 aide, and
  - 16 students if the certified special educator is assisted by 2 aides.
4. For eligible students served in settings that are substantially separate, serving solely students with disabilities for more than 60% of the students' school schedule, the district provides instructional groupings that do not exceed
  - 8 students to 1 certified special educator, or
  - 12 students to 1 certified special educator and 1 aide.
5. After the school year has begun, if instructional groups have reached maximum size as delineated in parts 3 and 4 of this criterion, the administrator of special education and the certified special educator(s) providing services in an instructional group may decide to increase the size of an instructional grouping by no more than 2 additional students if the additional students have compatible instructional needs and then can receive services in their neighborhood school.
6. In such cases, the administrator provides written notification to the Department and the parents of all group members of the decision to increase the instructional group size and the reasons for such decision. Such increased instructional group sizes are in effect only for the year in which they are initiated.
7. The district takes all steps necessary to reduce the instructional groups to the sizes outlined in parts 3 or 4 of this criterion for subsequent years. Such steps are documented by the district.

**State Requirements**  
603 CMR 28.06(6)

**Federal Requirements**

**SE 41 Age span requirements**

1. The ages of the youngest and oldest student in any instructional grouping do not differ by more than 48 months. A written request for approval of a wider age range is submitted by the district to the commissioner of elementary and secondary education in cases where the district believes it is justified. Such requests are implemented only after approval of the Department of Elementary and Secondary Education.

**State Requirements**  
603 CMR 28.06(6)(f)

**Federal Requirements**



## **SE 42 Programs for young children three and four years of age**

### General requirements:

1. The school district ensures programs are available for eligible students three and four years of age. Such programs shall be developmentally appropriate and specially designed for students ages three and four years.
2. Where appropriate, the school district elects, consistent with federal requirements, to use the format and services of the Individualized Family Service Plan (IFSP), if appropriate, for an additional year as a means of transitioning eligible students to public school services.
3. Where appropriate the Team allows a student to remain in a program designed for three and four year old students for the duration of the school year in which the student turns five years old (including the summer following the date of the student's fifth birthday).

### Types of Settings:

4. Inclusionary programs for young students are located in a setting that includes students with and without disabilities and meet the following standards:
  - a. Services in such programs are provided in the home, the public school, Head Start, or a licensed childcare setting.
  - b. For public school programs that integrate students with and without disabilities, the class size does not exceed 20 with 1 teacher and 1 aide and no more than 5 students with disabilities. If the number of students with disabilities is 6 or 7 then the class size does not exceed 15 students with 1 teacher and 1 aide.
5. Substantially separate programs for young students are located in a public school classroom or facility that serves primarily or solely students with disabilities. Substantially separate programs adhere to the following standards:
  - a. Substantially separate programs are programs in which more than 50% of the students have disabilities.
  - b. Substantially separate programs operated by the district limit class sizes to 9 students with 1 teacher and 1 aide.

#### **State Requirements**

603 CMR 28.06(7)

#### **Federal Requirements**

34 CFR 300.101(b); 300.124(b); 300.323(b)

**Purpose:** The purpose of this procedure is to ensure that the District has appropriate services designed to support the student’s IEP and maximize opportunities to participate with nondisabled peers in general education settings and school sponsored activities. The district addresses the needs of students with co-existing behavioral problems which impede the student’s learning or the learning of others in accordance with regulations.

**Procedure:**

**SE 43 Behavioral interventions**

1. For a student whose behavior impedes their learning or the learning of others, the Team considers the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
2. Eligible students identified as having behaviors which impede the learning of the student or the learning of others are referred to the Teacher Assist Team and the school adjustment counselor, and the special education contact or a school administrator contacts the parent to discuss the issues and the school’s response.
3. The Assist Team identifies needs and interventions and other considerations including positive behavioral interventions and the need for a functional behavioral assessment in assessing the student’s behavior. If interventions are unsuccessful, the parent is informed and the IEP Team will be convened to discuss further actions.
4. Students exhibiting behaviors that interfere with his or other student’s learning may have an individual behavior intervention plan (BIP) attached to the IEP, participate in a classroom behavior plan, or have a behavior goal on the IEP. If a BIP is developed, it is reviewed with all staff who work directly with the student or whom the student’s behavior may affect. The BIP will be reviewed and revised annually or as indicated.

**State Requirements**

**Federal Requirements**

34 CFR 300.324(a)(2)(i)

*SE 43 is related to State Performance Plan Indicator 4.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**SE 44 Procedure for recording and reporting disciplinary data**

1. The district has a procedure to record the number and duration of suspensions from any part of the student’s program, including suspensions from special transportation prescribed by the IEP.
2. The Principal or Assistant Principal or designee enters disciplinary information into the district’s student data base (School Brains).
3. The special education secretary generates a report from School Brains of suspended students each Monday and enters the information into the suspension spreadsheet on the shared drive.
4. The special education spreadsheet tracks the name, infraction, duration, location (including from special transportation), and manifestation determination meetings and outcomes for each special education student who is suspended.
5. The school adjustment counselor tracks suspensions within the school and informs the Principal when the student has reached 7 days of suspension in or out of school and if the suspensions appear to constitute a pattern.
6. The Principal informs the psychologist of each student at- risk of reaching 10 suspensions and schedules a meeting to confer about potential action and meeting participation should a manifestation meeting be necessary.

**State Requirements**

**Federal Requirements**

34 CFR 300.530  
IDEA 2004 Final Regulations,  
Analysis of Comments and Changes, Federal  
Register 71 (14 August 2006): 46715

*SE 44 is related to State Performance Plan Indicator 4.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*Also see the required reporting of disciplinary data for special education students in the School Safety and Discipline Report (SSDR), as explained at <http://www.doe.mass.edu/infoservices/data/schedule.html>.*

**SE 45 Procedures for suspension up to 10 days and after 10 days: General Requirements**

1. Any eligible student may be suspended up to 10 days in any school year.
2. The district provides sufficient services for the student to continue to receive a free and appropriate public education to each special education student who has been suspension past 10 days.
3. The district provides a copy of the Procedural Safeguards to parents of students with disabilities prior to any suspension beyond 10 consecutive days or more than 10 cumulative days (if there is a pattern of suspension) in any school year.
4. The Safeguards may be provided at a manifestation meeting which must be held prior to each suspension after the 10 day limit.

**State Requirements**

M.G.L. c. 76, sections 16-17

**Federal Requirements**

34 CFR 300.530-537

*SE 45 is related to State Performance Plan Indicator 4.*

*(See <http://www.doe.mass.edu/sped/spp/>.)*

**SE 46 Procedures for suspension of students with disabilities when suspensions exceed 10 consecutive school days or a pattern has developed for suspensions exceeding 10 cumulative days; responsibilities of the Team; responsibilities of the district.**

1. A suspension of longer than 10 consecutive days or a series of suspensions that are shorter than 10 consecutive days but constitute a pattern are considered to represent a change in placement.
2. When a suspension constitutes a change in placement of a student with disabilities, district personnel, the parent, and other relevant members of the Team, as determined by the parent and the district, convene within 10 days of the decision to suspend to review all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information from the parents, to determine whether the behavior was caused by or had a direct and substantial relationship to the disability or was the direct result of the district's failure to implement the IEP—"a manifestation determination."
3. If district personnel, the parent, and other relevant members of the Team determine that the behavior is NOT a manifestation of the disability, then the suspension or expulsion may go forward consistent with policies applied to any student without disabilities, except that the district must still offer:
  - a) services to enable the student, although in another setting, to continue to participate in the general education curriculum and to progress toward IEP goals; and
  - b) as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, to address the behavior so that it does not recur.
4. The Principal schedules a Manifestation Determination meeting within 10 days of 10<sup>th</sup> suspension.
5. A manifestation meeting is convened if the suspension reaches 10 days (or earlier) or there is a series of suspensions that are shorter than 10 consecutive days, but constitute a pattern.
6. The student cannot be suspended for any days beyond the 10 day limit until a manifestation meeting has been held. *The manifestation meeting must be held prior to the suspension.*
7. The manifestation meeting is scheduled and includes the school adjustment counselor, Principal or Assistant Principal, the parent, and other relevant members of the Team, as determined by the parent and the district. A school staff who can represent the general education curriculum must attend the meeting.
8. Parents are invited to the manifestation meeting, but if the parent is unable to attend, the meeting must be held and a determination made without the parent if waiting affects the mandated time requirements. The parent is informed of the decision on the day of the meeting and provided with a copy of the Procedural Safeguards.
9. During the meeting, the special education representative presents all relevant information in the student's special education file, including the IEP, any teacher observations. The team also considers information from the parents or student, if 18 years old and determines whether there is a relationship between the student's disability and the student's behavior.
10. The Team is directed to consider the information provided and answer two questions: was the behavior caused by or did it have a direct and substantial relationship to the disability; or was the direct result of the district's failure to implement the IEP?
11. If the answer to either question is 'yes', the behavior IS a manifestation of the disability the student must be returned to the original placement unless the parent and district agree otherwise or a hearing officer orders a new placement. The exception to this statement occurs when the student is placed in an interim alternative educational setting as described below.
12. If district personnel, the parent, and other relevant members of the Team determine that the behavior IS a manifestation of the disability, then the Team completes a functional behavioral assessment, as indicated, and/or develops a behavioral intervention plan if it has not already done so.
13. If a behavioral intervention plan is already in place, the Team reviews and modifies it, as necessary, to address the behavior.
14. If the Team has determined that the behavior was the result of the district's failure to implement the IEP, the portion of the IEP in contention is reviewed and implemented immediately. The IEP may be revised or the student may receive compensatory services as indicated.

15. If the Team determines that the behavior IS NOT a manifestation of the disability, then the suspension or expulsion may go forward consistent with policies applied to any student without disabilities, except that the district must still offer:
16. Services, such as tutoring, to enable the student, although in another setting, to continue to participate in the general education curriculum and to progress toward IEP goals; and
17. As appropriate, a functional behavioral assessment or behavioral intervention services and modifications to an existing behavior plan are made as indicated and implemented, to address the behavior so that it does not recur.
18. The school administrator notifies the parents of that decision on the date of the meeting and provides them with the written notice of Procedural Safeguards. No disciplinary action is taken until the parent has been informed.
19. If the parent chooses to appeal or the school district requests a hearing because it believes that maintaining the student's current placement is substantially likely to result in injury to the student or others, the student remains in the disciplinary placement, if any, until the decision of the hearing officer or the end of the time period for the disciplinary action, whichever comes first, unless the parent and the school district agree otherwise.
20. Interim alternative educational setting. Regardless of the manifestation determination, the district may place the student in an interim alternative educational setting (as determined by the Team) for up to 45 school days:
  - a. on its own authority if the behavior involves weapons or illegal drugs or another controlled substance or the infliction of serious bodily injury on another person while at school or a school function or, considered case by case, unique circumstances; or
  - b. on the authority of a hearing officer if the officer orders the alternative placement after the district provides evidence that the student is "substantially likely" to injure him/herself or others.

Characteristics. In either case, the interim alternative education setting enables the student to continue receiving the content of the general curriculum. The student also continues receiving services identified on the IEP, and is provided services to address the problem behavior.

Alternative educational settings are provided within the district or purchased through the local collaborative(s), or a local public school providing an appropriate program.

Out-of-district programs require the completion of an application and contract between the district and provider. By signing the contract and accepting the student, the provider agrees to provide access to IEP services and instruction in accordance with curriculum standards aligned to the student's previous placement.

In district settings which may be used include a resource room, available room, or separate space in the in-school suspension as space for instruction. The choice is made by the school administration on a case-by-case basis. The regular education program is provided under the supervision of an appropriately certified teacher. Special education is provided through consultation model supervised by a special education teacher who provides modified materials as indicated and ensures the provision of accommodations. Related services are provided within the alternative setting.

### **State Requirements**

### **Federal Requirements**

34 CFR 300.530-537

*SE 46 is related to State Performance Plan Indicator 4.*

*(See <http://www.doe.mass.edu/sped/spp/>.)*

*For a discipline flow chart, see*

*[http://www.doe.mass.edu/sped/IDEA2004/spr\\_meetings/disc\\_chart.doc](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc).*

**SE 47 Procedural requirements applied to students not yet determined to be eligible for special education**

1. The district makes all protections available to the student until and unless the student is subsequently determined not to be eligible if, prior to the disciplinary action, a district had knowledge that the student may have been student with a disability.
2. The district may be considered to have prior knowledge if:
  - a. The parent had expressed concern in writing; or
  - b. The parent had requested an evaluation; or
  - c. District staff had expressed directly to the special education director or other supervisory personnel specific concerns about a pattern of behavior demonstrated by the student.
3. The district may not be considered to have had prior knowledge if the parent has not consented to evaluation of the student or has refused special education services, or if an evaluation of the student has resulted in a determination of ineligibility.
4. If the district had no reason to consider the student disabled, and the parent requests an evaluation subsequent to the disciplinary action, the district will conduct the evaluation in an expedited manner: assessments will be conducted and the eligibility meeting held as soon as possible, with consideration of timeframes of existing pending evaluations.
5. Until the evaluation is completed, the student will remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
6. If the student is found eligible, then he/she receives all procedural protections subsequent to the finding of eligibility.

**State Requirements**

**Federal Requirements**

34 CFR 300.534

*SE 47 is related to State Performance Plan Indicator 4.*

*(See <http://www.doe.mass.edu/sped/spp/>.)*

*See also Administrative Advisory SPED 2003-2:*

**SE 48 Equal opportunity to participate in educational, nonacademic, extracurricular, and ancillary programs, as well as participation in general education**

1. The Team shall consider that all special education students, regardless of placement, are able and have equal opportunity to participate in and, if appropriate, receive credit for the vocational, supportive, or remedial services that may be available as part of the general education program unless the Team determines and documents the need and benefit of removal in the Nonparticipation Justification section of the IEP (IEP 6) in order to make educational progress. Eligible students also have equal opportunity to participate in the non-academic and extracurricular programs of the school.

Programs, services, and activities include, but are not limited to:

- a. art and music
- b. vocational education, industrial arts, and consumer and homemaking education
- c. work study and employment opportunities
- d. counseling services available at all levels in the district
- e. health services
- f. transportation
- g. recess and physical education, including adapted physical education
- h. athletics and recreational activities
- i. school sponsored groups or clubs
- j. meals

2. In-District Vocationally-related Programs and Services

The following vocationally-related programs and services are available to all students at the Westport High School.

- Career awareness- Individually through the four year plan; BCC summer program; field trips
- Career exploration- Individually through the four year plan; BCC summer program; field trips
- Career guidance and counseling-Individually as needed
- Career development-- Individually through the four year plan; BCC summer program; field trips
- Cooperative education-N/A
- Internships or apprenticeships- N/A except for the ones we may have in RISE
- Job shadowing- N/A except for the ones we may have in RISE
- On-the-job training- N/A except for the ones we may have in RISE
- Work experience- N/A except for the ones we may have in RISE

All courses in the high school provide skills necessary to be successful in a work environment. Courses that include specific vocational skills in the above areas are as follows.

Dual enrollment- a cooperative learning opportunity for seniors to take college courses at BCC and UMASS Dartmouth

- Government
- Journalism
- Mock trial
- Personal finance
- Tech fluency

3. Counseling services are available for all students at every grade level. Counseling services focus on the emotional and social needs of students to promote healthy academic functioning. Counseling services include, but are not limited to: social skills groups, classroom lessons, individual and group counseling, peer conflict resolution, family support, behavioral support, crisis intervention, classroom consultation, and referrals for students and families to outside providers.

**State Requirements**  
603 CMR 28.06(5)

**Federal Requirements**  
34 CFR 300.101 – 113



*SE 48 is related to State Performance Plan Indicator 5.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*See also Administrative Advisory SPED 2002-3: Vocational Educational Services for Students with Disabilities*

**SE 49 The school district provides or arranges for the provision of related services, transportation and such developmental, corrective, and other supportive services as are required to assist a student to benefit from special education or to access the general curriculum:**

- a. speech-language pathology and audiology services (in-district)
- b. psychological services (in-district and contracted)
- c. physical therapy (in-district)
- d. occupational therapy (in-district)
- e. recreation, including therapeutic recreation (contracted; if in-district, open to all students)
- f. early identification and assessment of disabilities in children (in-district and contracted)
- g. counseling services, including rehabilitation counseling (in-district, referrals to community agencies)
- h. orientation and mobility services (peripatology) (contracted)
- i. medical services for diagnostic or evaluation purposes (contracted)
- j. school health services, including school nurse services (in-district)
- k. social work services in schools (in-district and space is made available to community agencies)
- l. parent counseling and training (in-district consultation, referrals to agencies as indicated)
- m. interpreting services (contracted if needed and staff cannot translate)
- n. transportation (contracted)

**State Requirements**  
603 CMR 28.02(18)

**Federal Requirements**  
34 CFR 300.34; 300.323(c)

**FACULTY, STAFF AND ADMINISTRATION**

**WCS-SPED-SE50-51-52-53-54**

**Purpose:** The purpose of this procedure is to ensure that the District has staff that is appropriately licensed, trained and supervised to implement the special education programs and services.

**Procedure:**

**SE 50 Administrator of special education**

- 1. The school district appoints a person to be its administrator of special education who supervises all special education for the school district and ensures compliance with all federal and state special education laws. The administrator of special education is appropriately licensed or holds a current waiver for an appropriate license or otherwise demonstrates that he or she has the qualifications to perform all of the duties of the administrator. As appropriate, and in accordance with the requirements of M.G.L. c.71B, §3A, the administrator may designate other school district personnel to carry out some of the duties of the administrator.
- 2. Individuals (teachers) who design and/or provide direct special education services described in IEPs are appropriately licensed.
- 3. Any person, including non educational personnel, who provides related services described under federal special education law, who supervises paraprofessionals in the provision of related services, or who provides support services directly to the general or special education classroom teacher is appropriately certified, licensed, board registered or otherwise approved to provide such services by the relevant professional standards board or agency for the profession.
- 4. Providers of interpreting services for students who are deaf or hard of hearing must be registered with the Massachusetts Commission for the Deaf and Hard of Hearing.

**State Requirements**  
M.G.L. c. 71B, section 3A;  
603 CMR 28.03(2)

**Federal Requirements**

**SE 51 Appropriate special education teacher certification/licensure**

1. Except at Commonwealth charter schools, individuals who design and/or provide direct special education services described in IEPs are appropriately licensed.

**State Requirements**

M.G.L. c. 71, s. 38G; s. 89(qq);  
603 CMR 1.07; 7.00; 28.02(3)

**Federal Requirements**

34 CFR 300.18; 300.156

*See also* Massachusetts Charter Schools Technical Advisory 07-01 at  
[http://www.doe.mass.edu/charter/tech\\_advisory/07\\_1.html](http://www.doe.mass.edu/charter/tech_advisory/07_1.html)

**SE 52 Appropriate certifications/licenses or other credentials-related services providers**

1. Any person, including non educational personnel, who provides related services described under federal special education law, who supervises paraprofessionals in the provision of related services, or who provides support services directly to the general or special education classroom teacher is appropriately certified, licensed, board registered or otherwise approved to provide such services by the relevant professional standards board or agency for the profession.

**State Requirements**

603 CMR 28.02(3),(18)

**Federal Requirements**

34 CFR 300.34; 300.156(b)SE52A:

**SE 52A Registration of educational interpreters**

1. Providers of interpreting services for students who are deaf or hard of hearing must be registered with the Massachusetts Commission for the Deaf and Hard of Hearing.

**State Requirements**

603 CMR 28.02(3),(18)

**Federal Requirements**

34 CFR 300.34; 300.156(b)

**SE 53 Use of paraprofessionals**

1. Persons employed as paraprofessionals and assistants do not design instruction for students with disabilities but are expected to implement instruction monitored by an appropriately certified or licensed professional who is proximate and readily available to provide such oversight.
2. Paraprofessionals are supervised and evaluated by the Principal in accordance with collective bargaining.

**State Requirements**

**Federal Requirements**

34 CFR 300.156

## **SE 54 Professional development**

1. The district annually surveys staff to determine training needs and incorporates suggestions into its on-line training program.
2. The district ensures that all staff, including both special education and general education staff, are trained on :
  - a. state and federal special education requirements and related local special education policies and procedures;
  - b. analyzing and accommodating diverse learning styles of all students in order to achieve an objective of inclusion in the general education classroom of students with diverse learning styles;
  - c. methods of collaboration among teachers, paraprofessionals and teacher assistants to accommodate diverse learning styles of all students in the general education classroom; and the
  - d. DESE restraint policy (PowerPoint).
  - e. Special education teachers and related service providers are also trained or provided procedures and supporting documentation regarding suspensions and manifestation determination, MCAS accommodations, and alternative assessment as relevant to their job expectations.
3. The district provides in-service training for all locally hired and contracted transportation providers, before they begin transporting any special education student receiving special transportation, on his or her needs and appropriate methods of meeting those needs; for any such student it also provides written information on the nature of any needs or problems that may cause difficulties, along with information on appropriate emergency measures. Transportation providers include drivers of general and special education vehicles and any attendants or aides identified by a Team for either type of vehicle.

### **State Requirements**

M.G.L. c. 71, section 38G , 38Q and 38Q ½;  
603 CMR 28.03(1)(a); 28.06(8)(b) and (c)

### **Federal Requirements**

*Parts 1 and 2 of SE 54 are related to State Performance Plan Indicator 5.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

**Purpose:** The purpose of this procedure is to ensure that the District has facilities that are appropriate and at least equal in all physical aspects to the standards of general education facilities and classrooms while meeting the needs of all eligible students, regardless of disability, and maximizing opportunities for inclusion. The district will take reasonable steps to provide and obtain student records of students moving out or into the district to achieve a seamless continuum of the standard. .

**Procedure:**  
**School Facilities**

**SE 55 Special education facilities and classrooms**

1. The school district provides facilities and classrooms for eligible students that
  - a. maximize the inclusion of such students into the life of the school;
  - b. provide accessibility in order to implement fully each student’s IEP;
  - c. are at least equal in all physical respects to the average standards of general education facilities and classrooms;
  - d. are given the same priority as general education programs in the allocation of instructional and other space in public schools in order to minimize the separation or stigmatization of eligible students; and
  - e. are not identified by signs or other means that stigmatize such students;
  - f. require the approval of the Director of Special Education before they are located or relocated within the school buildings.

**State Requirements**  
603 CMR 28.03(1)(b)

**Federal Requirements**  
Section 504 of the Rehabilitation Act of 1973

*SE 55 is related to State Performance Plan Indicator 5.  
(See <http://www.doe.mass.edu/sped/spp/>.)*

*(See related requirements under CR 22)*

**Program Plan and Evaluation**

**SE 56 Special education programs and services are evaluated**

1. Parents are surveyed through a survey which is sent home annually, coinciding with the student’s annual review.
2. Special education teachers and related service providers are asked to provide feedback on the special education program each school year.
3. A program evaluation by an independent evaluator is conducted periodically.

**SE56: State Requirements**  
M.G.L. c. 71B, section 2

**Federal Requirements**

**Record Keeping**

**SE 59 Transfer of student records**

1. When a student with an IEP transfers into the Westport Community Schools from school district to school district, whether both of those districts are within the Commonwealth of Massachusetts or not, the special education office will work with the local receiving school to ensure that special education records are included in any records request if they do not come with the student.
2. If the records received through the parent or local school are insufficient, the special education clerk will contact the sending school and request records using the release previously obtained.

3. When a student transfers out of the Westport Community Schools the local school sends student records to authorized school personnel of the school to which a student seeks or intends to transfer without the consent of the eligible student or parent unless the parent requests the district not to do so.
4. To allow for the sending of records of leaving without a release of information, the district describes this intent in the Student Handbook with the following statement:
  - a. *It is the practice of the Westport Community Schools that authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.*
5. If parents request that information not be automatically forwarded to transfer schools, the parent must provide informed written consent to transfer records. When granting consent, the eligible student or parent shall have the right to designate which parts of the student record shall be released to the third party. A copy of such consent shall be retained by the eligible student or parent and a duplicate placed in the temporary record. Personally identifiable information from a student record shall only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent.
6. When a release to provide information to a district to which a student has moved is received by the special education office, the request is responded to promptly and arrangements made to provide the records, for example, partial files may be faxed with the balance mailed.
7. When parents request only copies of current IEPs or testing (this year), that will be provided by the Sped office. If they request historical records, meaning beyond this year's documents, then we will charge .20 per page for all pages copied. The parent must present a check made out to the Westport Community Schools for the total amount before we will release the records to them.

**State Requirements**

603 CMR 23.10

603 CMR 23.07(4)(g).

**Federal Requirements**

34 CFR 300.323(g)