



Green Dot Public Schools Washington State
Special Education
Policies and Procedures

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Board Policy – Special Education and Related Services for Eligible Students

The Governing Board of Green Dot Public Schools Washington State (“GDPSW”) recognizes that all GDPSW students must receive a free appropriate public education (“FAPE”), regardless of whether a student’s disability adversely impacts educational performance. To that end, GDPSW’s Board adopts Washington State’s full educational opportunity goal to provide students who are eligible to receive special education and related services with a FAPE tailored to fit identified individual needs.

GDPSW’s Board also recognizes that special education programs for eligible students are an integral part of general educational programs. Such special education programs shall operate at each GDPSW school in compliance with applicable federal and state requirements. GDPSW shall also provide a continuum of placement options, which may include services within and outside each GDPSW school depending on the student’s needs.

Not all students with disabilities are eligible for special education and related services. The needs of those students will be addressed individually and if, appropriate, the student will be provided accommodations or modifications required under Section 504 of the Rehabilitation Act of 1973, as amended, in accordance with GDPSW policy and procedures.

Mediation or Resolution Agreements

GDPSW’s Board authorizes GDPSW’s Executive Director or designee to bind GDPSW to a mediation or resolution agreement related to disputes regarding the provision of special education and related services for students enrolled at GDPSW schools.

The Executive Director or designee shall develop and maintain the special education procedures necessary to implement this policy. This policy and the procedures found herein shall be available to the public.

Legal

References:

RCW 9A.16.020 Use of force — When lawful

RCW 9A.16.100 Use of force on children — Policy — Actions presumed unreasonable

RCW 28A.150.300 Corporal Punishment Prohibited - Adoption of policy

RCW 28A.155.210 Use of restraint or isolation — Requirement for procedures to notify parent or guardian.

RCW 28A.600.485 Restraint of students—Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973—Procedures—Summary of incidents of isolation or restraint

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RCW 28A.710.050 Admission and enrollment of students-Capacity-Specialized learning environments
RCW 70.96B.010 - Definitions
WAC 392-172A Rules for the provision of special education
WAC 392-172A-01109— Likelihood of serious harm
WAC 392-172A-02110— Isolation and restraint—Conditions
WAC 392-400-235 Discipline — Conditions and limitations
20 U.S.C. 1400 et seq. Individuals with Disabilities Education Act of 2004
42 U.S.C. 12131-12133 Americans with Disabilities Act of 1990
28 CFR Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services
34 CFR Part 99 Family Education Rights and Privacy Act (FERPA)
34 CFR Part 104 Nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance
34 CFR Part 300 Assistance to States for the Education of Children With Disabilities

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Special Education and Related Services Procedures for Eligible Students

INTRODUCTION

The purpose of Green Dot Public Schools Washington State’s (“GDPSW”) special education and related services procedures for eligible students is to address program areas in which state and federal regulations require specific local procedures or permit local discretionary choices. Each school that GDPSW operates serves as a local education agency (“LEA”) for the purposes of special education.

The state regulations governing implementation of special education services pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”) are addressed in Chapter 392-172A WAC. GDPSW’s LEAs meet the definition of LEA under WAC 392-172-01115 and, for the purpose of these procedures, is referred to as LEA. These procedures do not address all of the requirements established in the regulations. GDPSW or LEA personnel who are not familiar with the regulations need to contact GDPSW’s Special Education Director or equivalent position if there are questions regarding special education. These procedures describe how GDPSW and its LEAs implement special education programs in accordance with the IDEA and Washington Administrative Code (“WAC”).

FREE APPROPRIATE PUBLIC EDUCATION

GDPSW's LEAs will apply annually for Federal Part B and state special education funding to assist in the provision of special education and any necessary related services. This funding is in addition to students' basic education funding and state special education funding.

GDPSW's Executive Director, in collaboration with the LEA's principal and GDPSW's Special Education Director or equivalent position, will annually determine whether to use Early Intervening Services ("EIS") funding for students who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

GDPSW's Executive Director in consultation with the LEA's principal or his or her designee shall annually determine whether to use EIS funding for students who have not been identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

If EIS is used, the LEA shall annually report to the Office of Superintendent of Public Instruction ("OSPI") the number of students receiving EIS, and the number of students who received EIS and subsequently received special education and related services under Part B of IDEA during the preceding two-year period.

Special education and related services to eligible students, age three through 21, will be provided without charge to the student. This does not include incidental fees that are normally charged to all students. Special education and related services will include elementary and secondary education and are provided in conformance with the student's individual education program ("IEP").

GDPSW's LEAs provide a continuum of services for students, regardless of the funding source. Where the LEA is unable to provide all or part of the special education or necessary related services, it will make arrangements through contracts with other public or non-public sources, inter-District agreements, or interagency coordination.

The LEA will develop procedures to notify resident school districts when students, ages birth through 21 years, who are eligible for special education services or suspected of having a disability, seek to apply for enrollment at the LEA but do not meet the approved grade eligibility criteria.

STUDENTS COVERED BY PUBLIC OR PRIVATE INSURANCE

GDPSW's LEAs may use Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required to provide FAPE, as permitted by the public benefits or insurance program. However, the LEA shall not:

1. Require parents to sign up for or enroll in public benefits or insurance programs in order for their student to receive FAPE under Part B of the IDEA;
2. Require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services;
3. Use a student's or parent's benefits under a public insurance program if that use would:
 - a. Decrease available lifetime coverage or any other insured benefit;

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- b. Result in the family paying for services required after school hours that would otherwise be covered by the public benefits or insurance program;
- c. Increase premiums or result in discontinuation of benefits or insurance; or
- d. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

The LEA may access a parent's public or private insurance proceeds to provide FAPE to an eligible student only if the parent provides informed consent to the LEA. Whenever the LEA proposes to access the parent's public benefits or private insurance proceeds, the LEA shall:

- Obtain parent consent in accordance with Chapter 392-172A WAC each time the LEA wishes to access a new procedure; and inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

Before first accessing a parent's or student's public benefits or insurance for the first time and annually after the first notification, the LEA will provide written notification using the prior written notice provisions under WAC 392-172A-05010(3) that includes:

1. a statement of the parental consent provisions;
2. a statement of the "no cost" provisions;
3. a statement that the parents may withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for administering the state's public benefits or insurance program at any time; and
4. a statement that a parent's withdrawal or refusal to consent does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

After providing the required notification, the LEA will obtain written informed consent from the parent allowing the LEA to disclose information from the student's educational records to the agency responsible for administering the state's public benefits or insurance programs. The consent will specify:

1. The personally identifiable information that may be disclosed, such as records or information about the services that may be provided to the student;
2. The purpose of the disclosure;
3. The agency to which the disclosure will be made; and
4. That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to apply for services under the act.

To avoid financial cost to parents who would otherwise consent to use private insurance, or public benefits or insurance if the parent would incur a cost such as a deductible or co-pay amounts, the LEA may use its Part B funds to pay the cost the parents would incur.

The LEA's principal or his or her designee is responsible for providing the required notices and request for consent to parents under this section.

PARENT PARTICIPATION IN MEETINGS

The LEA encourages parental involvement and sharing of information between LEA and parents to support the provision of appropriate services to its students. As used in these procedures, the term "parent" includes biological and adoptive parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, foster parents, persons appointed as surrogate parents, and adult students.

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Parents (and, as appropriate, students) will be provided the opportunity to participate in any meetings with respect to the identification, evaluation, educational placement, and provision of a FAPE.

When a meeting is scheduled for matters other than IEP or placement decisions, parents will be:

1. Notified of the meeting early enough that they will have an opportunity to attend; and
2. Notified of the purpose, time, and location of the meeting and who will be in attendance.

When a meeting is to address the IEP or placement, notification procedures described in the previous paragraph apply. In addition to the above notice requirements:

- Meetings shall be scheduled at a mutually agreeable time and place;
- Parents will be notified that the LEA or the parent may invite others who have knowledge or special expertise of the student. Invitation of others having knowledge or special expertise is at the discretion of the party making the invitation;
- When the meeting involves secondary transition needs or services, the student will also be invited;

If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited with parent consent. If the agency representative cannot attend the meeting, LEA personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision;

The LEA will take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose primary language is other than English.

GDPSW Special Education Director or equivalent position, special education teacher/s, or other special education staff is responsible for using special education forms and procedures to ensure that parents who wish to attend such a meeting have the opportunity to do so.

The LEA may proceed with the continuing IEP or placement meeting if the LEA is not able to gain parent participation. In this case, the LEA will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent, and/or other means to contact the parent. Parent participation is required for initial IEPs in order to obtain consent for initial placement.

If the parent(s) cannot attend the IEP or placement meeting but wishes to participate, the LEA will arrange for other means to participate. This can include individual or conference phone calls, video, or other means of conferencing.

A meeting does not include informal or unscheduled conversations involving LEA personnel; conversations on issues such as teaching methodology, lesson plans, coordination of service provisions; or preparatory activities that LEA personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

IDENTIFICATION AND REFERRAL (“CHILD FIND”)

IDENTIFICATION

The purpose of Child Find is to locate, evaluate, and identify children with suspected disabilities in need of special education services including those who are not currently receiving special education and related services and who may be eligible for those services. Activities are to reach:

- Children enrolled in the LEA;

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- Children who have contacted the LEA regarding Child Find;
- Highly mobile children (such as homeless, foster care and migrant children);
- Children who have a disability and may need special education services, even though they are advancing from grade to grade; and
- Children at home or home-schooled if enrolled in the LEA.

The LEA reaches students who may be eligible for special education services through:

1. Notification to parents of Child Find activities in its annual informational packet;
2. Information regarding Child Find on the LEA's Web site;
3. Posting notices regarding screening and referral in school buildings and other public locations;
4. Coordination with other public and private agencies and practitioners;
5. Written information provided to LEA staff on referral procedures;
6. Training teachers and administrators on referral/evaluation/identification procedures;
7. Review of student behavior, discipline and absentee information, and information gathered from LEA-wide assessment activities.

When LEA staff have concerns that a student may have a suspected disability, which could result in eligibility for special education services, they will notify the principal or his or her designee.

REFERRAL

A student enrolled at the school may be referred for a special education evaluation by parents, LEA staff, or other persons knowledgeable about the student. The principal will be responsible for ensuring that LEA staff understands the referral process. Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked to either make the referral in writing or go to the main office of the building for assistance in making the referral.

The referral for initial evaluation must be received in writing with the exception of parents who do not write in English for whom a conversation can be documented by a staff member and provided in writing (WAC 392-172a-03005).

After a referral is received and documented, the LEA must determine whether or not to evaluate the student within 25 school days (WAC 392-172A-03005).

Prior to all evaluations, the LEA will provide prior written notice to the parent and obtain consent (WAC 392-172A-03000).

GDPSW will develop procedures to notify resident schools of the referral when students who are suspected of having a disability seek to apply for enrollment in the school but do not meet the approved grade eligibility criteria.

All certificated employees will document referrals immediately upon a referral being made to or by them. All other staff receiving a referral from another person shall notify the principal or evaluation team leader. The LEA's principal or his or her designee (a) records the referral; (b) provides written notice of the referral to the parent; and (c) advises the LEA personnel to collect and review LEA-generated data and information provided by the parent to determine whether evaluation is warranted.

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During the referral period, the evaluation team members will collect and review existing information from all sources, including parents. Examples may include:

1. Child's history, including developmental milestones;
2. Report cards and progress reports;
3. Individual teachers' or other providers' information regarding the child, including observations;
4. Assessment data;
5. Medical information, if provided; and
6. Other information that may be relevant to assist in determining whether the child should be evaluated.

If the review of data occurs at a meeting, the parent will be invited. The designated evaluation team member will provide written notice to the parents of the decision regarding evaluation, whether or not the parents attend the meeting.

Recommendations regarding evaluation are forwarded to the LEA's principal or his or her designee. After the LEA's evaluation team (school psychologist, special education teacher, LEA representative, and parent) reviews the request for evaluation and supporting data and does not suspect that the child has a disability, the LEA may deny the request. In this case, written notice, including the reason for the denial and the information used as the basis for the denial, must be provided to the parent.

If the determination is that the child should be evaluated, the reviewers shall include information about the recommended areas of evaluation, including the need for further medical evaluation of the student, if appropriate. This information will assist the LEA in providing parents prior written notice and will aid in selecting appropriate evaluation group members. The LEA's principal or his or her designee is responsible for notifying parents of the results using prior written notice. When the determination is that the child will be evaluated, parent consent for evaluation and consent for release of appropriate records will be given to the parent with the notice at the meeting or sent to the parent.

LEA staff will seek parental consent to conduct the evaluation. The LEA is not required to obtain consent from the biological parent if:

1. The student is a ward of the state and does not reside with a parent;
2. The parent cannot be located, or their rights have been terminated; or
3. Consent for an evaluation is given by an individual appointed to represent the student.

When the parent provides consent, the LEA shall select an evaluation group. The evaluation group is to complete the evaluation within 35 school days after parent consent, unless:

1. The parents and LEA agree in writing to extending the timeline;
2. The parent fails or refuses to make the student available for the evaluation; or
3. The student enrolls in another LEA after the evaluation is begun but before completion and the parent and new LEA have an agreement for completion of the evaluation.

If a parent does not provide written, informed consent for evaluation, notify the appropriate LEA personnel will be notified. LEA staff will make a determination as to whether it wishes to use mediation to seek agreement to evaluate or file a due process hearing to override the parent's refusal to consent. The LEA may not override a parent's refusal to consent for an evaluation if the student is homeschooled or is unilaterally placed in a private school. If the parent does not provide written informed consent and the LEA does not use mediation or due process, the LEA's principal or his or her designee, will provide the parent with prior written notice informing the parent that

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the LEA cannot proceed with the evaluation to determine eligibility and is not responsible for providing special education and related services without an initial evaluation to determine eligibility.

EVALUATION AND ELIGIBILITY REQUIREMENTS

The purpose of the evaluation is to determine eligibility for special education and related services and obtain enough information to develop the IEP, if eligible. Evaluation activities and procedures are used to determine:

- The student has a disability that adversely affects educational performance; and
- The student requires special education and any necessary related services; and
- The nature and extent of special education and related services needed by the student.

Evaluations of students are to be complete within 35 school days after parent consent is received by the LEA, or after consent is overridden in a due process hearing. If a staff is unable to obtain a voluntary parent consent and those reviewing the data believe that the student is appropriately identify for evaluation, the LEA shall arrange an opportunity to ask the parent to agree to mediation or it may proceed with a due process hearing to request that the school be allowed to conduct the evaluation.

Evaluation activities include:

- Determining the student's eligibility and need for special education and related services;
- Measuring the student's present levels of functioning, needs, abilities, and limitations;
- Drawing conclusions about the significance of findings as they relate to the general education curriculum and instructional programming;
- Providing information that will assist the IEP team in making decisions about the special education program, including necessary related services, assistive technology, extended school services, and supportive services.

The LEA will evaluate the student in all areas of related to the suspected disability and sufficiently comprehensive to identify special education and related service's needs, whether or not the needs are commonly linked to particular disability category. Areas of evaluation should include, if appropriate, health, vision, hearing, social skills, emotional status, general intelligence, academic performance, communication skills, and motor skills.

The LEA's special education team shall select the members of the evaluation group. Members selected must be knowledgeable about the student and the areas of suspected disability. Qualifications of a group member include having the appropriate professional license or certification and may include outside practitioners when necessary. When assessing for specific learning disabilities, the parent and a group of qualified professionals must be part of the group. If the student requires a medical evaluation in order to determine eligibility, the LEA will coordinate with the parents to arrange for the evaluation at LEA expense or through the use of public or private insurance if the parent consents to the use of the insurance.

Evaluation procedures or materials must be free of racial, cultural, or sexual/gender bias and they must be used for the purpose for which they are valid and reliable. Tests must be appropriate for the student's age and developmental level. Tests should be administered in the primary language of the student or conducted in the mode of communication most familiar to the student. If it appears to be clearly not feasible to conduct a procedure or test in the mode of communication most frequently used by the student, the IEP team will contact GDPSW's Special Education

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Director or equivalent position to develop an individualized strategy for valid evaluation of the student's skills. The inclusion of parents in this collaboration is desirable.

Specific areas to be included in the evaluation are determined by the identified personnel and other qualified professionals, as appropriate, as part of a review of existing data concerning the student. The evaluation does not rely on one source or procedure as the sole criterion for determination and should include:

1. Review of existing data, including corresponding response to scientific research-based intervention documentation;
2. Relevant functional and developmental information;
3. Information from parents;
4. Information from other providers;
5. Information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;
6. Current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records and observations;
7. Teacher and related service providers' observations; and
8. Testing and other evaluation materials, which may include medical or other evaluations when necessary.

Additional Assessments

When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The gathering of additional data in combination with existing data must be sufficiently comprehensive to address all areas of the suspected disability and any special education needs, whether linked to the disability category or not. If the IEP team determines that no additional data is needed, the IEP team will notify the student's parent of that determination and the reasons for it, and inform them of their right to request additional assessments. The LEA will follow the evaluation procedures outlined in WAC 392-172A.

EVALUATION OF TRANSFER STUDENTS

For students who are eligible for special education and who transfer from one LEA to another in the same school year, the LEA's principal or his or her designee will coordinate the student's evaluation with prior and/or subsequent schools as necessary and as quickly as possible to ensure timely completion of full evaluations.

If a student transfers into the LEA while an evaluation process is pending from the other LEA, the LEA's principal or his or her designee is responsible for determining the status of evaluations conducted to date and making a determination as to whether the evaluation can be completed within the 35 school day timeline from the date the parent provided consent. If the determination is that additional time will be needed, the LEA's principal or his or her designee will notify the parent and obtain the parent's agreement to establish a new timeline.

ELIGIBILITY

The evaluation group and the parent will determine whether or not the student qualifies for special education and related services.

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- A student is not eligible if the determinant factor is lack of appropriate instruction in reading or math, based upon the state's grade level expectations or limited English proficiency.
 - Eligibility may be determined by documented professional judgment when properly validated tests are unavailable, or
 - corroborating evidence indicates that results were influenced due to measuring a disability

The parent will be provided with a copy of the evaluation report and the documentation of determination of eligibility.

Parents will also be provided with prior written notice of the eligibility decision within ten school days of the decision. The LEA's principal or his or her designee is responsible for sending the notice.

Students remain eligible for special education and related services until one of four events occur:

1. The student is determined through a re-evaluation to no longer need special education services;
2. The student has met the LEA's graduation requirements;
3. The student has reached age 21. A student who receives special education and related services ("Special Education Student") whose twenty-first birthday occurs after August 31, will continue to be eligible for special education and any necessary related services for the remainder of the school year; or
4. The student no longer receives special education services based upon a parent's written revocation of services.

When a student eligible for special education is expected to graduate prior to age 21, or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. The LEA will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services. The LEA will also provide the parents and student with a summary of academic achievement and functional performance and recommendations to assist the student with postsecondary goals.

EVALUATION REPORT

Each person conducting an assessment of the student will specify the procedures and instruments used and their results and the significance of findings related to the student's instructional program, including a specification of the factors interfering with performance and the special education and related services needed.

The evaluation group will determine who is most appropriate to develop the evaluation report reflecting the evaluation information. This will be completed before the conclusion of the evaluation period and will, at a minimum:

1. Identify the disability which requires special education and related services, if a disability exists;
2. include assessments and review data supporting conclusions regarding eligibility;
3. Include the additional information required for the specific learning disability eligibility category, if appropriate;
4. Describe how the disability or disabilities adversely impact the student's involvement and progress in the general curriculum;
5. Make recommendations to the IEP team with respect to special education and related services needed, materials or equipment, instructional and curricular practices, student

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management strategies, the need for extended school year services beyond 183 school days and location of services;

6. Include other information, as determined through the evaluation process and parent input;
7. Provide any necessary professional judgments and the facts or reasons in support of the judgments;
8. Be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions will prepare a statement presenting the conclusion; and
9. The special education department is responsible for notifying parents of the date, time, and location of evaluation meetings by following the procedures in the parent participation section.

REEVALUATION

A reevaluation of a student receiving special education or related services is conducted if academic achievement and functional performance has improved to warrant a reevaluation, if the IEP team suspects that the student may no longer be a student with a disability, or if the child's parent or teacher requests a reevaluation. A reevaluation does not occur more than once per year, unless parent and school agree otherwise. A reevaluation must occur at least once every three years, unless parent and school staff agree that a reevaluation is unnecessary. An agreement that an evaluation is unnecessary will be confirmed in writing to the parent. A review of this determination will be scheduled and the GDPSW's Special Education Director or equivalent position will be notified.

The re-evaluation process shall be completed within 35 school days after the parent's consent is received by the LEA or within 35 school days after a parent's refusal to consent is overridden by a due process decision, and no later than three years after the previous eligibility determination.

As part of any reevaluation, the IEP team members and other professionals the LEA determines appropriate will review existing data that include evaluations and information provided by the parents; current classroom-based assessment, local, or state assessments, and classroom based observations; and observations by other teachers and related service providers' data. Based on the review, the team will determine whether any additional data are necessary to determine:

1. Whether the student continues to be eligible for special education and related services;
2. The present levels of performance and educational needs; and
3. Whether any additions or a modification at the student's special education and related services are needed.

This review can occur with or without a meeting or through individual review. If the IEP team members and any other qualified professionals reviewing the data determine that no further data are needed to determine whether the student continues to be eligible for special education services and to determine the student's educational needs, the LEA will notify the parents of this determination, including the reasons for the determination, using prior written notice, and will inform parents that they have the right to request assessments if they disagree with the determination that additional testing is not necessary. Parent consent is not required if the reevaluation does not require additional testing:

- a. If additional testing is needed, the LEA will request written parental consent for reevaluation and provide prior written notice identifying the areas of assessment.

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- b. If the parents do not return the signed consent form, the LEA shall send another letter explaining the need for reevaluation and parent consent and will enclose another consent form and a copy of the prior written notice. In addition, the LEA will document its reasonable attempts to obtain consent such as telephone calls, e-mails, personal contact, and other efforts.
- c. If the parents do not respond to the request for consent and the LEA has documented its responsible attempts to obtain consent, the LEA cannot proceed with the reevaluation; and
- d. If the parents refuse to consent to the reevaluation, the evaluation group will notify the LEA's principal or his or her designee so that the LEA can determine whether it, seek mediation in order to obtain consent, or request a due process hearing to ask an administrative judge to override the parents' refusal to consent.

Parent consent for reevaluation is not required before the review of existing student data or when administering a test or other evaluation that is administered to all students, unless consent is required of parents of all students before administration of that test or evaluation.

After the reevaluation is completed, the LEA will invite the parents to the eligibility meeting and will provide prior written notice after the meeting of the results of the reevaluation in the primary language of the parents, indicating one or more of the following:

- Whether the student continues to be eligible for and in need of special education;
- Present levels of performance and educational needs of the student; and
- Whether any additions or modifications to special education and related services are needed to enable the student to meet IEP annual goals and to participate, as appropriate, in the general curriculum.

This notice will occur within ten school days of the eligibility decision. The student's special education teacher is responsible for sending the notice.

REEVALUATION AND GRADUATION

No reevaluation is required when special education eligibility terminates due to graduation from high school with a regular diploma or due to reaching the end of the school year during which the student turned 21. Instead, the LEA will provide prior written notice to the student and the parent and the IEP team will provide the student with a summary of academic achievement and functional performance including recommendations on how to assist the student in meeting post-secondary goals. This summary will be provided to the student at the end of the school year. The LEA principal is responsible for assuring that the IEP team completes the summary of academic achievement and functional performance.

INDEPENDENT EDUCATIONAL EVALUATIONS

Parents of students eligible for special education and related services, or students referred for special education and determined to not be eligible, or students determined not to need an evaluation have a right to obtain an independent educational evaluation ("IEE") at public expense each time the LEA conducts an evaluation of the student. When parents request an IEE, the LEA must decide within 15 calendar days whether or not it agrees to provide it. Any parent request for an independent evaluation should be immediately referred to GDPSW's Special Education Director or equivalent position. The Special Education Director or equivalent position will review the request and determine whether or not the request is warranted. If the LEA agrees to provide an IEE, arrangements will be made promptly. If the LEA denies the request to pay for an IEE, it

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must file for a due process hearing within 15 calendar days of the parent's request. The LEA may request mediation as an option after filing the due process hearing. If the parents withdraw their request for an IEE, the due process hearing can be dismissed.

When a parent requests an IEE, the LEA must provide parents a list of LEA criteria and evaluators. If the LEA initiates a hearing and a decision is made that the LEA's evaluation is appropriate, the parent still has the right to an IEE but not at public expense. A parent is only entitled to one IEE at public expense each time the LEA conducts an evaluation with which the parent disagrees.

If the parent obtains an IEE at either public or private expense, any results of the IEE must be considered by the LEA in providing FAPE. The IEE may also be presented as evidence at a hearing regarding the student.

IEE CRITERIA

The following criteria are established for the selection of an individual to conduct an IEE at public expense. These criteria are established in order to identify the knowledge, experience, and qualifications of individuals selected to conduct the evaluations. Any individual selected to conduct either an LEA evaluation or an IEE must be:

1. Licensed, credentialed or otherwise qualified within the state of Washington to perform an evaluation in the specific professional discipline for which an evaluation is sought;
2. Knowledgeable and experienced in evaluating children with similar disabilities;
3. Geographically located within the state of Washington (LEAs may wish to specifically expand the criteria to include practitioners in other states/British Columbia or establish a specific radius); and
4. Available to the LEA at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington.

Exceptions to the criteria will be granted only when it can be shown that the unique circumstances of the child or the disability:

1. Make it impossible to identify anyone within the state of Washington who holds the appropriate credentials or experience necessary to conduct the evaluation; or
2. Require a specialized evaluator whose fee exceeds the prevailing average by more than 25%; or
3. Include factors which would warrant an exception in order to obtain an appropriate evaluation.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

IEP DEVELOPMENT

The IEP is the written statement reflecting the implementation of instructional programs and other services for students receiving special education and related services based on the evaluation and student-specific needs.

An IEP must be in effect before initiation of special education services. The IEP must be developed within 30 calendar days after the student's initial determination of eligibility for special education services. IEPs must be updated annually, or revised more frequently if needed to adjust the program and services.

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Parent consent is required before the initial provision of special education services. If a parent refuses to consent to the provision of special education services, the LEA may not use mediation or due process to override a parent's refusal. When a parent refuses to provide consent, the LEA's principal or his or her designee will notify the parent that the LEA does not have an obligation to provide special education and related services to the student to provide the student with a FAPE. The notification will be documented in the student's file.

The LEA will maintain a copy of the current IEP which is accessible to all staff members responsible for providing education, other services, or implementation of the IEP. All staff members will be informed of their responsibilities for its implementation. This includes not only teachers and other service providers, but also bus drivers, playground and lunchroom supervisors, nursing staff, and others who may be responsible for the proper implementation. The LEA's principal or his or her designee is responsible for ensuring that staff members are knowledgeable about their responsibilities.

IEPs will be implemented without undue delay following IEP meetings, regardless of the payment source for special education and or related services.

The LEA will provide parents/guardians with a copy of the LEA's Required Restraint, Isolation, and Other Uses of Reasonable Force policy when the student's IEP or Section 504 Plan is created.

The IEP team includes:

1. The parent of the student;
2. Not less than one general education teacher of the student if the student is, or will be, participating in the general education environment;
3. Not less than one special education teacher, or if appropriate, not less than one special education provider of the student;
4. A representative of the LEA, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of LEA resources;
5. An individual who can interpret the instructional implications of the evaluation results;
6. Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both the LEA and the parents, at the discretion of the person making the invitation;
7. The student, when appropriate, or when required;
8. Students must be invited when the purpose of the meeting includes discussion of postsecondary goals and the transition needs or services;
9. If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited, with the parent's consent. If the agency representative cannot attend the meeting, LEA personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision.
10. As applicable, parents will be notified of the participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead educational agency for Part C at the initial IEP meeting for a student previously served under Part C of IDEA.

Existing team members may fill more than one of these roles if they meet the criteria for the role.

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The parents and LEA must agree in writing before any of the above team members are excused from all or part of a meeting. If a team member's area is not being discussed or modified in the meeting, the parent and LEA representative may agree to excuse that member's participation from the meeting as unnecessary. If a team member's area of the IEP is being discussed or modified at the meeting, then the parent and LEA representative must consent to the member's excusal and that the specific team member must provide written input for their part of the IEP to the other members of the team prior to the meeting.

When an IEP meeting is scheduled, the special education teacher will schedule the meeting at a mutually agreeable time between the LEA and the parent, and early enough that the parents will have an opportunity to attend. The teacher will notify the parents in writing of the purpose of the meeting, time and location of the meeting and who will be in attendance. The parent will be notified that the LEA or parent may invite others who have knowledge or special expertise of the student. Existing team members may fill more than one of these roles if they meet the criteria for the role.

Sometimes parents do not attend IEP meetings. Additionally, there will also be times when parents do not agree with the IEP as proposed and, despite attempts to reach agreement on IEP content, the team does not reach agreement. Under these circumstances, the team will determine whether another IEP meeting should be scheduled as soon as mutually possible, or whether there is enough information to complete the IEP.

When the decision is made that the IEP will be implemented, the LEA must send prior written notice of the decisions reached to the parent, including the date the IEP will be implemented. When the parents do not attend the IEP meeting, despite the LEA's efforts to ensure participation, or if the team does not reach agreement, it is the LEA's obligation to offer an appropriate educational program:

1. Have IEP members present sign the IEP (or document participation if any member is unwilling to sign);
2. Send a copy to the parent, and provide the parent prior written notice that the LEA intends to implement the IEP; and
3. Forward the documentation of actual or attempted contacts to the principal or his or her designee for processing when parents do not attend the meeting.

When making changes to an IEP after the annual IEP meeting for a school year, the parent and the LEA may agree not to convene an IEP meeting for the purpose of making changes. The parent and the LEA must complete a written document indicating the changes and inform IEP team members and appropriate individuals of the changes. If the parent requests that the LEA revise the IEP to include the amendments, the student's special education teacher in collaboration with the principal or his or her designee will revise the IEP.

IEP PREPARATION AND CONTENT

IEP teams will consider the recommendations in the most recent evaluation to develop the IEP. In developing the IEP, the team should consider:

1. The strengths of the student including the academic, developmental and functional needs of the student; the results of the initial or most recent evaluation of the student; and the concerns of the parents for enhancing the education of their child;
2. Whether a behavior plan, including positive behavioral interventions and supports should be considered;
3. Whether a student with limited English proficiency has language needs;
4. Whether Braille instruction is appropriate for a student who is blind or visually impaired;

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5. Whether a student has other language and communication needs, including the communication needs of students who are deaf or hard of hearing; and
6. Whether assistive technology devices or services are needed.

IEP content includes:

1. The student's present levels of academic and functional performance with a description of how the disability(ies) affects the student's involvement and progress in the general education curriculum;
2. Measurable academic and functional annual goals for the student (including benchmarks or short term objectives in subject areas in which the student is participating in alternate assessments) that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum, and will meet the student's other educational needs;
3. A statement of special education services, any necessary related services, and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the student, including program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other students, regardless of disability status, and participate in extracurricular and other nonacademic activities;
4. A statement of the extent, if any, that the student will not participate with non-disabled students in general education classrooms, extra-curricular and non-academic activities;
5. A statement of any individual appropriate accommodations in the administration of state or LEA-wide assessments of student achievement. If the team determines that the student will not participate in a particular assessment, the IEP will address why the student cannot participate in the regular assessment(s) and why the particular alternative assessment is appropriate for the child;
6. The projected date for the beginning of special education and related services and the anticipated frequency, location and duration of services and modifications;
7. A statement of how the LEA will measure the student's progress towards annual goals, how the student's parents will be regularly informed of their child's progress towards the annual goals, and whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Measurement of the student's progress will be based on the data collected as designated on the IEP. The individual responsible for implementing the goal is responsible for maintaining the data used to measure progress. Information to the parents can be provided at the same time the LEA issues progress reports or report cards, or other agreed times as identified in the IEP;
8. With an IEP that is in effect when the child turns 16, or sooner if the IEP team determines it is appropriate, and updated annually thereafter, a statement of needed transition services and any interagency responsibilities or needed linkages. The transition component must include appropriate measurable postsecondary goals based on age appropriate transition and assessments related to training, education, employment and independent living skills where appropriate; and the transition services (including courses of study) needed to assist the child in reaching those goals;
9. A statement that the student has been informed of the student's transfer of rights at the age of majority. GDPSW's Special Education Director or equivalent position will provide prior written notice to the student one year prior to student turning 18 years of age; and
10. Extended school year ("ESY") services. The consideration for ESY services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. ESY services are not limited by categories of disability, or limited by type, amount, or duration of the services. If the need for ESY services is not addressed in the IEP and ESY services may be appropriate for the student, the IEP team

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will meet to address the need for ESY by 30 days prior to the start of ESY. Factors for the team to consider when determining the need for ESY may include, but are not limited to: 1) Evidence of regression or recoupment time based on documented evidence; or 2) A documented determination based on the professional judgment of the IEP team including consideration of the nature and severity of the student's disability, the rate of progress, and emerging skills.

11. Behavior Intervention Plan (BIP). The consideration for a BIP is a team decision, based on information provided in the evaluation report and functional behavior assessment. If a BIP is determined necessary by the team for the student to receive FAPE, the plan must be written in accordance with WAC 392-172A-01031.
12. Emergency Response Protocol (ESP) The consideration for an ESP is a team decision, based on information provided in the evaluation report, functional behavior assessment, behavior intervention plan, school data collection system, and other means of behavior data collection. If the need for an ESP is determined by the team; in order for the student to receive FAPE, the parents must provide consent, and it must be written in accordance with WAC 393-172A-02105.

TRANSFER STUDENTS

Students who transfer into a GDPSW LEA from within the state continue to be eligible for special education and any necessary related services. When an eligible student with an existing IEP transfers into the LEA, the principal or his or her designee will notify the LEA's Special Education Lead Teacher.

The LEA's principal or his or her designee, in consultation with parents, will review the student's IEP to determine whether the LEA is able to implement the services on the IEP, as written, and will notify parents of the LEA's determination. If implementation of the IEP as written is not possible, the LEA will provide services that approximate the services on the existing IEP until a new IEP can be developed. If it is necessary to develop a new IEP, the LEA will convene the IEP team as soon as possible.

When a student who was identified as eligible for special education transfers from out of state into the LEA, the LEA's principal or his or her designee will notify the LEA's Special Education Lead Teacher and GDPSW Special Education Director or equivalent position as soon as possible. The LEA's Special Education Lead Teacher and GDPSW Special Education Director or equivalent position will review the evaluation, eligibility documentation, and IEP to determine whether or not the student meets state eligibility criteria. If the student meets the state eligibility criteria, the evaluation team leader will follow the procedures described in the previous paragraph to provide comparable services until the LEA develops an IEP for the student.

If the student needs to be evaluated to determine eligibility in this state, the LEA's principal or his or her designee will notify the parents, obtain consent, and evaluate the student for eligibility within 35 school days of receipt of parent's consent. The LEA, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP pending the results of the initial evaluation.

The LEA must take reasonable steps to promptly obtain records, including IEP supporting documents and any other records related to special education or related services from the previous school. The LEA's principal or his or her designee is responsible for obtaining records and ensuring follow-up if the records are not provided.

PLACEMENTS OF STUDENTS

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process and IEP development precedes the determination of the special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes. The actual program is considered within the context of the least restrictive environment (“LRE”) and the continuum of placement alternatives (reviewed below).

When determining initial eligibility for special education and related services including determination of the appropriate placement, the parent must provide written consent for services before their initiation. If the parents do not consent to the provision of special education and related services, the LEA will not provide special education services to the student. The LEA will notify the parents that the student is eligible for services and that the LEA is willing to provide the services when the parent provides written consent. The notification will also inform parents that the LEA has no FAPE obligation to the student when parents refuse to provide consent.

LEAST RESTRICTIVE ENVIRONMENT

When program decisions are addressed by the IEP team, proper consideration must be given to the LRE. Within the educational setting, the student should be placed, whenever possible:

1. In the school the student would normally attend; and
2. With non-disabled students in the general educational setting to the maximum extent possible.

Special classes, separate schools, or removal of students with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in the general education classroom with use of supplementary aids and services cannot be satisfactorily achieved.

If the IEP team believes that the student will not be successful within the general education classroom, the team will consider:

1. The educational benefits of full-time placement in a regular classroom;
2. The non-academic benefits of such a placement;
3. The effect the student will have on the teacher and other students in the regular classroom; and
4. The costs of placing the student in the regular classroom.

Within the non-academic setting, students will be provided non-academic and extracurricular activities with non-disabled students to the maximum extent appropriate to the need of each student. These services and activities include meals, recess, periods, athletics, transportation, health services, recreational activities, clubs, etc. Limits on participation or conditions of participation must be designated in the IEP.

Within GDPSW’s a continuum of alternative placement options exist including classes, resource rooms, and self-contained settings, home-bound and out-of-LEA provisions. These options are intended to address the individual needs of students and they are considered according to the following process:

1. Data-based judgments in IEP development;
2. Data-based judgments in determining LRE;

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3. The reasonable probability of the placement option(s) assisting the student to attain annual goals;
4. The consideration of potentially harmful effects upon the student or on the quality of services needed.

Placement options along the continuum must include alternative placement options identified in the definition of special education and must make provisions for supplementary services, such as itinerant instruction, to be provided in concert with the general education placement.

Students Unilaterally Enrolled in Private Nonprofit Schools by Parents

Procedures regarding students unilaterally enrolled in private nonprofit schools by parents are not required for GDPSW's LEAs. Procedures will be developed if required by revisions to RCW 28A.710 Charter School's regulations.

RESTRAINT, ISOLATION, AND OTHER USES OF REASONABLE FORCE

All students in the LEA, including those who have an (IEP) or plan developed under section 504 of the Rehabilitation Act of 1973, will remain free from unreasonable restraint, restraint devices, isolation, and other uses of physical force.

Use of restraint, isolation, and other forms of reasonable physical force may be used on any student when reasonably necessary to control spontaneous behavior that poses an "imminent likelihood of serious harm" as defined by RCW 70.96B.010 and Chapter 392-172A WAC and explained below. Staff will closely monitor such actions to prevent harm to the student and will use the minimum amount of restraint and isolation appropriate to protect the safety of students and staff. The restraint, isolation, and other forms of reasonable force will be discontinued when the likelihood of serious harm has dissipated. Under no circumstances will these techniques be used as a form of discipline or punishment.

This policy and procedures is intended to be interpreted consistent with the requirements of RCW 28A.600.485, RCW 9A.16.020, RCW 9A.16.100, RCW 28A.160.300, RCW 28A.155.210, WAC 392-400-235, and, for students with an IEP, consistent with the regulations of Chapter 392-172A, WAC.

Definitions (for purposes of this Restraint, Isolation, and Other Uses of Reasonable Force procedure only):

- **Behavioral intervention plan:** A plan incorporated into a student's IEP, which at a minimum describes: 1)The pattern of behavior that impedes the student's learning or the learning of others; 2)The instruction and/or environmental conditions or circumstances that contribute to the pattern of behavior(s) being addressed by the IEP team; 3)The positive behavioral interventions and supports to: i) reduce the pattern of behavior(s) that impedes the student's learning or the learning of others and increases the student's desired prosocial behaviors: and ii) ensure the consistency of the implementation of the positive behavioral interventions across the student's school-sponsored instruction or activities); and d)The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior of the student.

- **De-escalation:** The use of positive behavioral interventions and other appropriate strategies to defuse a student who has lost self-control, is non-compliant, or is demonstrating behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.
- **Emergency Response Protocol:** Describe the emergency conditions under which isolation, restraint, or a restraint device may be used (e.g. student-specific settings, environments, or circumstances consistent with an imminent likelihood of serious harm).
- **Imminent:** The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.
- **Isolation:** Restricting a student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out a behavioral intervention plan.
- **Likelihood of serious harm:** A substantial risk that physical harm will be inflicted by a student:
 - upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
 - upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm;
 - upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
 - after the student has threatened the physical safety of another and has a history of one or more violent acts.
- **Physical force:** The use of bodily force or physical restriction that substantially immobilizes or reduces the free movement of a student.
- **Positive behavioral interventions:** Strategies and instruction that can be implemented in a strategic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.
- **Restraint:** Physical intervention or force used to control a student, including the use of a restraint device. It does not include appropriate use of a prescribed medical, orthopedic or therapeutic device when used as intended, such as to achieve proper body position, balance or alignment or to permit a student to safely participate in activities.
- **Restraint device:** A device used to assist in controlling a student, including, but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, or batons. Restraint device does not mean a seat harness used to safely transport students. This definition is consistent with RCW 28A.600.485 (1)(c), and is not intended to endorse or encourage the use of such devices or techniques with LEA students.
- **School police officer:** An employee of the school LEA responsible for security services in the LEA under the direction of a school administrator, but who also is a commissioned officer.
- **School resource officer:** A commissioned law enforcement officer who provides law enforcement services and may perform other duties for the LEA, and is assigned by the employing police department or agency to work in collaboration with the LEA.
- **School security officer:** A classified or contracted school LEA employee other than a school resource officer who provides security services in the LEA under the direction of a school administrator.

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- Serious harm includes physical harm to self, another, or LEA property. f

General use of restraint, isolation, or other forms of reasonable force:

- Restraint, isolation, or other forms of reasonable physical force may be used to prevent or minimize imminent bodily harm to self or others, or if de-escalation or other positive behavioral interventions fail or are inappropriate, to protect LEA property, where there is an “imminent likelihood of serious harm” occurring.
- Restraint devices may be used only when necessary to obtain possession of a known or reasonably-suspected weapon or other dangerous object on a person or within the control of a person.
- An IEP or plan developed under Section 504 of the Rehabilitation Act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student’s individual needs require more specific advanced education planning and the student’s parent or guardian agrees. In this case an Emergency Response Protocol addendum accompanies the IEP and must be signed by the parent or guardian to denote agreement. Nothing in these procedures is intended to limit the provision of a FAPE or Section 504 of the Rehabilitation Act of 1973. .
- Restraint, isolation, or other forms of reasonable physical force will not be used as an initial response to destruction of property, school disruption, refusal of the student to comply with school rules or a staff directive; or a verbal threat that does not constitute a threat of imminent bodily injury, unless other forms of de-escalation and positive behavioral interventions fail or are inappropriate.
- Restraint, isolation, or other forms of reasonable physical force should not be used as an intervention if the school employee, school police officer, school resource officer or school security officer knows that the student has a health condition or physical problem and the condition or problem would be exacerbated by the use of such techniques.

Practices presumed to be unreasonable when correcting or restraining any child:

Under RCW 9A.16.100, the following is a non-exclusive list of acts that are presumed unreasonable when correcting or restraining a child:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under age three;
- interfering with a child’s breathing;
- threatening a child with a deadly weapon; or
- doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

This non-exclusive list should not be read so as to imply that another, unlisted form of correction or restraint is permissible. Whether or not an unlisted use of force or restraint is presumptively permissible depends upon a balanced consideration of all relevant state laws and regulations, and whether the use is reasonable under the totality of the circumstances and in accordance with this policy and procedures.

Conditions specific to use of isolation with students eligible for special education (consistent with WAC 392-172A-02110):

Any use of isolation, restraint, and/or restraint device shall be used only when a student’s behavior poses an imminent likelihood of serious harm. Such limited use is conditioned upon compliance with the following safeguards:

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- The isolation enclosure will be ventilated, lighted and temperature controlled from inside or outside for purposes of human occupancy.
- The isolation enclosure will permit continuous visual monitoring of the student from outside the enclosure.
- An adult responsible for supervising the student will remain in visual or auditory range of the student at all times.
- Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
- Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.

Prohibited practices involving restraint, use of force, and discipline specifically for students eligible for special education (consistent with WAC 392-172A-02076):

The following practices are prohibited with students eligible for special education services:

- LEA personnel are prohibited from using aversive interventions with a student;
- LEA personnel are prohibited from physically restraining or isolating any student, except when the student's behavior poses an imminent likelihood of serious harm as defined above;
- No student may be stimulated by contact with electric current, including, but not limited to, tasers;
- A student may not be denied or subjected to an unreasonable delay in the provision of food or liquid from when the food or liquid is customarily served as a form of punishment;
- A student may not be the recipient of force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law (see above, for example, for a list of practices presumed to be unreasonable when used in correcting or restraining a child);
- A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care;
- A student must not be denied or subjected to an unreasonable delay in the provision of medication;
- A student may not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110;
- A student must not be forced to listen to noise or sound that the student finds painful;
- A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance;
- A student must not be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration;
- A student's head must not be partially or wholly submerged in water or any other liquid.
- A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172A.02110.

Degree of force:

- Restraint, isolation, or other forms of reasonable physical force will be discontinued as soon as a determination is made by the staff member administering the restraint, isolation,

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or other forms of reasonable physical force that the likelihood of serious harm has dissipated.

- Restraint, isolation, or other forms of reasonable physical force must be administered in such a way so as to prevent or minimize physical harm to the student. If, at any time during the use of restraint, isolation, or other forms of reasonable physical force, the student demonstrates significant physical distress, the technique must be reduced immediately and, if necessary, school staff must take immediate steps to seek medical assistance.

Monitoring:

An adult must continually monitor any student when restraint, isolation, or other forms of reasonable physical force is used. The monitoring must be conducted by continuous visual monitoring of the student. Monitoring must include regularly evaluating the student for signs of physical distress

Post-incident notification and review with parent/guardian:

Within twenty-four (24) hours following the use of restraint, isolation, or other forms of reasonable physical force with a student, the principal or designee must make a reasonable effort to verbally inform the student's parent or guardian of the incident. The principal or designee must also send written notification as soon as practical, but postmarked no later than five (5) business days after restraint, isolation, or other forms of reasonable physical force has been used with a student. If the school or LEA customarily provides the parent or guardian with school-related information in a language or mode of communication other than English, the written report must be provided to the parent or guardian in that language or mode of communication.

The principal or designee will review the incident with the student and the parent or guardian (though not necessarily at the same time) to address the behavior that precipitated the use of the technique and the appropriateness of the response. The principal or designee will review the incident with the staff person(s) who administered the restraint, isolation, or other forms of reasonable physical force to discuss whether proper procedures were followed and what staff training or support is needed to help the student avoid similar incidents.

IEPs and 504 plans will include the above procedures for notification of parents/guardians regarding the use of isolation and restraint on their student.

Incident report:

Any school employee, school police officer, school resource officer or school security officer who uses restraint, isolation, or other forms of reasonable physical force, as defined in this procedure, on any student during school-sponsored instruction or activities, will inform the principal or a designee as soon as possible and within two (2) business days submit a written report of the incident to the LEA office. The written report will contain, at a minimum:

- The date and time of the incident;
- The name and job title of the staff member who administered the restraint, isolation, or other form of reasonable physical force;
- A description of the activity that led to the restraint, isolation, or other form of reasonable physical force;
- The type of restraint, isolation, or other forms of reasonable physical force used on the student, and the duration;

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- Whether the student or staff was physically injured during incident involving restraint, isolation, or other forms of reasonable physical force;
- Any medical care provided to the student or staff; and
- Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

Resolution of concerns about the use of force incident:

A student or his/her parent or guardian who has concerns regarding a specific incident involving restraint, isolation, or other forms of reasonable physical force may seek to resolve the concern by using the LEA's complaint process.

Providing parents/guardians with Restraint, Isolation, and Other Uses of Reasonable Force policy:

The LEA will make available to all parents/guardians of students the LEA's policy and procedures on Restraint, Isolation and Other Use of Reasonable Force. If the student has an IEP or 504 plan, the LEA will provide the parents/guardians a copy of the policy each time an initial or annual IEP Or 504 plan is developed.

Staff training requirements:

All training in conjunction with this policy and procedures will include instruction in positive management of student behavior, cultural sensitivity, effective communication for defusing and de-escalating disruptive or dangerous behavior and safe and appropriate use of force, isolation and restraint. Annually, administrators will provide all staff with the LEA established policy and procedure regarding the use of reasonable force.

All staff should be informed of de-escalation strategies and proper physical intervention procedures. Appropriate staff and those who are required or reasonably anticipated to provide physical force intervention will be trained in the use of physical force intervention.

Only staff trained by a qualified provider and authorized to use isolation, restraint, restraint devices procedures will administer it to students. The appropriate personnel will include those staff members who are most likely to be called upon to use isolation, restraint, restraint devices to prevent or address disruptive or dangerous student behavior.

Submission of incident reports to the Office of Superintendent of Public Instruction:

Beginning January 1, 2016 and annually by January 1 thereafter, the LEA will summarize the written incident reports described above and submit those summaries to OSPI. The summaries will include:

- the number of individual incidents of restraint and isolation;
- the number of students involved in the incidents;
- the number of injuries to students and staff; and
- the types of restraint or isolation used.

Annual Report:

The principal or a designee will maintain a log of all instances of use of force as defined by this procedure, which will be presented to GDPSW's executive director annually. GDPSW's executive director will provide an annual report to GDPSW's governing board of directors regarding the LEA's use of force.

PROCEDURAL SAFEGUARDS

CONSENT

The LEA will obtain informed, written parental consent before:

1. Conducting an initial evaluation;
2. Providing initial special education and related services to a student; and
3. Conducting a reevaluation if the reevaluation includes administration of additional assessments.

Parental consent is not required to review existing data as part of an evaluation or reevaluation, or to administer a test or other evaluation that is administered to all students, unless consent is required of all students' parents for that particular test or evaluation.

Informed consent means that the parent:

1. Has been fully informed of all information that is relevant to the activity for which the LEA is asking consent, and that the information is provided in his or her native language or other mode of communication;
2. Understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and
3. Understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

The LEA may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity of the LEA.

If the LEA is unable to obtain a parent's consent, the LEA will explain the benefit of mediation and ask the parent to mediate. If that is unsuccessful, the LEA will request a due process hearing or mediation asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. The LEA may not request mediation or due process hearing to override a parent's refusal to consent to initial special education services.

B. REVOCATION OF CONSENT

A parent may revoke in writing his or her consent to the LEA's continue provision of all special education and related services to a student. A parent may not, however, revoke consent to the continue provision of only certain special education services unless the LEA agrees with the parent's decision. If the LEA disagrees with the parent's decision, the parent should be provided a prior written notice informing the parent of the LEA's basis for continuing those services and a copy of the notice of procedural safeguards.

If a parent revokes consent after the LEA has provided special education and related services, the LEA will not amend the student's education record to remove any references to the student's receipt of special education and related services.

Upon receipt of the parent's written notice of revocation, the LEA will provide prior written notice for a reasonable time before the LEA stops providing services. The notice will include information about the effect of revocation and will inform the parent of the date the LEA will stop providing special education and related services.

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Discontinuation of special education and related services in response to the parent's written revocation will not be in violation of FAPE and eliminates the LEA's requirement to convene an IEP meeting or develop an IEP. However, the LEA does have a continuing Child Find duty, and staff will follow referral procedures if they believe the student should be referred for special education. In addition, parents may request that the LEA conduct an initial evaluation for eligibility for special education services after they have revoked consent for continued services.

NOTICE OF PROCEDURAL SAFEGUARDS

In addition to protections provided to parents of eligible students, parents also have procedural safeguard protections when a student's identification, evaluation, or placement is at issue. The LEA will provide a copy of the procedural safeguards notice to the parents a minimum of one time a year and:

1. Upon initial referral or parent request for evaluation;
2. Upon each notification of an IEP meeting
3. Upon re-evaluation of the student;
4. Upon receipt of request for due process and;
5. Upon a change of placement for disciplinary action;
6. Upon request by the parent.

The procedural safeguards notice used by the LEA includes a full explanation of all the procedural safeguards related to: an IEE request, prior written notice, parental consent, access to educational records, opportunity to present complaints, procedures for students who are subject to placement in an interim alternative educational setting, requirements for unilateral placement by parents of children in private schools at public expense, state complaint procedures, the child's placement during pendency of due process proceedings, including requirements for disclosure of evidence, mediation, due process hearing, civil actions, and attorney's fees. Copies of the LEA's special education procedural safeguards are available at each school.

The LEA's procedural safeguard notice will be written in language understandable to the general public and provided in the native language or other mode of communication of the parent unless it is clearly not feasible to do so. If the parent's native language or other mode of communication is not a written language, the LEA will take steps to ensure that the notice is translated orally or by other means to the parent and that the parent understand the content of the notice. The LEA will document in writing how this information was provided

Copies of the LEA's special education procedural safeguards are available from the LEA's special education team, on the LEA's website, and on the OSPI website.

PRIOR WRITTEN NOTICE

The LEA will provide prior written notice, within a reasonable time, to the parent whenever the LEA proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of a FAPE to the student.

The prior written notice will include:

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1. A statement that the parents of a student eligible or referred for special education have procedural safeguard protections and if a copy of the procedural safeguards do not accompany the notice, a statement that describes how a copy of the statement of procedural safeguards may be obtained;
2. A description of the action proposed or refused by the LEA;
3. An explanation of why the LEA proposes or refuses to take the action and a description of other options that the LEA considered and the reasons why the options were rejected;
4. A description of any other factors which are relevant to the LEA's proposal or refusal;
5. A description of each evaluation procedure, assessment, record or report the LEA used as a basis for the proposed or refused action; and
6. A description of sources for parents to contact to obtain assistance in understanding the procedural safeguards and the contents of the notice.

Prior written notice and the notice of procedural safeguards must be provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the LEA will take steps to ensure that the notice is translated orally or by other means to the parent. This may involve:

1. Arranging for an interpreter if English is not the native language of the parent or if the parent has a hearing impairment; or
2. Providing notice orally if the written language is not a native language.

The LEA will document in writing how this information was provided and that the parent understands the content of the notice. The LEA's principal or his or her designee is responsible to ensure Prior Written Notice and Procedural Safeguards.

TRANSFER OF EDUCATIONAL RIGHTS TO AN ADULT STUDENT

When a student eligible for special education and related services reaches the age of 18, all educational rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless the student is determined incapacitated in a guardianship proceeding or the LEA has appointed an educational representative for the student. When the student turns 18, the LEA will notify the parent and student that the educational rights have transferred to the student and will send any required notices to both the parent and the adult student. All rights accorded to parents also transfer to students at the age of majority who are incarcerated in an adult or juvenile, state or local correctional institution. GDPSW's Special Education Director or equivalent position will ensure that notice of the transfer of educational rights to an adult student is provided.

At an IEP meeting occurring one year before the student turns 18, the LEA will inform the parents and the student that educational rights will transfer to the student and the LEA will inform the student about those educational rights. This information will be documented on the IEP.

APPOINTMENT OF AN EDUCATIONAL REPRESENTATIVE

A student over the age of eighteen (18) is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be "incapacitated" through a legal guardianship proceeding. If a parent, another interested party, or the LEA believes that a student over the age of eighteen (18) is unable to provide informed consent or to make educational decisions, and the student does not have a legal guardian, the parent or other interested party may ask the LEA to appoint an educational representative. This

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determination will only be made if two separate professionals state in writing that they conducted an examination and interviewed the student, and concluded the student is incapable of providing informed consent. The LEA will inform the student of the decision and appoint either, the spouse, the student's parents, or another adult or a surrogate educational representative to represent the student.

The professionals must be a licensed medical doctor, a physician's assistant whose certification is countersigned by a supervising physical, certified nurse practitioner, a licensed clinical psychologist, or a guardian ad litem appointed for the student. The LEA will inform the student of the decision and appoint either, the spouse, the student's parents, another adult relative, or a surrogate educational representative to represent the student.

A student will be certified as unable to provide informed consent for a period of one year. The student or other adult may challenge the certification at any time. If a challenge occurs, the LEA will not rely on the education representative until the representative is recertified. If a guardianship action is filed on behalf of the student while a certification is in effect, the LEA will follow any court orders in the guardianship proceeding regarding the student's capacity.

CONFIDENTIALITY AND RECORDS MANAGEMENT

The principal of each LEA is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The LEA will maintain, for public inspection, a current list of the names and positions of LEA employees who have access to personally identifiable information related to students eligible for special education. The LEA will provide parents, upon request, a list of the types and locations of educational records collected, maintained, or used by the LEA.

The LEA will provide instruction annually to employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in WAC 392-172A, state law and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 CFR Part 99).

Upon request, the parent(s) of an eligible student will be afforded an opportunity to inspect, review, and challenge all educational records which will include, but not be limited to, the identification, evaluation, delivery of educational services and provision of FAPE to the student. The LEA will comply with the request promptly and before any meeting regarding an IEP or any hearing relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. In any case, the LEA will respond no more than 45 calendar days after the date the LEA received the request. If an educational record includes information on more than one student, the parents may only inspect and review information relating to their child. School personnel receiving requests for educational records will immediately forward the request to the LEA's principal or his or her designee and to GDPSW Special Education Director or equivalent position.

If parents believe that information in an education record is inaccurate or misleading or violates the privacy or rights of the student, they may request that the LEA amend the information. GDPSW Student Policy Manual describes the process and timelines for challenges and hearing regarding student records.

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The LEA follows the guidelines for records retention outlined in the Secretary of State's, *General Records Retention Schedule and Records Management Manual*. The LEA will inform parents or adult students when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student. The information will be destroyed at the request of the parent(s) or adult student, or will be provided upon request. However, a permanent record of the student's name, address and phone number, his or her grades, attendance, record, classes attended, grade level completed and year completed will be maintained by the LEA without time limitation.

SURROGATE PARENTS

A surrogate parent is a person appointed by the LEA to act on behalf of a student to help ensure the rights of the student to a FAPE when a parent cannot be identified, the whereabouts of the parent are unknown, or the student is a ward of the state.

GDPSW's Special Education Director or equivalent position is responsible for determining the need for appointment of a surrogate parent.

Natural or adoptive parents, foster parents, adult students whose rights have been transferred to them, persons acting in the place of a parent such as stepparents or relatives, and persons with legal custody or guardianship are considered parents.

Students who are homeless and not living with a parent may need a surrogate parent. In cases where the student is in out of home care the LEA must determine the legal custodial status of the child.

The following is guidance for the LEA to follow to assist in determining the status of the parent's rights to make educational decisions:

1. In cases where the student is in out of home care the LEA must determine the legal custodial status of the child;
1. Parents who have voluntarily placed their child in foster care still retain legal custody of the child and retain the right to make educational decisions. In this situation the student is not a ward of the state;
2. Parents whose children are placed in foster care, pending a determination of "dependency" may still retain rights to make educational decisions unless otherwise ordered by the court;
3. When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency; and
4. Parents whose parental rights are terminated no longer have the right to make educational decisions on behalf their child.

When a student is placed in foster care, the LEA will work with the parents, case workers(s), foster care, and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate parent. When a child's relative is the foster parent, and the parent does not have the right to make educational decisions, the LEA may consider that relative as the parent and may not need to appoint a surrogate parent.

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When selecting a surrogate parent the LEA will select a person willing to participate in making decisions regarding the student's educational program, including participation in the identification, evaluation, placement of, and provision of FAPE to the student.

If a student is referred for special education or an eligible student transfers into the LEA who may require a surrogate parent, GDPSW's Special Education Director or equivalent position will be notified of the potential need. GDPSW Special Education Director or equivalent position will then select a trained individual who can adequately represent the student to ensure that all student rights are observed.

The person selected as a surrogate:

1. Must have no interest that conflicts with the interests of the student he or she represents;
2. Must have knowledge and skills that assure adequate representation of the student; and
3. May not be an employee of a LEA and/or other public agency which is involved in the education or care of the student. Public agencies include OSPI and DSHS in addition to LEA employees and group care providers.

The LEA will, at a minimum, review with the surrogate parent the procedural safeguards, processes for parent involvement in the special education proceedings, parent education publications, and special education regulations. The LEA will also cooperate with other LEAs, the local ESD, or OSPI in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

DISPUTE RESOLUTION

MEDIATION

The purpose of mediation is to offer both the parent and the LEA an opportunity to resolve disputes through an alternative to a formal due process hearing. Mediation is voluntary and requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing. Mediation is used to resolve disagreements concerning the identification, evaluation, and delivery of educational services or provision of FAPE to a student eligible for special education services. Mediation may be terminated by either party at any time during the process.

The primary participants are the parents, LEA representatives, and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a non-adversarial manner. Mediation services are provided by OSPI at no cost to either party. OSPI will provide mediation services for individuals whose primary language is not English or who use another mode of communication unless it is clearly not feasible to do so.

Mediation will be conducted by qualified and impartial mediators who are knowledgeable of the laws and regulations relating to special education services. Mediators will be selected on a random, rotational, and impartial basis from an OSPI maintained list of qualified mediators. A mediator must meet the following criteria:

1. May not be an employee of any LEA or other public or private agency that is providing education or related services to a student who is the subject of the mediation process; however, a person is not an employee of a LEA or other public agency solely because he or she is paid by the agency to serve as a mediator.
2. Shall not have a personal or professional conflict of interest.

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GDPSW's Special Education Director or equivalent position is responsible for coordinating requests for mediation. If parent requests mediation, the LEA's principal will notify GDPSW's Special Education Director or equivalent position, who will respond to the parent and coordinate with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process are confidential.

If a dispute is resolved through mediation, the involved parties will execute a legally binding agreement that sets forth the resolution to the dispute and that states that all discussions which occurred during mediation are confidential and cannot be used in subsequent due process hearings. The agreement will be signed by both the parent and one person designated by the LEA to attend the mediation who must have the authority to bind the LEA in any agreement reached through mediation.

GDPSW Executive Director or his or her designee will ensure the person designated to attend the mediation will have authority to bind the LEA in any agreement reached through mediation.

DUE PROCESS HEARING

Either parent and/or LEAs each may file for due process hearings involving the identification, evaluation, placement, or provision of FAPE to a student. IDEA requires that specific information be provided as part of a due process hearing request. The requirements are identified in the notice of procedural safeguards. If parents request information about how to file a due process hearing, the LEA will provide the parent with a due process hearing request form that contains blanks for the required information. Due process hearing request forms are available on the LEA and OSPI (k12.wa.us).

If any staff receives a request for a due process hearing, a copy of the request should be immediately forwarded to GDPSW's Special Education Director or equivalent position. If the parent has not filed the request for hearing with OSPI, the LEA will forward the parent request to OSPI's Administrative Resources Section. The LEA may not delay or deny a parent's due process hearing request. Parents are entitled to a copy of the notice of procedural safeguards if this is the first due process hearing filed in a school year. The LEA's principal or his or her designee is responsible for providing a copy of the procedural safeguards in this situation and documenting that the safeguards were provided to the parent.

When a parent files a due process hearing request, the student remains in the placement he or she was in at the time of the request for hearing unless the parents and the LEA agree to a different placement or unless an Administrative Law Judge ("ALJ") overseeing the hearing orders a different placement. See discipline section below for placement when disciplinary action is challenged.

When a parent files a request for a due process hearing, GDPSW's Special Education Director or equivalent position will immediately schedule a resolution meeting. The meeting must occur within 15 days after a parent files a due process request with the LEA and provides a copy of the request to OSPI, or within seven days if the hearing request involves an issue related to discipline. GDPSW's Special Education Director or equivalent position will determine the appropriate LEA staff who shall attend the resolution meeting, including a representative of the LEA who has decision-making authority on behalf of the LEA. The LEA may not include an attorney of the LEA unless the parent is also accompanied by an attorney. Both the parent and the LEA will determine the relevant members of the IEP team to attend the resolution meeting.

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The purpose of the resolution meeting is for the parent and the LEA to discuss the due process hearing request and the facts that form the basis of the request in order that the LEA have an opportunity to resolve the complaint. The meeting will not be held if the parent and the LEA agree in writing to waive the meeting or they agree to use the mediation process. Any resolution agreement reached during the meeting will be documented in writing, signed by both the parent and a LEA representative, and is binding on the parties. The document will inform the parent of the right to void the agreement within three business days of signature.

If the LEA does not resolve the due process hearing request to the satisfaction of the parent within 30 calendar days of the parent's filing of the provision of the due process hearing request to the LEA and OSPI, the due process hearing may occur. Further information regarding the resolution process timeline is detailed in the procedural safeguards.

The 45 calendar day timeline for the due process hearing starts the day after one of the following events:

1. Both parties agree in writing to waive the resolution meeting;
2. Both parties agree in writing that no agreement is possible after either the mediation or resolution meeting starts but before the end of the 30-day period; or
3. Both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the LEA or the parent withdraw from the process.

The due process hearing will be conducted by a qualified independent ALJ, who is employed the office of administrative hearings.

Both the parent(s) and the LEA, as parties to a due process hearing (including a hearing relating to disciplinary procedures), have the right to:

1. Be represented by a lawyer and accompanied and advised by persons with special knowledge or training regarding the needs of students with disabilities;
2. Present evidence and confront, cross-examine, and require the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
4. Obtain a written or electronic, word-for-word record of the hearing; and
5. Obtain written or electronic findings of fact and decisions.

At least five business days prior to a due process hearing, or two business days prior to an expedited due process hearing, all parties must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that the parent or the LEA intend to use at the hearing. An ALJ may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parent(s) involved in hearings must be given the right to:

1. Have their child present who is subject to hearing present;
2. Open the hearing to the public; and,
3. Have the record of the hearing, the findings of fact, and decisions provided at no cost.

Each hearing must be conducted at a time and place that is reasonably convenient to the parents and students involved. Not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings, or not later than 45 calendar days after the expiration of the adjusted resolution time period:

1. A final decision must be reached in the hearing; and,
2. A copy of the decision must be mailed to each of the parties.

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An ALJ may grant specific extensions of time beyond the 45-calendar-day time period described above at the request of either party.

If either party does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures), that party has the right to bring a civil action with respect to the matter that was the subject of the due process hearing within 90 calendar days of the date of decision. The action may be brought in a state court of competent jurisdiction or in a district court of the United States. The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

In any civil action, the court:

1. Receives the records of the administrative proceedings;
2. Hears additional evidence at the parent's or LEA's request; and,
3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Information pertaining to attorneys' fees for due process hearings and civil action is detailed in the procedural safeguards.

If the hearing request involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school until the completion of all the proceedings. If the student is found eligible for special education and related services and the parent consents to the initial provision of special education and related services, then the LEA will provide those that are not in dispute. If the administrative law judge agrees with a student's parents that a change of placement is appropriate through the final decision or during the pendency of the due process hearing, that placement will be treated as an agreement between the LEA and the parents.

DISCIPLINE

Students eligible for special education may be disciplined in a manner consistent with the disciplinary rules that apply to all students. The LEA will determine on a case-by-case basis whether discipline that is permitted under WAC 392-400 should occur. However, students eligible for special education must not be improperly excluded from school for disciplinary reasons that are related to their disability or related to the LEA's failure to implement a student's IEP. The LEA will take steps to ensure that each employee, contractor and other agents of the LEA responsible for education or care of a student is knowledgeable of special education disciplinary rules.

Authorized school personnel may order the removal of a special education student from his/her current placement for not more than ten consecutive school days, and additional removals of not more than ten total school days in the same school year for separate instances of misconduct, as long as those additional removals do not constitute a change of placement under WAC 392-172A-01155, to the extent such removal would be applied to students without disabilities.

Once a student has been removed from placement for a total of ten school days in the same school year, and if the LEA determines that the removal is not a change of placement, the LEA must, during subsequent days of removal, provide appropriate services to the extent necessary to enable the student to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The LEA's principal or his or her

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designee, in consultation with one or more of the student's teachers, will make the determination of such necessary services.

CHANGE IN PLACEMENT

A disciplinary change of placement occurs when a student with a disability is:

1. Removed from his or her current placement for more than ten consecutive school days in a school year; or
2. Subjected to a series of removals in a school year which constitute a pattern of removal because: 1) the series of removals total more than ten school days in a year; 2) the student's behavior in each incident is substantially similar to the behavior in previous incidents that resulted in the series of removals; and 3) because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another.

MANIFESTATION DETERMINATION

Within ten school days after the date on which the LEA makes a decision to change the student's placement because of a violation of a code of student conduct, the LEA will conduct a manifestation determination meeting. The meeting will bring together the parent and relevant members of the IEP team who are selected by the parent and the LEA to review the relationship between a student's disability and the behavior subject to the disciplinary action. The review of the relationship between a student's disability and the behavior subject to the disciplinary action will occur at a meeting that includes the parent and relevant members of the IEP team who are selected by the parent and the LEA. The LEA's principal or his or her designee will contact the parent in order to determine relevant IEP team members and provide notice of the meeting. The team will review all relevant information in the student's file, including the IEP, teacher observations and information provided by the parent, to determine:

1. If the conduct was caused by or had a direct and substantial relationship to the child's disability; or
2. If the conduct in question was the direct result of the LEA's failure to implement the student's IEP.

If the team determines that the behavior resulted from any of the above, the behavior must be considered a manifestation of the student's disability.

If it is determined that the conduct was a manifestation of the student's disability, the LEA will take immediate action to remedy the deficiencies and will:

1. Conduct a functional behavioral assessment (unless already completed) and implement a behavioral intervention plan if one is not already in place; or
2. Review the existing behavioral intervention plan and modify it to address the behavior; and
3. Return the child to the placement from which he or she was removed from unless the parents and the LEA agree a change is necessary as part of the behavioral intervention plan, or unless the infraction involves drugs, weapons or serious bodily injury.

INTERIM ALTERNATIVE EDUCATIONAL SETTING

School personnel may order a change in placement to an appropriate interim alternative educational setting ("IAES") for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 school days, if a student with a disability:

- Possesses a "weapon," as defined in WAC 392-172-05145(9), or carries such a weapon at school, on school premises, or at a school function under the jurisdiction of the LEA;

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- Knowingly possesses or uses “illegal drugs,” as defined in WAC 392-172A-05145(9), while at school, or school premises, or to or at a school function under the jurisdiction of the LEA;
- Sells or solicits the sale of “controlled substances,” as defined in WAC 392-172A-05145(9), while at school, on school premises, or to or at a school function under the jurisdiction of the LEA; or
- Inflicts serious bodily injury, as defined in WAC 392-172A-05145(9), upon another person while in school, school premises, or to at a school function under the jurisdiction of the LEA.

Any IAES in which the student is placed is determined by the student’s IEP team and will:

1. Be selected so as to enable the student to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student’s IEP; and
2. Include services and modifications designed to address the behavior or to prevent the behavior from recurring.

The LEA may ask an ALJ, or seek injunctive relief through a court having jurisdiction of the parties, to order a change in placement to an appropriate IAES, for not more than 45 school days or seek injunctive relief through a court having jurisdiction of the parties, when the LEA demonstrates by a preponderance of the evidence that maintaining the student’s current placement is substantially likely to result in injury to the student or others.

Unless the parent and the LEA agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the IAES, the student must remain in the IAES pending the decision of the hearing officer or until the expiration of the 45 day period, whichever occurs first.

If the LEA proposes to change a student’s placement, after expiration of a 45-day IAES, and the parent requests a hearing to challenge the proposed change in placement, the student’s “stay put” placement is his/her placement prior to the IAES, unless the ELA request and expedited due process hearing in accordance with WAC 392-172A-05160 and proves that it is dangerous for the student to return to said placement.

PROTECTIONS FOR STUDENTS NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION

A student who has not been determined eligible for special education services may assert the protections under WAC 392-172A-05145 through 05165 if the LEA had knowledge that the student was special education student before the behavior that precipitated disciplinary action occurred.

The LEA is deemed to have knowledge if before the behavior:

- The parent expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to LEA supervisory or administrative personnel or a teacher that the student is in need of special education and related services;
- The parent requested that the student be evaluated for special education services; or
- The teacher or other school personnel had expressed specific concern in writing about the behavior or performance of the student to the director of the special education director or to other supervisory staff.

The LEA is not deemed to have knowledge if:

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- The parent has not allowed an evaluation of the student, has refused special education services, or revoked consent for the continuation of such services; or
- The LEA conducted a special education evaluation of the student and determined that the student was not eligible for services.

If the LEA is not deemed to have knowledge that a student is eligible for special education services, the student may be disciplined as a student without disabilities who engages in comparable behaviors. If an evaluation is requested during the time period that a student is subjected to disciplinary measures, it will be conducted in an expedited manner by the LEA. Until the evaluation is completed, such a student will remain in the educational placement determined by the LEA, which can include suspension or expulsion without educational services.

Notwithstanding the foregoing, the LEA may report a crime committed by a student with a disability to appropriate authorities. In the event of such a report, the LEA will ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, to the extent transmission of these records is permitted by the Family Educational Rights and Privacy Act (FERPA).

STAFF QUALIFICATIONS

All employees of the LEA funded in whole or part with state or federal excess special education funds will meet the standards established by the State Board of Education ("SBE") and defined in WAC 392-172-A-02090.

All employees will hold such credentials, certificates, or permits as are now or hereafter required by the SBE for the particular position of employment and will meet supplemental standards established by the LEA.

All special education teachers providing, designing, supervising, evaluating, or monitoring the provision of special education will possess "substantial professional training." This will be shown by the issuance of an appropriate special education endorsement on an individual teaching certificate issued by OSPI.

In the event a special education teacher does not have a certificate endorsed in special education, the LEA may apply for a pre-endorsement waiver through the special education section of the OSPI. To qualify for the special education pre-endorsement waiver, the teacher must meet SBE criteria.

If the LEA must temporarily assign a classroom teacher without a special education endorsement to a special education position, GDPSW's Special Education Director or equivalent position will document in writing that:

1. The LEA is unable to recruit a teacher with the proper endorsement who was qualified for the position;
2. The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or
3. The reassignment of another teacher within the LEA would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

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If one or more of these criteria can be documented, the LEA determines that a teacher has the competencies to be an effective special education teacher, and the teacher has completed six-semester hours or nine-quarter hours of course work which are applicable to the special education endorsement, the LEA can assign the teacher to a special education position in compliance with the process for making out-of-endorsement assignments and reporting them to the state.

Classified staff will present evidence of skills and knowledge necessary to meet the needs of students with disabilities. The LEA will provide training to classified staff to meet the state recommended core competencies.

PERSONNEL DEVELOPMENT

In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed:

1. Special education concerns will be identified through a staff needs assessment completed by administrators, teachers, educational staff associates, program assistants, parents and volunteers;
2. All personnel who may use restraint, restraint devices, and/or isolation must be certified and annually trained in the use of such restraint, restraint devices, and/or isolation.
3. In-service training schedules will be developed based upon the results of the LEA assessment and in support of needs identified;
4. Training activities will be conducted for regular general and special education staff, staff of other agencies and organizations and private school staff providing services for an eligible student; and
5. Training for classified staff will be conducted in the state recommended core competencies.

PUBLIC PARTICIPATION

Any application and any required policies, procedures, evaluations, plans and reports are readily available to parents and other members of the public through GDPSW and the LEA. A notice regarding the availability of such documents will be placed on GDPSW's and LEA's website.