

It's still

A Good *IDEA!*



A Community Guide to Special Education in Mississippi

Material in this Guide was adapted from *It's A New IDEA!*, a project of The Arc of Texas, Advocacy Inc. and *The Parent Manual* drafted by the Citizens for Quality Education. This adaptation is a collaborative effort between the Coalition for Citizens with Disabilities Mississippi Parent Training and Information Center Project, the Mississippi Center for Justice, Charlene Comstock-Galagan, Jed Oppenheim, Mandy Rogers, and Danita Munday, with input from parents and support from other individuals and community organizations.

This 2019 guide is intended to provide general information to individuals regarding their rights under the law. It is not intended as a substitute for legal advice. Consult with an attorney or advocate for further guidance or information.

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Using the Parent Guide

This guide is not a novel. It is a reference book.

Reading each section when it becomes relevant to you and your student will likely be more helpful than reading it cover-to-cover.

This initial online version will be followed by a limited number of print copies, as well as access to a limited number of thumbdrives.

If you find an error in this guide, please contact us at
remaincalmeducation@yahoo.com

For further information about *IDEA* and parent advocacy, contact
Mississippi Parent Training and Information Center at www.mspti.org
or call MS PTI at 601-969-0601.

- Dark red underlined text is linked to documents found on external sources.
You will need to be connected to the internet to access external links.
- Medium blue underlined text is linked to bookmarks found within this Guide.
You do not need to be connected to the internet to access these links.



Bookmarks are indicated by medium blue ribbons. They are connected to the links within this Guide.

- References to sections of the federal regulations and state policies appear in green print.
- Important **Notes** are in bold type, highlighted in orange.
- Forms are available as models. Some can be printed and used, as is. Others can be personalized for your use.

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Introduction

In 1975, Congress passed a federal law to ensure schools meet the education needs of all students with disabilities. Today that law is commonly known as the [*Individuals with Disabilities Education Act \(IDEA\)*](#). The *IDEA* explains how states, agencies and schools provide early intervention, special education and [related services](#) to more than 6.5 million eligible students and youth with disabilities.

The *IDEA* provides for a [free appropriate public education \(FAPE\)](#) for every eligible student. To assure eligible students receive FAPE, schools must:

- Identify and evaluate students with disabilities,
- Involve [parents](#) in decision making,
- Develop an [individualized education program \(IEP\)](#) for each eligible student,
- Include measurable baselines and annual goals to help students make progress in the general education curriculum,
- Provide specially designed instruction and related services in the [least restrictive environment](#) (LRE),
- Maintain education records, and
- Provide processes for resolving complaints and grievances.

The U. S. Department of Education provides states with guidance, known as [regulations](#), to interpret and implement the *IDEA*. Every state issues policies to provide guidance on *IDEA* implementation. School districts and public agencies that provide education to students with disabilities must develop policies and procedures using federal and state guidance. States, LEAs and other public agencies can create policies and procedures that give parents and students additional rights, but cannot create policies and procedures that limit their rights. State policies must be approved by the State Board of Education; school district policies must be approved by the district School Board. You can ask to see your district's special education policies and procedures. Sometimes your district's Board policies are on their website.

This Guide is based on the *IDEA*, U. S. Department of Education (USDE) regulations, [Mississippi's policies](#) for students ages three through twenty-one, and applicable state law. A Guide for parents of infants and toddlers with developmental delays is available from the Mississippi State Department of Health (MSDH). The Guides are designed to help you become familiar with the requirements of the *IDEA* so you can act as a partner in planning your student's education.

OVERVIEW

This parent guide looks closely at key *IDEA* components, including the responsibilities of schools and the rights of parents and students in the following areas:

➤ [Education Records](#)

The *IDEA* and the [Family Education Rights and Privacy Act \(FERPA\)](#) provide guidance on creating, storing and sharing records. Parents have the right to look at and get copies of education records. School districts must keep student records safe and maintain confidentiality.

➤ [Request and Referral](#)

A parent, teacher, or other knowledgeable person can request an [evaluation](#) of a student suspected of having a disability. The school reviews information, then decides if they will refer the student for a comprehensive evaluation for special education.

➤ [Notice of Rights and Informed Consent](#)

Schools must provide parents with written information describing actions the school wants to take, or is refusing to take, regarding special education testing and services. After receiving [Prior Written Notice](#) (PWN) and [Procedural Safeguards](#), the parent must [consent](#) in writing before the student can be tested, receive [special education services](#), or have their records shared with other agencies and professionals.

➤ [Comprehensive Evaluation](#)

If the referral process indicates a student might have a disability, the school gets written consent from the parent, then conducts an evaluation to determine eligibility and need for special education and related services. The evaluation provides information for determining eligibility for special education and for developing an Individualized Education Program (IEP).

➤ [Determination of Eligibility](#)

When the evaluation process is complete, a group of professionals and the parent meet to discuss the results. The team decides if the student is eligible for special education. The school must give the parent reports of the results and the team's decision.

➤ [Individualized Education Program](#)

If the student is eligible for special education services, a group of professionals and the parent meet to develop an individualized education program (IEP). The IEP is a written plan designed for one student that describes how the student will be educated.

➤ **Discipline**

Sometimes students get in trouble at school. Students with an IEP have special protections when they break the rules.

➤ **Resolving Disagreements**

It is important for parents and schools to maintain effective working relationships. But sometimes parents disagree with the school's decisions. Many differences can be resolved with respectful two-way communication. *IDEA* provides additional avenues for resolving disputes.

➤ **Active Parents**

Being knowledgeable and involved in your child's education and having good relationships with school personnel are important factors in obtaining quality education services for children.

**“...a student offered an educational program providing ‘merely more than de minimis’ progress from year to year can hardly be said to have been offered an education at all.” Chief Justice Robert
Endrew F. v. Douglas County School District (2017)**

EDUCATION RECORDS

Parents and school officials use many kinds of records to evaluate students and to plan and monitor a student's special education program.

You have a right to look at and get copies of your child's education records.

In this section you will learn...

- *About types of education records;*
- *How to request your student's records;*
- *How the school district is obligated to keep your student's records private;*
- *How to request a change to your student's records; and*
- *How to create and maintain a parent notebook containing your student's education records.*

➤ **34 CFR and SBP 72.19 §§300.123, 300.501, 300.611-300.626**

Let's get started!

If it is not in writing, it did not happen.

Types of Education Records

A student's education records are very important. Records include:

- Documents created and maintained by the school district that include your student's name and other personally identifiable information
- Teacher notes
- Progress reports
- Report cards
- District and state test results
- Discipline reports
- E-mails and other correspondence regarding your student
- Evaluation reports used by the school district
- Audio and video recordings of IEP meetings
- Observations conducted by professionals
- Reports from medical doctors and other professionals
- Individualized Education Programs, including Drafts created by the LEA
- IEP committee meeting minutes and reports
- [Functional Behavior Assessments](#) (FBAs) and [Behavior Intervention Plans](#) (BIPs)
- [Transition](#) Plans
- Summary of Performance.

Keeping a Parent Notebook

Organized and knowledgeable parents can be effective [advocates](#) for their children. Collect your student's education records and helpful information. Create a system that works for you. Although it might seem overwhelming or time consuming, it will save you time in the long run. Having records organized will help you be an informed partner in making decisions about your student's education and in monitoring her progress.

Use a three-ring binder labeled with your student's name. Keep everything together in the same binder, with the newest documents at the front and the oldest at the back. When records are organized this way, they tell a story. Use dividers to separate and organize documents by year and type of documents.

Document, Document, Document!

In addition to collecting and organizing the records listed above, keep a log of each conversation you have with school personnel about your student's education. After every meeting and/or conversation – in person or on the phone – write down the date, time, and length of the conversation; the name of the people to whom you spoke; and what you discussed. Write down every time you attempted to call the school, even if you only left a message for a school official.

Follow up important phone calls and meetings by sending a letter or email to the person with whom you spoke. Note the date and time of the conversation and summarize what you discussed. If the person agreed to do something, or if you are not satisfied with the outcome of the conversation, be sure to include that information in the correspondence. Having this documentation will reduce miscommunication and arguments about what was said. Save a copy of each letter/email with your student's education records, and create a file on your computer to save all school related correspondence.

- [Form 1](#) in the **Appendix**, is a guide for organizing a parent notebook.

Recording

You might want to record meetings and keep those recordings with the rest of your student's education records. In Mississippi, you have the right to record (audio or video) IEP meetings, but you must **notify the school at least 24 hours in advance**. Likewise, if the school district wants to record the IEP meeting, they must notify you at least 24 hours in advance.¹ Although the law does not indicate the notification must be in writing, it is always best to notify the district in writing. **Parents worked hard to get this law passed in Mississippi.** Use it! If someone asks why you are recording, you do not have to give a response, but you can say, "So my spouse (advocate, mother) can listen later." "So I can fully participate today without taking notes."

How to Get Records (§§300.501, 300.611-300.626)

To see or get a copy of your student's education records, write a letter to the principal and send a copy to the director of special education. Upon request, the school district must provide parents with a list of the types and locations of student records. You can also see who has looked at your student's records.

Within 45 days of your request, the school must arrange for you to see the records or give you copies. If an IEP meeting, [resolution meeting](#) or [due process](#) hearing is scheduled in less than 45 days, the school must show you the records or give you copies before the meeting or hearing. The school can charge you a reasonable fee for copies, so be sure to check your local district policy.

NOTE: If you cannot afford to pay for copies, the district will have to let you look at your child's records, and might have to give you copies at no charge.

You can take all the time you need to review and understand the records. The school district cannot limit the amount of time you need to understand the records. If you have trouble understanding anything in the records, ask for an explanation. The school must

¹ Miss. Code. Ann. § 37-23-137 (8). The parent or guardian or local educational agency shall have the right to audio record the proceedings of individualized education program team meetings. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least twenty-four (24) hours prior to the meeting.

respond to your requests for explanations of the records. Keep a record of your requests to view and get copies of records, for explanations of records, and the school's response.

- **Form 2** in the **Appendix** is a sample letter for requesting records from the school district.

Confidentiality of Records (§300.123)

A student's records are private. School districts, with some exceptions, must get parental consent before sharing, showing or discussing the records with anyone not directly involved in the student's education. The school must keep a list of the names and positions of school employees who can see your student's records without your consent.

The school district must keep a log of people who look at your student's records. This log, sometimes called the "access log," must include the name of the person, the date he reviewed the records, and the reason he reviewed the records. The student's parents, and employees of the school district who are on the access list, do not have to sign the log when they look at a student's records.

Sometimes an education record includes information about more than one student. Parents have the right to inspect and receive information relating to their student only. If confidential records about other students are in the document you want to review or get, the school must redact (black-out) information about other students.

If you feel someone at the school district has disclosed your student's personally identifiable information without your written consent, or otherwise violated your rights related to education records, you can file a state administrative complaint, or a FERPA complaint online at: <https://studentprivacy.ed.gov/file-a-complaint>

What if the records are wrong? (§300.618)

If you think something written in the education records is wrong or misleading, or violates your student's rights, ask school officials to change it. Within a reasonable time, they must decide if they will make the change. Keep a record of your request, along with the school's response.

If school officials refuse to make the requested change, they must (1) tell you they have refused, and (2) inform you about your right to a records hearing. This hearing is different from the due process hearing mentioned later in this Guide. If the records hearing proves the records are wrong, school officials must change the records and let you know in writing what changes they made.

If the hearing official decides the school district does not have to change the records, the district must allow you to add a statement to the records. In your statement, explain why you think the records are wrong or misleading, and how you would correct the information. The school district must keep your statement with your student's education records. Whenever the school district shows the records to other people, they must

show your statement, too. If the school district denies your right to put a statement in the record, you can ask for a hearing and file a *FERPA* complaint with the U. S. Department of Education's Office of Family Compliance.

- [Form 3](#) in the **Appendix** is a sample letter requesting a change in your student's records.

NOTE: Sometimes the school will say they cannot release records because of the *Health Insurance Portability and Accountability Act (HIPAA)*. *HIPAA* does not apply to education records, unless the school provided a medical/health service for which they electronically billed insurance, Medicaid, or the Children's Health Insurance Program (CHIP). The electronic transaction could be protected by *HIPAA*; but if the record created is used for educational purposes, such as an educational evaluation, treatment, or fulfillment of the IEP, the record is an education record protected by *FERPA*. If the school says you cannot see, get, or share a copy of any of your child's records because of *HIPAA* or *FERPA*, ask for their denial in writing.

- <https://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf>

If the school says you or an independent evaluator cannot observe your child's class because of confidentiality issues, get their denial in writing. Unless you are requesting to review other student's records, this is not a *FERPA* issue. An Independent Evaluator must have the same access to observe your child or their class as an evaluator who is paid by the school.

The school cannot share a written education record or protected health information for any child without their parent's consent. But they can share information that was easily viewed or accessible to others, such as video of an incident that took place at the school, on the bus, or at a bus stop. If the school will not share a video of an incident involving your child that took place on a bus, at the bus stop, at the school, or at a school event, submit a *FERPA* and a *Freedom of Information Act (FOIA)* request. Again, if they deny your request, ask for their denial in writing.

- <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/parents.html>
- https://www.wrightslaw.com/advoc/ltrs/video_privacy.htm

Now you have your child's education records and, hopefully, have started to organize your parent notebook.

The next section helps you understand the process of requesting an evaluation for your student.

REQUEST AND REFERRAL

Does someone think the student might have a disability?

A parent, teacher or other knowledgeable person can request an evaluation of a student who is suspected of having a disability.

- *A parent notifies the school about the student's disability or suspected disability.*
- *A teacher notifies the school about the student's education difficulties.*
- *Another agency or professional working with the child sends information about a suspected disability to the school, as required by Child Find regulations.*

In this section you will learn...

- *Who can request a special education evaluation;*
- *How to request special education testing;*
- *What information is reviewed during the pre-referral process; and*
- *The role of the school district and the [Multidisciplinary Evaluation Team](#), including the parent, in the request and referral process.*

➤ 34 CFR and SBP 72.19 §§300.300-300.301, 300.131, 300.300-300.311

“Not every child has an equal talent or an equal ability or equal motivation; but children have the equal right to develop their talent, their ability, and their motivation.”

John F. Kennedy

Multi-Tiered System of Support

[Highly qualified teachers](#) must provide appropriate instruction in general education before a student is identified for special education. If your student is receiving [early intervening services](#) [also known as [Multi-tiered System of Support \(MTSS\)](#), Tier services, or [Response to Intervention \(RtI\)](#)], the school district must be providing you with information about how your student is progressing. Ask what types of remediation have been tried, the results of progress monitoring and any screening information the school has gathered. These are the types of information reviewed during the pre-referral process to help the team decide whether they will test a student for a disability and special education services.

You can request an evaluation for special education services at any time, even if your student is receiving MTSS/Tier/RtI services. School districts cannot delay or deny the appropriate evaluation of a student suspected of a disability because of the Tier process.

➤ [OSEP Letter from Musgrove, 2011](#)

“If a child can’t learn the way we teach, maybe we should teach the way they learn.”

Ignacio ‘Nacho’ Estrada

NOTE: Students who are, or need to be, in the Tier process can be tested before or after the RtI process begins. Students with IEPs can be included in the Tier process. However, federal special education funds cannot be used to fund general education interventions for students with IEPs.

Requesting an Evaluation (§300.301)

In Mississippi, a **request** for special education testing must be in writing. The school must inform parents about the process for requesting an evaluation, and, if needed, assist parents in putting their concerns and request for testing in writing. Within 14 calendar days of the district’s receiving a written request, the parent and Multidisciplinary Evaluation Team (MET) must meet to review the request and existing information to determine whether they suspect a disability. **Parents and others can request an evaluation; only the MET can refer for an evaluation.**

Referring for an Evaluation (§300.300)

If the MET does not suspect a student has a disability, the school will not refer her for an evaluation. If the MET suspects the student has a disability, within seven (7) calendar days the school must request parental consent in writing for an initial Comprehensive Evaluation. The MET must give Procedural Safeguards and Prior Written Notice (PWN) to the parent within seven (7) calendar days of the meeting. The PWN must explain the MET's decision and list the information it considered in making the decision.

- [Form 4](#) in the [Appendix](#) is a sample letter requesting an initial evaluation

Requesting a Reevaluation with Testing (§300.303)

Every eligible student must be reevaluated with testing every three years, unless the parent and school agree that additional testing is not needed. If testing is not needed, the school district must document that the child's IEP has been reviewed and the parent and school agree that no further testing is needed. Sometimes school districts in Mississippi school districts call this a "short form" reevaluation.

There are some circumstances under which a reevaluation with testing must be conducted:

- 1) If the school district thinks they need further testing to effectively address the educational or related services needs of the student;
- 2) If the school district thinks they need further testing to improve the academic achievement and functional performance of the student;
- 3) If the parent requests a reevaluation with testing;
- 4) If a teacher requests a reevaluation with testing.

Under these conditions, all the requirements of §§300.304 through 300.311 must be followed, including Notice of a Meeting, Prior Written Notice, informed written Parental Consent for Evaluation, Procedural Safeguards, Written Report, a meeting to review the results and determine whether a change in eligibility is warranted, IEP review to determine whether a revision is necessary, and Independent Educational Evaluation.

A reevaluation with testing should not take place more than once a year, unless the parent and the school district agree additional reevaluations are needed.

When a school district, teacher or service provider decides to conduct ANY testing that is not routinely conducted for ALL students in a school district, they must follow the requirements for reevaluation. This includes a Functional Behavior Assessment ([Letter to Christiansen](#)), Language/Speech testing with standardized tests to determine progress or lack of progress (e.g. Goldman-Fristoe) or achievement testing (Woodcock-Johnson) ([Letter to Sarzynski 2007](#)). Screening for Instructional purposes is not considered to be an evaluation or reevaluation. (§300.302)

Generally, curriculum-based assessment administered to all students to determine achievement of skills does not require Reevaluation Procedures, unless they are individually administered as part of a Reevaluation. If curriculum-based assessment is used to develop an IEP, it should be listed as a source of data in a report and in your IEP, and you should have access to results of the assessment. **Any assessment results used in determining eligibility or continuing eligibility, or for developing/revising an IEP, must be available to parents to the same extent it is available to other members of the IEP team so parents can participate as equal partners in decision-making.**

Parental Consent (§§300.300-300.302)

Before testing begins, the MET must provide the parent an Evaluation Plan which indicates **what kinds of assessment techniques** the school will use, and **which areas they will assess**. Assessment instruments include observations, published tests, informal checklists, interviews, and forms/reports completed by other professionals used for the purpose of identifying a disability and writing an IEP. All evaluation instruments must be valid and reliable for the purposes for which they are being used. ***Federal regulations indicate screening for instructional purposes is not a comprehensive evaluation*** (300.302), and most screening instruments are not appropriate for determining eligibility or for IEP development.

Areas the MET must consider for assessment are: Physical (medical, hearing, vision, orofacial, fine and gross motor); Language/Speech [language (receptive and expression); articulation, voice, fluency]; Social/Emotional (adaptive behavior, measures of emotional factors); Behavioral (including ADHD); and Cognition (achievement, auditory perception, visual perception and intelligence). Achievement areas include: Reading (basic reading skills, fluency, comprehension); Math (calculation and reasoning); Written Expression; Oral Expression; Listening Comprehension. Not all areas will be evaluated with a test that gives a score.

Usually the MET will meet with the parents to explain its decision, give Procedural Safeguards, explain the evaluation plan, and request written parental consent for evaluation immediately following the decision to evaluate. If you do not understand the types of assessment the school plans to use, ask for an explanation. If you do not understand why they are testing an area(s), discuss your concerns with the Team. If there is an area you want tested, ask in writing for that area to be tested.

The school district must give you Prior Written Notice no later than 7 days after the initial MET meeting seeking consent to evaluate, based on the written Evaluation Plan. If you want to give consent immediately, you can. Or you can wait to make a decision. The 60-day timeline for an evaluation does not start until the school has referred the student for a comprehensive evaluation, given the parent PWN outlining an evaluation plan, given Procedural Safeguards, and *received informed written consent* from the parent. If the school refuses to evaluate an area for which you requested an assessment, they must include that information on the PWN, too.

NOTE: Sometimes the MET will realize they need to test an area not listed on the Evaluation Plan. If they want to test additional areas, they must give you another PWN and get written consent for additional testing. The 60-day timeline does not start over; the date of the FIRST parent consent is day 1 of the 60-day timeline. In Mississippi, the last day of the timeline is the date of the last assessment.

NOTE: It is the district's responsibility to obtain the assessment results, at no cost to the parent. You cannot be required to take your child to the doctor or to another professional to get an assessment for special education. You can agree to provide transportation and to release records, but you are not required to do so. (see [*Amanda J. v. Clark Co Sch. Dist. & Nevada Dept. of Ed*, \(9th Cir. 2001\)](#) and the decision in the 504 case, Rose Hill (KS) Pub. Schs., U.S.D. #394, 46 IDELR 290 (OCR 2006), in which OCR explained that the regulations implementing Section 504 and the ADA require districts to provide all necessary services, including evaluations, free of charge to students with disabilities.

NOTICE OF RIGHTS AND INFORMED CONSENT

The district must notify parents of their rights and make sure parents understand their rights.

Schools must provide parents with written information describing the actions the school wants to take or refuses to take, and the parent must consent in writing before the student can be tested for a disability or receive special education services.

In this section you will learn about...

- *Prior Written Notice and Procedural Safeguards;*
- *Parents' rights regarding notices;*
- *Consenting to an evaluation and provision of services; and*
- *Withdrawing consent for evaluation and/or service provision.*

➡ *34 CFR and SBP 72.19 §§300.9, 300.121, 300.300-300-301, 300.503-300.504, 300.520, Subpart E*

**“Get up. Stand up. Stand up for your rights.
Get up. Stand up. Don’t give up the fight.”**

Bob Marley

Procedural Safeguards Notice (§300.504)

When a student is first referred for a special education evaluation, the school district must give parents written information about their rights under *IDEA* and options for resolving disputes. Most Mississippi schools use a document developed by the [Mississippi Department of Education \(MDE\)](#)/Office of Special Education (OSE) called *Procedural Safeguards: Your Family's Special Education Rights*.

The school district must give notices in the parent's [native language](#). If the parent has a disability such as a hearing or vision impairment, the school must give notices in a way the parent can understand, such as sign language, Braille or audio media. School officials must keep written records to show they gave notices to the parent, and explained them when necessary. Parents should keep copies of all written notices and the Procedural Safeguards.

Once the student begins receiving special education services, schools must give parents the Procedural Safeguards notice once a year. Anytime the parent requests an evaluation, files a state complaint or files a due process complaint, they must receive a copy of Procedural Safeguards. A parent can request a copy of the Procedural Safeguards notice at any time. The MDE Office of Special Education has the Notice of Procedural Safeguards posted on its website.

Other Types of Notice (§300.503)

In addition to notice of parent rights described above, *IDEA* requires the school to give parents prior written notice when they plan or refuse to:

- Conduct an evaluation or reevaluation to determine if the student has a disability and her educational needs,
- Change her disability category,
- Change the IEP,
- Change the student's placement, or
- Change how the student is provided a free appropriate public education.

NOTE: If the parent requests changes in any of the above areas, and the school refuses to make those changes, the school must provide prior written notice in response to the parent's request explaining their denials.

Required Components of a PWN (§300.503)

Written notice about actions the district proposes or refuses to take must include these seven components:

- 1) The action the school wants to take or *is refusing to take*;
- 2) Why the school wants to take that action or *refuses to take action*;
- 3) Descriptions of any evaluations, tests, reports and other information supporting the school's position;
- 4) Resources for parents to contact for assistance in understanding what the law says;
- 5) Information about the parent's rights and how the parent can get another copy of the procedural safeguards notice;
- 6) What other options the school considered and why those options were rejected; and
- 7) A description of any other factors relevant to the school's decision.

If you receive prior written notice from the school that does not fully address these seven components, ask the school district to provide you with *another* notice containing all the required information. You need this information to participate as an equal partner in the decision-making process. **Keep a copy of all notices, your requests and all correspondence with the district.**

Consent for Evaluation (§§300.9, 300.300-300.301)

If the school decides to evaluate your student, they must give you procedural safeguards notice plus prior written notice, and get your written consent. The consent must indicate the kinds of assessment the district plans to use (records review, observations, checklists, tests, interviews), and the areas they want to evaluate (physical, language/speech, social/emotional/behavioral, achievement and/or cognition). The district chooses the evaluator, based on requirements in each test manual. The evaluation process will not begin until you have given written consent.

If you do not consent to testing, the district can ask for [mediation](#) or a due process hearing. An impartial hearing officer (IHO) can give the district consent to *evaluate* your student (but the IHO cannot override your [refusal for special education services](#)). The school does not have to keep trying to get your consent for an evaluation if you refuse the first time. You cannot hold the school district responsible for failing to evaluate or to provide a free appropriate public education to your student if you refuse consent to test.

Consent to Provide Services (§§300.9, 300.300)

If the school has evaluated your student and found her eligible for special education, it must give you prior written notice and get written parental consent to place your student in the special education program. Consent to have your student placed in the special education program is **not** consent for the *individual services* listed in the IEP. Once you provide consent for special education services, the school district must implement the most recent IEP **in its entirety**, except in these circumstances:

- You move out of the district,
- You withdraw your student from school,
- You move out of state,
- Your student graduates with a standard high school diploma,
- Your student ages out of the program,
- Your student otherwise becomes “not eligible” for services (“tests out”), or
- You withdraw consent to provide services.

➡ [OSEP Letter to Goldman, 2009](#)

Revoking Consent to Provide Services (§300.9, §300.300)

You can revoke (withdraw) consent for a school district to provide special education services at any time. You must revoke your consent in writing. Before discontinuing services, the district must provide you with prior written notice.

If you revoke consent for placement in special education, the district must stop providing special education and related services to your student. That means the district is no longer required to develop or implement an IEP. The school will no longer be required to offer a student the protections provided under the *IDEA*, including discipline protections and [accommodations](#) and [modifications](#) for assessment. **Revoking consent to provide services has serious consequences for your student with disabilities; make sure you understand the consequences and make an informed decision.**

If you revoke consent to provide services, then change your mind, your student must receive an initial comprehensive evaluation to determine whether he is eligible to receive services again. It is possible the evaluation will determine your student to be “not eligible” for services during the new comprehensive evaluation.

- [Form 5](#) in the [Appendix](#) is a sample Prior Written Notice for Refusing/Revoking Consent for Evaluation and/or Services. It outlines many of the consequences of withholding or revoking cons

COMPREHENSIVE EVALUATION

If the pre-referral process indicates a student might have a disability, the school must complete a comprehensive evaluation at no cost to the parent.

The Evaluation answers the questions:

- *Does the student have a disability?*
- *Is there an adverse educational impact?*
- *Does the student require special education and related services?*
- *What is the appropriate disability category?*
- *What are the student's strengths, interests, preferences?*
- *What are the student's special education and related services needs?*

We have discussed how to request an evaluation and the school's duty to inform you of your rights related to the evaluation process. This next section looks further into the evaluation process itself.

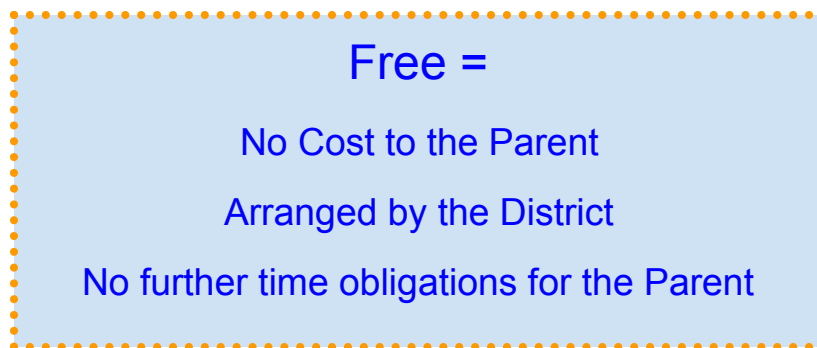
In this section you will learn about...

- *Steps a school may take if a parent does not consent to an evaluation,*
- *Key areas of the evaluation,*
- *Timeline to complete the evaluation,*
- *Understanding the results of the evaluation,*
- *Parent rights during an evaluation,*
- *Student rights during an evaluation,*
- *Solutions for incomplete or incorrect evaluations,*
- *Requesting additional testing or re-evaluation,*
- *Requesting an Independent Educational Evaluation, and*
- *Asking for a Due Process Hearing.*

➤ ***34 CFR and SBP 72.19 §§300.9, 300.131, 300.300-300.311, 300.502, 300.534***

Parents' Role in Evaluation (§§300.300-300.311)

You should make a special effort to help with the evaluation in every way. This could mean answering questions, helping the school get your child's existing medical/therapy records you think will be helpful for evaluation and programming purposes, helping your student understand the testing process, and getting her ready for testing. It is important for your student to do her best on every test and to answer questions accurately. This will help the school have a complete understanding of your student's strengths, preferences, interests, disability, and needs.



The school district must conduct the evaluation, or arrange for someone else to conduct the evaluation, at no cost to you. You can participate by suggesting an appropriate evaluation center, examiner, or your child's physicians, or volunteering to transport your child to an appointment for an evaluation. However, you cannot be *required* to do so by the school, since it is their responsibility to **produce** the evaluation, including scheduling, transporting, and paying for all aspects of the evaluation, within 60 days of getting your consent. [NB and CB v Hellgate Elementary IV, D](#)

Consent (§§300.9, 300.300)

The school must get written parental consent before evaluating students. It is important to respond in writing to all requests from the school district and to keep a copy of all correspondence and forms. If you disagree with something the school district wants to do, respond in writing. Tell them you disagree and why you disagree. Sometimes the district can go ahead with their plans if you simply ignore their requests, or they can file a due process complaint. **It is important to stay in communication with your school district, whether you are in agreement with their plans or not.**

Refusing Consent (§300.300)

If the parent refuses to give consent for initial evaluation, the district can ask a hearing officer for permission to evaluate a student. A district can re-evaluate a student without parental consent if the parent *fails to respond* and the district can show it has taken all reasonable measures to get consent. If the parent *refuses* the reevaluation in writing, the district can only reevaluate if the district requests a due process hearing and the Impartial hearing officer agrees to allow the reevaluation.

Evaluation Before Change in Eligibility (§300.305)

A new evaluation is required before a change of eligibility unless the student is:

- 1) graduating with a traditional diploma by meeting the same academic standards as general education students,
- 2) obtaining a GED through a program offered by the school district, or
- 3) “aging out” of services.

Students who exit special education through any of these three circumstances will receive a **summary of academic achievement and functional performance**, including recommendations to assist the student in meeting post-secondary goals.

***NOTE:* Your child’s therapist, such as the school’s OT, PT, or SLP, cannot “dismiss” your child from services without an IEP meeting and a reevaluation.**

Evaluation of Educational Needs (§300.301)

One purpose of the comprehensive evaluation is to find out how the student is doing in school in areas such as reading, mathematics and writing.

The evaluation must be sufficient to determine:

- Whether the student has a disability;
- Whether the student needs special education and related services;
- Present levels of academic achievement and functional performance, **including baseline data**;
- All special education and related services needed to enable the student to meet the measurable annual goals in the IEP, **whether or not her needs are commonly linked to her disability category**;
- Any modifications needed for the student to participate in the general education curriculum;
- Any accommodations needed for instruction and assessment, including state tests.

If the evaluation shows a student's behavior is a problem at school, the report must include recommendations to help the student learn and get along with others. These recommendations must be considered as the IEP committee develops the IEP.

Evaluation for Related Services (§300.304)

The evaluation must identify what additional services (known as “related services”) are needed for the student to benefit from special education services. The most common related services are occupational therapy, language/speech therapy, physical therapy, assistive technology, counseling, behavioral services, and transportation. Currently, a

student cannot be found eligible for special education services if the student needs only related services. However, they might be eligible for a 504 Plan.

Timelines (§300.301)

The school district must complete the evaluation **no later than 60 calendar days** after getting written parental consent to evaluate, except in limited circumstances. The 60-day timeline ends on the day the last assessment is completed. If the parent fails to make the student available for testing, the school could be excused from the 60-day timeline. If the student is receiving Rtl services but is suspected of a learning disability, the parent and school can *agree in writing* to extend the timelines to see how the student responds to Rtl before completing the evaluation. If your student transfers to a new school district after the 60-day timeline has started, you must meet with your new school district to determine when the evaluation will be completed by your new district. In this case, if you and the school agree, the timeline could be longer than 60 days.

Not Yet Eligible (§300.534)

If the parent has submitted a written request for an evaluation or a teacher has expressed concerns in writing to a school official about a student's behavior, the student might have protections under Section 300.545 of the ***State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004***, also referred to as ***State Board Policy (SBP) Chapter 74, Rule 74.19*** and ***IDEA*** regulations as a student who is "not yet eligible." If the student's behavior results in disciplinary action, the student could be entitled to an *expedited* comprehensive evaluation. "Expedited" is defined as "less than 60 days." A practical way for districts to accomplish this is to figure out the earliest spot they can put your child in their testing schedule, without missing other students' timelines. In this situation, you will probably want to contact an advocate and/or a special education attorney for assistance.

Understanding the Evaluation Results (§300.306)

You have the right to inspect and review the results of all evaluations completed, before the eligibility determination meeting. In Mississippi, the school district must give you copies of all reports related to the Comprehensive Evaluation **at least seven calendar days** before the meeting. You might be asked to waive this requirement. It is helpful for parents to have the opportunity to review the results before the Eligibility Meeting, so **exercise your right to receive the evaluation reports prior to a meeting.**

To help you understand the evaluation results and what they mean, prior to the meeting:

- Meet with the professionals who conducted the tests or someone else at the school who can explain the results to you;
- Ask a professional who is not employed by the school to help you understand the tests, and to recommend whether additional testing should be done; and
- Get information about the suspected disability from a parent organization, the state policies or another reliable source.

Read over the reports carefully. Ask for explanations – in writing -- of any terms or statements in the reports you do not understand. Study the reports until you are satisfied they are accurate and complete. You need to understand the reports to take an active role in determining eligibility and developing your student's IEP.

Parents' Rights During An Evaluation (§300.304)

You have the right to:

- Receive written notice before the school evaluates or refuses to evaluate your student;
- Provide or refuse your consent before the evaluation or re-evaluation of your student;
- Receive information about the abilities, skills, and knowledge to be evaluated;
- Receive a description and explanation of the procedures, tests, records or reports to be used in the evaluation;
- Have a comprehensive evaluation completed at no cost to you. This includes hearing/vision screening and follow up, and any medical evaluations the school feels are needed;
- Review and understand all evaluation records before the eligibility and IEP committee meetings;
- Provide information to the team about your student through interviews, written forms (such as a Developmental History), or evaluations completed by other professionals who have treated or tested your student;
- Receive a copy of all evaluation and [eligibility reports](#), including information used to determine eligibility and special education services;
- Be assured that tests and other evaluation materials will be in the language most likely to yield accurate information about what your student knows and can do academically, developmentally, and functionally;
- Be assured that no single procedure (such as a measure of intelligence) will be used as the sole basis to determine your student's eligibility for and placement in special education services;

- Present a written complaint to the Mississippi Department of Education, if you feel a federal or state rule concerning the evaluation process is not being followed; and
- Request mediation and/or a due process hearing if agreement on evaluation procedures, results or eligibility determination cannot be reached.

Students' Rights During An Evaluation (§300.304)

In the evaluation process, a student has the right to:

- Have the evaluation completed within 60 days after parental consent is given;
- Be evaluated in all areas related to the suspected disability;
- Be evaluated in all areas of difficulty, even if they are not related to the suspected disability;
- Be tested with a variety of instruments that are valid and reliable for the purposes chosen;
- Be tested in a way that is not racially or culturally discriminatory;
- Be tested by qualified, trained and knowledgeable personnel; and
- Be tested in the student's native language or other mode of communication (Braille, sign language, etc.).

Testing should be conducted over several sessions to reduce fatigue of your child and the examiner, to get a valid measure of your student's abilities. If you notice that several instruments were given to your student on one day, you should ask questions. Your student should not be subjected to unnecessary or redundant testing.

I Think the School's Evaluation is Incomplete (§§300.305, 300.502)

If you feel that the school's evaluation is incomplete or inaccurate and additional testing is needed, you can ask the school in writing to do more testing. You have the right to request an [independent educational evaluation \(IEE\)](#) if you disagree with the school's **completed evaluation** results. Be sure to keep a copy of your written requests with the rest of your student's education records.

- [Form 6](#) in the **Appendix** is a sample letter requesting additional testing.

I Think the School's Evaluation is Wrong (§§300.305, 300.502)

If you think the school's evaluation does not accurately identify your child's disability or measure your student's need for special education services, you can request:

- (1) correction of the errors;
- (2) an independent educational evaluation (IEE);
- (3) a re-evaluation;
- (4) an investigation through the state complaint process; and/or
- (5) a due process hearing.

Asking for an Independent Educational Evaluation (§300.502)

You must notify school officials if you want an independent educational evaluation (IEE) and you expect the school to pay for it. Although the school district can ask, you do not have to tell them why you disagree with its evaluation. The school district must pay for the IEE unless the school asks for a due process hearing that shows its evaluation was appropriate. Be sure to keep a copy of your written request for an IEE with your other records.

Ask the school how and where to get an IEE. Someone who is qualified to perform the evaluation, but not employed by your school district, conducts the IEE. You choose the evaluator based on requirements used by the school district, which must be the same criteria the district uses when conducting an evaluation. Ask the Special Education Director for a copy of their IEE criteria. They might have a list of evaluators who meet the criteria, but the list must be exhaustive. ([Letter to David Young](#)) If you want an evaluation by an agency or professional who does not meet their requirements, check with the Special Education Director to get permission first.

The Eligibility Determination team and IEP committee must discuss and equally consider IEEs, regardless of who pays for them, in eligibility decisions and IEP development. They do not, however, have to accept any or all of the evaluator's *recommendations*.

- [Form 7](#) in the [Appendix](#) is a sample letter requesting an independent educational evaluation (IEE).

Asking for additional testing or a reevaluation (§300.305)

If the Multidisciplinary Evaluation Team, which includes the parent, has not yet determined eligibility, you can ask for additional testing. If the eligibility determination has been made and you or a teacher believes more testing is needed, the school must conduct a reevaluation. The request must be in writing. Neither a parent nor a teacher can request a reevaluation more than once a year, unless the student's needs change or the school agrees a reevaluation is needed.

The school must conduct a re-evaluation at least once every three years, unless the

parent and school agree it is not necessary. In this case, the school documents continued eligibility. If the school thinks the three-year reevaluation is not necessary, but the parent or teacher does, the school must conduct the reevaluation. If the student has not progressed in the general education curriculum as expected, has not met IEP goals, or his needs have changed, a reevaluation is probably needed.

- [Form 8](#) in the [Appendix](#) is a sample letter requesting a reevaluation with testing.

Asking for a Due Process Hearing (§300.307)

If you believe the school's evaluation is inappropriate, inaccurate or incomplete, and you cannot resolve the issue with the school, you can challenge the evaluation in a due process hearing. If you go to a hearing, you will need documentation to prove the school's evaluation is inappropriate, incomplete or incorrect. This proof could be a doctor's or psychologist's report, another type of independent evaluation, or the testimony of an expert witness.

DETERMINING ELIGIBILITY

Once the evaluation is completed, the school must include the parent in discussions to determine eligibility.

The Multidisciplinary Evaluation Team (MET), including the parent, decides if the student is eligible for special education.

In this section you will learn about...

- *The thirteen disability categories in Mississippi,*
- *Multidisciplinary Evaluation Teams,*
- *Parent involvement in determining eligibility, and*
- *Eligibility for specific programs.*

➡ *34 CFR and SBP 72.19 §§300.8, 300.25, 300.124, 300.174, 300.301, 300.306-300.311, 300.323*

**“How do I begin to evaluate my worth?
By realizing that some things can’t be assigned a value,
and that my life is one of them.”**

Craig D. Lounsborough

Eligibility Categories

In Mississippi, to be eligible to receive special education services, students must meet the criteria for at least one of thirteen disability categories:

- **Autism (AU)**
- **Deaf-Blindness (DB)**
- **Developmental Delay (DD)**
- **Emotional Disability (EmD)**
- **Hearing Impairment (HI)**
- **Intellectual Disability (ID)**
- **Language or Speech Impairment (L/S)**
- **Multiple Disabilities (MD)**
- **Orthopedic Impairment (OI)**
- **Other Health Impairment (OHI)**
- **Specific Learning Disability (SLD)**
- **Traumatic Brain Injury (TBI)**
- **Visual Impairment (VI)**

Exclusionary Factors for Special Education Eligibility (§300.306)

A child must **not** be determined to be a child with a disability if the primary reason (determinant factor) for the child's educational difficulties is lack of appropriate instruction in reading or math or due to limited English proficiency. Information about the child's physical condition, enrollment and attendance history, social or cultural background, and adaptive behavior must be documented and carefully considered.

Even if the comprehensive evaluation indicates the student does not qualify for special education under the *IDEA*, she might be eligible for services under [Section 504 of the Rehabilitation Act](#). For more information on the MDE special education eligibility determination guidelines and categories, refer to the MDE Policies.

Specific Learning Disability (§§300.8, 300.307- 300.311)

Many struggling students are identified as having a Specific Learning Disability (SLD). Over time the criteria for SLD has changed. A local school district can no longer be *required* to determine the student has a significant discrepancy between her intellectual ability and her level of achievement to be classified as Specific Learning Disability. However, in Mississippi "the discrepancy model" is still used by most school districts.

MDE defines “significant discrepancy” as one and a half standard deviations (22-23 points) below the measured IQ. Currently RtI can be used to *rule students eligible for SLD*, but not for other disability categories. That does not mean the Teacher Support Team is limited in *providing supports* for students suspected of other disabilities. Multidisciplinary Evaluation Teams must consider documentation of all supports provided for students referred for an evaluation.

In Mississippi a local school district may consider the student’s response to intervention in deciding if a student has a Specific Learning Disability. (Refer to [Mississippi’s State Board Policy 41.1](#) for more information about RtI, also known as the Multi-tiered System of Support <https://www.mdek12.org/OAE/OEER/InterventionServices>.) The intent is to assure that a student is not labeled as having a learning disability until she has first been provided with intensive instruction using progress monitoring to make decisions about the student’s instruction. If your school says they do not “do RtI,” ask additional questions; all schools in Mississippi are required to use tiered interventions and [Teacher Support Teams](#) to identify struggling students and to prevent failure, through screening, interventions, and data-based decision-making.

Specific Learning Disability is the only disability category that has its own sections in the federal regulations. Sometimes school districts mistakenly apply the “SLD rules” to other categories. The additional members for SLD in Section 300.308 and some exclusionary factors in Section 300.309 apply to SLD *only*. There are additional reporting requirements for SLD, too.

Exclusionary Factors for SLD (§§300.8, 300.309)

A student cannot be determined to have a specific learning disability if her learning deficits are primarily because of visual, hearing, or motor disability; intellectual disability; emotional disturbance; environmental or economic disadvantage; limited English proficiency; or lack of appropriate instruction in reading or math. Socioeconomic factors must be considered.

Dyslexia, Dysgraphia and Dyscalculia

A letter from the U. S. Department of Education clarifies that [Dyslexia, Dysgraphia, and Dyscalculia](#) are disabilities covered under *IDEA*. If a student has dyslexia, dysgraphia or dyscalculia and meets the eligibility criteria for Specific Learning Disability or another category, she can receive special education services.

[Mississippi Code Annotated §37-173-15](#) provides for dyslexia screening, evaluation and services in general education, and a scholarship if a parent chooses to obtain dyslexia services outside their public school setting. If a student has dyslexia and is receiving instruction in general education that meets all her needs, then she might not be eligible for special education services. However, if she has a disability and requires special education and related services to receive a FAPE, she should be eligible.

ADHD (§300.174)

On July 26, 2016, the Office of Civil Rights issued a [policy letter](#) regarding *IDEA* and Section 504 for students with Attention Deficit Hyperactivity Disorder, along with a Resource Guide.

- “Once a school district believes a student has a disability and needs special education or related services because of that disability, it must evaluate the existence of a disability by considering whether the student is substantially limited in his or her unmitigated state” (little or no chance of change).
- “[Mitigating measures](#) are things like medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications that an individual may use to eliminate or reduce the effects of an impairment.”
- “The school district cannot consider the [ameliorative effects](#) (corrective value) of any mitigating measures, for instance the ameliorative effects of the school district’s [intervention strategies](#), such as [improved grades](#) resulting from peer-tutoring in math, in determining whether the student has a disability...”
- Ordinary eyeglasses or contact lenses are expressly excluded from the list of mitigating measures.
- “Once a school district determines that a student has a disability, however, that student’s use of mitigating measures could still be relevant in determining his or her need for special education or related services.”

➤ **42 U.S. Code § 12102**

➤ <https://www.law.cornell.edu/uscode/text/42/12102>

NOTE: Federal regulations and state policies indicate children are not required to fail to be eligible for special education services. Ameliorative effects can include tutoring, parental assistance with homework and test preparation.

➤ [Letter to Lillie/Felton, 1995](#)

NOTE: Federal regulations and state policy prohibit schools from requiring students to take medication to attend school, receive an evaluation, or get special education services.

Parent involvement in determining eligibility (§§300.306-300.308)

Upon completion of your student’s comprehensive evaluation, you will receive an invitation to attend a Multidisciplinary Evaluation Team (MET) meeting. You are a member of this team and have a voice in making decisions. At this meeting, you will meet with school personnel to review the [evaluation report\(s\)](#) and determine whether your student is a [student with a disability](#) as defined in *IDEA*. The school must give you a copy of all evaluation reports and the Eligibility Determination report at no cost to you.

If the MET determines your student is a student with a disability as defined in *IDEA* and is eligible to receive special education and related services, you will receive prior written

notice of a change in eligibility status and an invitation to an IEP Committee Meeting. If the MET determines your student is NOT a student with a disability as defined in *IDEA* and is NOT eligible to receive special education and related services, you will receive a prior written notice explaining the school's decision. All prior written notices must contain the [seven required components](#) discussed in the **Notices** section.

I Disagree with the other members of the MET (SBP 74.19, Report Requirements, C)

If you disagree with the eligibility decision made by the MET, you will sign the Eligibility Determination Report and mark "Disagree." You should write a separate statement about why you disagree with the decision. Your statement must be kept with the Eligibility Determination Report.

Who is Eligible for Which Programs?

Birth to Three Years Old (§§300.25, 300.124, 300.301)

Children with developmental delays in the age range from birth to three years old are served by [First Steps](#), Mississippi's early intervention program. First Steps evaluates infants and toddlers at no cost to parents to see if they need early intervention services. If your infant/toddler is eligible, you and a First Steps team will work together to develop an [Individualized Family Service Plan](#) (IFSP), listing the services your family chooses and how those services will be provided. You will be assigned a Service Coordinator. Service coordination is an important element in the Part C (Early Intervention) system that is not provided in Part B (Special Education).

First Steps eligibility typically ends on your child's third birthday. If your child is receiving early intervention services six to nine months before her third birthday, she will be referred to the local school district so the Part B (Special Education) evaluation process can begin. An IEP must be in effect for each eligible student no later than her third birthday. If a student's third birthday is in the summer, the IEP Committee decides when services will begin.

The [Mississippi State Department of Health](#) (MSDH) administers the [First Steps Program](#). MSDH and the [Mississippi Parent Training and Information Center](#) collaborated in the development of a Parent Guide for Part C. To get a copy of their Parent Guide and to learn more about First Steps, contact [your local health department office](#) or call **(601) 576-7427** in Jackson or toll-free **1 (800) 451-3903**.

Three to Twenty-one Years Old (§§300.301, 300.323)

To receive special education and related services, eligible students with disabilities between the ages of three and twenty-one must have an IEP in place and the parent must sign consent for services. In Mississippi, eligible students can receive services

through the school year in which the student reaches age twenty-one (21), provided the student was **age twenty (20)** on September 1.

Limitations exist for students who:

- Are incarcerated as adults (In Mississippi, this generally includes students aged 18 through 21, but can include students as young as 13, depending on the crime); or
- Have graduated from high school with a traditional/standard high school diploma.

Once your student has been identified through a comprehensive evaluation, she remains eligible to receive services and the protections guaranteed by *IDEA*, except in these limited circumstances:

- Your student graduates with a traditional/standard high school diploma,
- Your student turns twenty-one before September 1,
- Your student is determined to be “not eligible” for services through a comprehensive evaluation, or
- You withhold or withdraw consent to provide services.

If you move out of state, your new school district must conduct a comprehensive evaluation to determine whether your student is eligible for special education in your new state. Until the evaluation is completed, your student must receive services comparable to services on her most recent IEP from the previous school district. Those services are decided based on consultation between school officials and the parent. **There are no federal regulations or state policies about how these services are documented in Mississippi; ask the school official for any written documentation describing the comparable services.**

If you move out of state, you should provide your new school district with the most recent IEP and results of evaluations to facilitate the process. The new school district must request records from your previous school district in a timely manner, and your previous school district must respond in a timely manner.

NOTE: Your student’s eligibility does not “expire” if a school district misses a three-year reevaluation timeline. The responsible district is out of compliance, and your current district must make every effort to complete the reevaluation process as soon as possible. Your student must continue to receive all services and protections afforded by IDEA, except in the limited circumstances listed above.

➡ [OSEP Letter to Goldman, 2009](#)

INDIVIDUALIZED EDUCATION PROGRAM

The Individualized Education Program is a written plan designed specifically to meet the academic, developmental, and functional needs of one student.

If the MET has determined the student is eligible for special education services, school personnel and the parent will meet to develop an Individualized Education Program (IEP).

In this section you will learn about...

- *Individualized Education Programs,*
- *Invitations to IEP committee meetings,*
- *IEP requirements,*
- *Members of the IEP committee,*
- *IEPs for children who have transferred to a new school,*
- *Preparing for the IEP Meeting, and*
- *What must be included in a student's IEP.*

➤ 34 CFR and SBP 72.19 §§300.8, 300.17, 300.22, 300.29, 300.34, 300.43, 300.102, 300.107, 300.114-116, 300.124, 300.139, 300.156, 300.305, 300.320-300.328, 300.520, 300.625, 300.804

“Expecting all children the same age to learn from the same materials is like expecting all children the same age to wear the same size clothing.”

Madeline Hunter

IEP Definition (§§300.22, 300.320)

The Individualized Education Program (IEP) is the document that outlines how a student with a disability will be educated. The IEP is not as detailed as a teacher's lesson plans, but it must contain measurable baselines and annual goals in each area of need. For some students, short term instructional objectives (STIOs) are also required; even if they are not required, you can ask for STIOs to be listed on your student's IEP.

The IEP tells what kinds of special education and related services the school will provide, how often and how long your student will receive those services, the settings (special education or general education classes) where services will be provided, and what kinds of professionals will provide those services. Present Levels of Academic Achievement and Functional Performance (PLAAFP) and Parental Concerns must also be listed on the IEP.

The IEP must consider and address the academic, developmental and functional needs of the student. Services must be based on [scientifically-based research](#), as much as possible. All decisions in your student's IEP must be based on your student's unique needs—that is why it is called an *Individualized* Education Program. From the time your child receives her first IEP until she exits special education, the goals and services should align with the long-range outcomes you expect your student to achieve, whether it is graduation with a traditional or alternate diploma, post-secondary education, a career, or another level of independent living in adulthood.

➡ [Traditional Diploma with Endorsements | The Mississippi Department of Education](#)

➡ [https://www.mdek12.org/sites/default/files/Offices/MDE/OAE/SEC/Diploma/Mississippi%20Diploma%20Options%20\(Revised%208.23.18\).pdf](https://www.mdek12.org/sites/default/files/Offices/MDE/OAE/SEC/Diploma/Mississippi%20Diploma%20Options%20(Revised%208.23.18).pdf)

When is an IEP required? (§300.323)

The *IDEA* requires a student to have an IEP before she receives special education and related services. You are a member of your student's IEP Team and must be included in developing and revising your student's IEP. An IEP must be developed within 30 days of the student's eligibility determination and implemented without delay. The school district is required to give you a PWN outlining the change in placement. The PWN must give you seven (7) days notice; however, you can waive the 7 days so your child can receive special education and related services immediately. The IEP must be reviewed at least once a year, and revised when needed.

Notification of the IEP meeting (§300.322)

The school must ask you, in writing, to come to all IEP meetings. The notice of committee meeting (invitation) must include the purpose, date, time, and place of the IEP meeting. Mississippi policies require the Invitation include a list of the people attending **by name and role**. Keep a copy of every invitation.

If you cannot meet at the time and place the district suggests, let them know in writing. Give them several dates, times and places you can meet. The school must schedule the IEP meeting at a **time and place** that works for you and the school. If you ask, the school must reschedule or use other ways (such as telephone or video conference calls, or suggestions in writing) to allow you and other committee members to participate. **If you do not attend the meeting and do not ask to reschedule, the school district can hold the IEP meeting without you, assuming they have documented numerous attempts to involve you in the process.**

Who decides what goes into an IEP? (§300.321)

The IEP committee must include:

1. Your student, when appropriate. Your student must be invited if the meeting will be about post-secondary goals or transition services to meet those goals. Transition goals must be included in the IEP starting at age 14 in Mississippi;
2. The [parent](#), as defined by *IDEA*;
3. A representative of the school district who is qualified to provide or supervise special education, and knows the general education curriculum and the resources available in the district;
4. At least one special education teacher or service provider;
5. At least one general education teacher if your student is, or may be, in general education;
6. Someone, who may already be a member of the committee, who can interpret evaluations and the instructional implications; and
7. Other individuals – invited by you, the student or the school – who have special knowledge or expertise. This could include people such as the parents of another student with the same disability, an advocate, related services personnel, a private tutor, a reading specialist, or a counselor. If your student is entering school from First Steps, a representative of the Part C program can be invited if you request or consent to include them. You can invite an attorney, especially if the district has indicated their attorney will be present. However, **attendance by attorneys at IEP meetings is strongly discouraged.**

➡ [OSEP Letter to Clinton, 2001](#)

The district may ask, but you are not required to tell, if you plan to bring someone with you to a meeting. In most cases, it is best to let the district know. **The district should not refuse to hold a scheduled meeting if you bring an attorney or advocate with you.**

➡ [OSEP Letter to Andel, 2016](#)

NOTE: All members listed on the invitation must be present at the IEP meeting. If a member listed on the invitation is not able to attend, the District must notify the parent and get the parent's consent to substitute a person with the same qualifications or to excuse the member *before the meeting begins*.

An IEP committee member can be excused from attending all or part of the meeting if you and the school *agree in writing*. An excused member must provide written input to assure their participation. *Do not agree to excuse someone if their absence will result in an incomplete or inadequate IEP, or prevent you from making an informed decision. You do not have to allow them to add a member, like their attorney, if they were not included on the Invitation.*

IEPs for children who transfer school districts within Mississippi (§§300.29, 300.323)

If a student with a disability who had an IEP in another school district in Mississippi transfers to a new Mississippi school district in the same school year, the new school district (in consultation with the parent) must provide a FAPE to the student. The new school district must provide services comparable to those in the student's IEP from the previous district. There are no written requirements in Mississippi policies or federal regulations for documenting the comparable services, so ask the district how it plans to document the services your student will receive. Ask for a copy of any documentation of your student's comparable services.

As soon as possible, the new district must either:

- Adopt the student's IEP from the previous school district; or
- Develop, adopt, and implement a new IEP that meets *IDEA* and State requirements.

IEPs for children who transfer to a Mississippi school from another state (§300.323)

If a student transfers into a Mississippi school district from another state, the new school district must:

1. Provide a FAPE, consulting with the parent to decide how comparable services are going to be provided and documented;
2. Take reasonable steps to track down and get the student's school records;²
3. Conduct an initial comprehensive evaluation; and
4. Adopt the student's current IEP, or develop and implement a new IEP, if the student is found to be eligible in Mississippi through the evaluation process.

Children coming from First Steps (§300.124)

² The previous school district where the student was enrolled must also take reasonable steps to promptly respond to the request from the new school district.

For children coming from a First Steps (Part C/Early Intervention) program, the school must consider the child's Individualized Family Service Plan (IFSP). If the school and parents agree, the school can use the IFSP as the IEP. The school is responsible for explaining the differences between Part C and Part B. The table below gives a brief explanation of some of the differences.

Part C	Part B
Provides Service Coordination	Provides services to students
Family-Centered	Student-Centered
Individualized Family Service Plan	Individualized Education Program
Families can choose some services and reject others	The district is responsible for ensuring students receive <u>all</u> services required to receive a FAPE
Community-based	Primarily School-based
Serves infants/toddlers (birth to 3) with developmental delays; there are no categories	Serves preschoolers and students (3-21 years) who meet criteria for one (or more) of thirteen disability categories
In Mississippi, the lead agency is the Mississippi Department of Health.	The lead agency (State Education Agency) in Mississippi is the Department of Education.

Preparing for the IEP Meeting

Preparing for the IEP meeting is the best way to ensure you are an effective advocate for your child. Your participation involves more than just attending the meeting. Start by thinking about the long-term outcomes you want for your student. Review your student's evaluations and any prior IEPs, as well as your child's grades and disciplinary record. Think about what types of instruction work best for your student, what types of incentives you use to improve your child's behavior at home, and the outcomes you want for your child.

Consider meeting with your student's teachers before the IEP meeting to talk about the comprehensive evaluation, possible IEP goals, and to learn more about the curriculum for your student's grade level. Request a blank IEP document from the school district so you can see what an IEP document looks like, and what types of information you will need to be prepared to discuss. Mississippi's current IEP form can be found on the MDE Office of Special Education's website.

➡ www.mdek12.org/sites/default/files/Offices/MDE/OAE/OSE/Info-and-Publications/IEP.REVISED.8.24.18.002.pdf

School staff can meet before the IEP meeting, either with or without you, to write a draft of proposed goals. **Ask for a copy of the draft so you can review it before the**

meeting. If you did not receive a draft IEP prior to the meeting, ask at the beginning of the meeting if a draft exists. If there is a draft, ask for a copy and **read it before proceeding.** Even if the school has developed a draft of proposed goals ahead of time, they must include your input. **The final IEP cannot be written in advance of the IEP committee meeting. “Predetermination” of the IEP by the school prevents the parent from participating in IEP development in a meaningful way.**

NOTE: You have the right to an interpreter (such as American Sign Language, Spanish, etc.) paid for by the school. If you need an interpreter, be sure to tell the school – in writing – before the IEP meeting. Remember to keep a copy of your written request with your student’s education records.

- [Form 9A](#) in the **Appendix** is a checklist that will help you prepare for the IEP meeting.
- [Form 9B](#) in the **Appendix** is a checklist that will help you during the IEP meeting

The IEP Meeting

At the meeting, the IEP committee will review, revise, or develop your student’s IEP. An IEP meeting typically follows this format:

1) Opening remarks and introductions

The IEP committee members and others in attendance introduce themselves and explain their role as a required or additional member of the committee. It is helpful to know if those in attendance have worked with your student or will provide services in the future. Often districts will have an agenda ready.

Ways You Can Participate:

- Read the school district’s agenda and add any items you want to discuss from your agenda.

2) Present Levels of Academic Achievement and Functional Performance

The committee records the student’s present levels of achievement and functional performance (PLAAFP) in critical areas such as academic achievement, medical needs, behavior, communication, and social skills. The committee determines present levels by reviewing the most recent [assessments](#) and information gathered from teachers, parents, service providers and other professionals. The committee summarizes the student’s strengths and needs. This summary includes how the student’s disability affects her ability to be involved and progress in the general education curriculum. Information about the student’s performance and needs will be the basis for developing

the IEP goals.³

Ways You Can Participate:

- Share your thoughts about your student's progress. Show pictures or other documentation about what she can do outside of school, including helpful assistive technology solutions. Talk about your student's strengths and abilities, and how they can be used to improve your student's education functioning.
- Share any reports you have from outside therapists, tutors, consultants or doctors.
- Talk about progress, or lack of progress, on her IEP goals as a result of the services she has received. (Go to www.wrightslaw.com to read the articles *Your Student's IEP and Progress in the General Education Curriculum* and *Game Plan: Write SMART IEPs*.)
- Ask questions if something is not clear.

3) Parental Concerns

This section of the IEP provides you, the parent, an opportunity to express your ideas for your child's education and to have your input recorded. Make sure your concerns are recorded accurately and completely. However, there is nothing that binds the district to provide services to address the concerns listed in this section. Before you leave the meeting, be sure your concerns have been adequately addressed through **Measurable Annual Goals and Services**.

4) Measurable Annual Goals

The committee will develop measurable goals for critical skills. The goals must be based on specially designed instruction your child needs to progress in the curriculum used to teach your student and to obtain educational benefit.

- 1) The special education goals should not be the same as the standards for everyone in your student's grade or class. Rather, the goals must help your student achieve the appropriate standards.
- 2) The IEP must contain **measurable baselines and goals** for academics and all other areas--including services such as behavioral, language and speech, physical/motor, independent living, and vocational programming--identified through assessment as special education needs, **whether or not commonly linked to the disability category for which she has been identified**.

There are two types of goals that must be included in the IEP.

- 1) **Academic goals** are developed to help the student participate and make progress in the curriculum the committee decides is appropriate.
 - Reading Content Standard for *all* third grade students (*not* an IEP goal):

³ If the student has been eligible and receiving services for some time, the IEP committee also reviews the student's progress on each IEP goal and discusses continuing or modifying the special education and related services she has been receiving.

“Students will apply the basic features of reading to achieve fluent oral reading.”

- Baseline for Arabella: “Arabella read **23** words of **connected text** in a **one-minute** probe with **80+%** accuracy on **3 out of 5 classroom assessments** on **2nd grade level** at the **end of the first grading period**.”
- Standards-based IEP goal: “**Arabella will read 65 words of connected text in a one-minute probe with 95+% accuracy on 4 out of 5 classroom assessments on 3rd grade level by the end of the 4th grading period**.”

2) **Functional goals** address the student’s other special education needs that affect her ability to learn and to use knowledge in school, home and community settings.

- Baseline for Arabella: “Arabella remained seated in a **designated area of the classroom, during reading instruction--for 15 minutes** at a time with **2 or fewer reminders--for 3 out of 5 observations** conducted by a qualified behavior specialist at the **end of the first grading period**.”
- Behavioral IEP goal: “**Arabella will remain seated in a designated area of the classroom, during reading instruction--for 30 minutes at a time with 1 or fewer reminders--for 4 out of 5 observations** conducted by a qualified behavior specialist--by the **end of the fourth grading period**.”

Effective baselines and goals usually contain at least **three numbers**; a **setting, subject and/or conditions**; and a **timeframe**.

Goals are only meaningful if the baseline is specific and measurable. If you are not sure how the district developed the baselines or goals, ask to see the corresponding assessment. Baselines must be clearly identifiable in assessment data.

The examples above are standards-based baselines and goals. Every student’s baselines and goals will differ, depending on her assessment data and unique PLAAFP.

5) Special Education Services, Supports, Report of Progress

The IEP must explain what type of support the student will need to reach each goal, who will provide each service, and how the student’s progress will be measured and reported to you. You must receive a report of progress based on IEP goals every time the school issues report cards. For most students with an IEP, **receiving a report card is not an adequate report of progress towards their special education goals.**

The IEP must contain a clear statement of the special education and related services, as well as the supplementary aids, services, and supports provided to the student. The IEP must include program modifications or supports needed to enable the student to participate in extracurricular and other non-academic activities. Ask the IEP committee to describe the peer-reviewed scientifically-based research the school intends to use in providing special education to your student.

No single employee should be responsible for a goal on your student's IEP. For special education to be successful, everyone who works with your student should be assisting her in learning, maintaining, generalizing and transferring skills across settings and subjects. **Goals belong to the student, not to a professional.**

To learn more about scientifically-based research, visit:

<http://www.ed.gov/nclb/methods/whatworks/research/Appendix.html>

For information about sound research-supported practices, visit the What Works Clearinghouse website: <http://ies.ed.gov/ncee/wwc/>

Short-Term Instructional Objectives (STIOs) (§300.320)

IEPs must contain annual measurable goals for all students. Short-term instructional objectives are required for students who take alternate assessments aligned to alternate achievement standards. In Mississippi, these assessments include the [Subject Area Alternate Assessment](#) and the [Mississippi Extended Science Framework \(MESF\)](#). The IEP committee can choose to write short-term objectives for any student, *even when short-term objectives are not required*. If you think one (or all) of your student's IEP goals should contain short-term objectives to help with progress monitoring, ask the IEP committee to develop and include them in the IEP.

For more information on assessments for Special Populations, please visit:

➡ <http://www.mdek12.org/OSA/SP>

Ways You Can Participate:

- Share notes you made on the Parent Checklist.
- Talk about what you want for your student when she completes school. Make sure the IEP goals will lead to her anticipated post-secondary outcomes.
- Ask what information same-age and grade-level peers without disabilities will learn and how your student will learn the same information.
- Review the goals. They must be designed to meet your student's individual needs. Ask to revise, add or delete goals so the IEP reflects the most important goals.
- Ask questions about how your student's progress will be measured, what services she will receive during the school day, who will provide each service, and how much time each day she will be with students who do not have disabilities.
- Ask what research-based and/or peer-reviewed practices will be used with your student. Sometimes the school will say they are not required to list methodology. But more and more hearing officers are ruling the IEP meeting is an appropriate setting to discuss methodology, especially for students with disabilities such as Autism, Emotional Disabilities, and Specific Learning Disabilities.

6) Related Services

Sometimes students who receive special education need related services *to benefit from special education*. Related services may include the following:

- Assistive technology
- Language and Speech therapy
- Physical therapy
- Occupational therapy
- Psychological services
- Social work
- Counseling
- Special transportation
- Audiology services
- [Orientation and mobility training](#)
- Rehabilitation counseling
- School nursing services and school health services
- Interpreter services
- [Parent counseling and training](#)

This list of related services is not exhaustive, and your student might require a different type of developmental, corrective or support service. For example, if the student and school personnel need training to use assistive technology, then *training* must be included on the IEP as a related service. The IEP committee decides which related services your student needs. The decision can be based on written reports from related service professionals, results of evaluations from other professionals, verbal input from teachers and parents, and previous IEPs. Every special education and related service the school district provides must be written into the IEP, including information about how often the service will be provided, how long each session will last, the type of related service professionals who will provide services, and when each service will begin and end.

Your student might get direct (hands-on) services or consultative services. Through consultative services, the therapist works with school personnel to figure out ways to improve the student's performance throughout the day. During consultation, the therapist does not work with the student directly.

The school district cannot use cost or lack of personnel as reasons to deny equal access to education opportunities for students with disabilities.

If the school district lacks the services or necessary personnel, it must contract with other professionals or collaborate with other agencies to provide the needed services at no cost to the parent. Sometimes the school will say their supervisor will not allow them to include a service on the IEP, or their computerized program “won’t let them” document decisions made by the IEP Team.

NOTE: The IEP Team decides on services needed by students with disabilities; policies, administrators, business managers, transportation directors and computer programs cannot make unilateral decisions regarding a student’s special education services or placement.

Transportation (§§300.34, 300.107, 300.139)

Special transportation is a related service. The school district cannot deny services outlined in the IEP to a student because the parent cannot provide transportation. This includes 3- to 5-year olds who are not attending the district’s [preschool program](#), but who need special transportation to receive special education and related services from the district. Special transportation services could include adaptations to accommodate wheelchairs, the assistance of an aide, the services of a behavior specialist, or a contract with a company or an individual (which could include a parent or other family member) to provide transportation.

The IEP committee should talk about whether the student can use the district’s transportation services used by most students. If the student cannot ride a standard school bus without modifications or supports, the IEP committee must consider special transportation. If a student has special transportation on her IEP, she must receive that service, no matter where or how far she lives from the school or building where her educational services are provided. If the IEP committee determines it is necessary, transportation must be provided for students receiving special education services in alternative settings.

NOTE: A district is not allowed to use discriminatory practices when providing transportation services. For example, students with disabilities must attend school for the same amount of time as other students, unless the IEP committee has made a decision based on the individual needs of a student. Students with disabilities cannot arrive at school later, or leave earlier, than other students for the convenience of staff or bus drivers, or based on availability of vehicles.

➡ <http://www.wrightslaw.com/law/pleadings/va.vabch.pier.ocr.pdf>

Related Service Providers (§§300.8, 300.34, 300.156, 300.323)

A student cannot be eligible for special education and receive only related services. However, sometimes a service provider will be the special education provider, not a related service provider. For example, a Speech/Language Pathologist (SLP) will likely

provide language/speech services to a student ruled eligible as a student with a Language/Speech disability. In this example, the language/speech service is specially designed instruction (special education). For another student, the SLP might be the related service provider. A student ruled eligible as a student with Autism could receive specially designed instruction from a Special Education teacher, with related services from an SLP and a behavior specialist. **The purpose of a related service is to assist the student in benefiting from special education.**

Ways You Can Participate:

- Make sure related services, supports and modifications needed to implement the goals are included on the IEP.
- Ask if the school needs a doctor's letter or other medical referral to provide any of the related services. If you want, tell them you will ask your student's doctor or specialist to provide the information. If the school needs it, and you cannot provide it, the school must decide how to obtain the information at no cost to you. **This might mean your student will need to see a doctor picked by the school.**

7) Special Factors

The IEP committee must discuss special factors that could affect your student's education, including the following:

Assistive Technology: Some students with disabilities need technology to help make learning possible. For example, a student with a visual impairment might need magnification to see a computer screen, whiteboard, or textbook. Some assistive technology, such as computers and communication devices, is high tech; other assistive technology, such as pencil grippers, graphic organizers, or simple calculators, is low tech. If the school allows students without disabilities to take home school-owned equipment such as computers and calculators to help them with homework, projects or study skills, they must allow students with disabilities to take home equipment, too. **If the technology is required for the student to complete work at home or to benefit from special education, the technology must go home with the student.**

Behavior: When behavior impairs the student's learning or that of others, the IEP committee must consider and implement strategies to improve the student's behavior. Strategies may include positive behavior interventions and supports (PBIS) or other research-based behavior incentive programs. Students who exhibit problem behaviors likely need a Functional Behavior Assessment and a Behavior Intervention Plan.

NOTE: In most instances, an IEP that requires home-based services or shortened school days for a student with behavioral issues will not effectively address the student's skill deficits nor provide FAPE in the LRE. If the school district cannot provide appropriate services for your student with behavioral

challenges, ask the district what options for other public or private programs they are offering for your child's educational placement.

Braille: A student who is blind or visually impaired must receive instruction in Braille and use Braille to communicate, unless the IEP committee determines Braille services are not appropriate for the student. An assessment of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille) must inform the IEP committee's decision.

Communication Needs: In the case of a student who is an English Language Learner, deaf, hard of hearing or non-verbal, the committee must consider the student's language/speech and communication needs, including opportunities to communicate with peers. The committee must discuss whether personnel who are fluent in the student's language and communication mode are needed as service providers. The committee must consider how the student's academic level and full range of needs affect opportunities for direct instruction in the student's language and communication mode.

Limited English Proficiency (LEP): The IEP of a student who is learning English must indicate how the student's language needs impact her IEP goals. Students eligible for bilingual classes can receive special education services in those settings if the IEP committee determines classes for English Language Learners (ELL) are the student's least restrictive environment and provide a free appropriate public education.

8) Other Circumstances

Extracurricular and Non-academic Activities: School district policies on participation in extracurricular activities apply to all students, including those who receive special education and related services, unless exceptions are made for a student in her IEP. **However, the district cannot implement policies or include provisions in the IEP that are inherently discriminatory towards students with disabilities.** The IEP or the student's Section 504 plan should include information about the basis of any decision regarding participation in extracurricular and non-academic activities.

Extended School Year Services (ESY)

Extended School Year services are special education services provided beyond the regular academic year. Usually the IEP Team determines the need for ESY services in the Spring. In Mississippi, the following criteria are used to determine whether a student needs ESY services:

1) Regression-Recoupment:

Regression is when the student loses skills after long breaks in instruction or after a period of not responding to instruction. Recoupment is when the student struggles to regain those skills after the break.

2) Critical Point of Instruction

Critical point of instruction may apply under one of two conditions:

1. To prevent a loss of general education class time or an increase in special education service time
2. To avoid a loss of significant progress made toward the acquisition and/or maintenance of a critical skill.

3) Extenuating Circumstances

When a break in instruction negatively impacts the student with disabilities or causes her to lose skills that will restrict her ability to function as independently as possible, the student could be eligible for ESY services due to extenuating circumstances.

Some examples of extenuating circumstances might be:

- A student enters the school district at some point during the year with little or no assessment data or information from the sending school district and the instructional team does not have the time to collect as much data as needed (according to the R-R & CPI criteria) to be able to make the ESY decision (e.g., they did not have two (2) breaks in instruction).
- A student makes several moves during the school year and the IEP committee is unable to track down all of the instructional data from the various schools.

Extended school year services must be provided according to the IEP, at no cost to parents, and include transportation. For information on ESY, go to:

➡ <http://www.mdek12.org/OSE/funding/special-education-extended-school-year>

State and district-wide Assessments (§300.320)

State and district-wide assessment requirements apply to students receiving special education services. At the IEP meeting you will discuss what assessments your student will take. Most students receiving special education services will take the same assessments as students who do not have an IEP. Needed accommodations and modifications will be provided to your student, based on information in the IEP. Assessment decisions must be made on an individual basis by the IEP committee.

If the IEP committee decides a student will take an alternate or alternative assessment, the committee must state the reasons the student cannot take the regular assessment and why the alternate or alternative assessment is appropriate. The committee may be required to provide documentation to support its decisions.

For current information about statewide assessments, visit:

➡ <http://www.mdek12.org/OSA>.

Post-Secondary Transition (§§300.43, 300.321-300.322)

Transition services are services and activities that help students move successfully from school to life after school. Transition activities help your student make the transition to post-secondary education, employment, and/or independent living. These services must be individualized for your student and her likely needs as an adult. Transition services must be based on your student's strengths, preferences and interests.

Current Mississippi policies require inclusion of transition services on the IEP for the school year in which the student turns 14, or younger if the IEP committee thinks it is necessary. For a transition-age student, the IEP must include measurable post-secondary goals based on assessments related to training, education, employment and, for some students, independent living skills. The IEP must identify courses a student needs to reach her transition goals. Transition goals must be reviewed and updated as needed at the annual IEP review. When appropriate, the student must be invited to participate in the IEP meeting when transition services are discussed. **Regardless of whether they attend their IEP meeting, a student must have the opportunity to express their interests and preferences.**

You should consider whether your student will attend IEP meetings that plan for post-secondary living, and the transfer of rights at age 21. No matter the severity of her disability, your student can participate in transition planning to practice skills such as speaking up and making decisions about her life. [Self-advocacy](#) skills should be a part of your student's IEP throughout her school experience. Self-advocacy does not mean your student does not need support or advice from you or other people who care about her. It means at school and home she has opportunities to help plan for her future, based on what is important to her. It means the other IEP committee members respect and respond to her opinions and ideas. The final decision about whether to include your student in her IEP meeting, and for which parts of the IEP meeting, is ultimately up to you.

To learn more about developing IEP goals for self-advocacy visit:

➡ <https://transitionresponse.com/wp-content/uploads/2011/11/2011-11-14-Promoting-Student-Self-Determination.pdf>

For more information on transition, visit:

- PACER's National Parent Center on Transition and Employment, <http://www.pacer.org/transition/>
- National Center on Secondary Education and Transition, www.ncset.org
- National Technical Assistance Center on Transition, <https://Transitionta.org>

Termination of Services/Graduation (§§300.102, 300.305)

A school district can stop providing special education services when the student:

- No longer meets the age requirements, or
- Graduates with a traditional/standard high school diploma.

For a student who meets the age requirements to continue special education services, the IEP committee must decide whether the student graduates, once they have met all requirements for graduation, or should continue to receive services to address post-secondary transition goals. **Participation in a graduation ceremony where the student receives a Certification of Completion based on the IEP goals does not affect a student's eligibility to continue to receive services from the school district. In addition, students who complete school can continue to receive compensatory services agreed to by the district.**

9) Deciding on placement in the Least Restrictive Environment (§300.114-115)

School districts must educate students with IEPs alongside their non-disabled peers, in the least restrictive environment (LRE). Supplementary aids and services, assistive technology, accommodations and modifications must be included on the IEP to enable success in the LRE. **“Placement” is the setting where special education and related services are provided**, and is determined by what percentage of the school day the student is educated with non-disabled peers (e.g. general education classroom = 80%+; self-contained special education classroom = <40%; resource = 40-79%). Brick-and-mortar = location. (South Elementary School, Alternative School, or Mrs. Jones' classroom are all “locations,” not “settings” or “placements.”)

Placement decisions are made at least once a year. The decision is based on the student's individual needs. The IEP committee must consider any harmful effects to the student caused by removing them from the general education setting. **The placement decision cannot be made based on the student's disability label, availability of needed resources, or for staff convenience.**

IEP committee members must first consider placement in age-appropriate general education classes at the student's home school. The IEP committee must answer these questions:

- Can the student learn the same curriculum (general education) as other students the same age, with in-class or consultative services from special education? If the answer is “yes,” the student must be placed in age-appropriate general education classes with the needed supports and services.
- With accommodations, can the student participate in the same learning activities as non-disabled students? If the answer is “yes,” list the accommodations needed on the IEP, place the student in age-appropriate general education classes and implement the needed accommodations.
- Does the student need any supplementary aids and services (such as behavior interventions, one-on-one instruction or physical assistance) to remain in the general education classroom? If the answer is “yes,” the IEP must list those supplementary aids and services, and explain how they will be provided in the general education classroom.
- Can the student participate in the same learning activities as non-disabled students if modifications are made to those activities? If the answer is “yes,” list the modifications the student needs on the IEP, specify who is responsible for making the modifications, and document placement in the general education classroom with needed modifications. **A student, even one with significant disabilities, cannot be removed from the general education classroom just because the student needs modifications to the general curriculum.**
- Does the student need any services that cannot be provided in the general education classroom setting at this time? If the answer is “yes,” the IEP must specify the student’s removal only for those activities.
- Will the IEP need to be revised to reflect proposed changes in service provision and location of services? If the answer is “yes,” the change in location could also be a change in placement.
- Will the student be educated with non-disabled peers to the same extent in the new location as in the prior location? If the answer is “no,” the change in location is likely a change in placement.
- Will the student have the same opportunities to participate in nonacademic services after a change in location of services? If the answer is “no,” the change in location is likely a change in placement.
- Is the new location the same option on the continuum of placements? If the answer is “no,” the change in location is likely a change in placement.

The discussion should include which accommodations, modifications and/or supplementary aids and services (behavior interventions, paraprofessional, assistive technology, equipment, environmental modifications, etc.) would allow the student to remain in the general education classroom and participate in the general education curriculum. If the IEP committee places the student somewhere other than the general education classroom, it must specify in the IEP why a more restrictive placement is needed. Those decisions cannot be made based on cost, personnel availability, convenience for the district, or disability category.

Inclusion is a right, not a privilege for a select few. ~ Judge John Gerry

Enrollment for 3- through 5-year olds

(§§300.17, 300.116, 300.124, 300.800, 300.804)

School districts are required to provide services in the least restrictive environment for preschoolers, including children in the range from 3- through 5-years old. If district programs, such as pre-kindergarten and kindergarten programs, are the LRE for preschoolers with disabilities, they must be included as much as possible with non-disabled peers.

Eligible preschoolers who attend preschool programs (such as one close to home or in a school building attended by their siblings) should receive special education services provided by the school district at no cost to the family in their preschool setting. School districts can meet the LRE requirement by providing special education and related services in a community preschool setting, such as Head Start or daycare. According to state law and MDE Accreditation definitions, Mississippi recognizes **all** preschool programs for 3- and 4- year old children as community preschools, not public or private **elementary** schools. **Eligible children with disabilities in Mississippi preschool settings must receive FAPE outlined on an IFSP or IEP, NOT a Services Plan.**

Some districts place district special education staff in community preschool settings. If the district meets the LRE requirement by providing special education or related services in the public school setting on a part-time basis, transportation must be offered at no cost to parents. This could mean the district reimburses parents for costs associated with transporting their children to the school to receive services. If the school district says they educate all their 3- and 4-year olds in a separate special education classroom, parents should ask for other [placement options](#) in typical settings. You can file a complaint with the Mississippi Department of Education if your local school district does not offer transportation or a [continuum of LRE placement options](#) for 3- and 4-year olds with disabilities. **There is no federal requirement for preschoolers to be enrolled in the school district to receive an evaluation for preschool special education services.**

Contracting Placements

When the school district cannot meet a student's education needs in its own program, it can contract with a non-public school approved by the Mississippi Department of Education. The district should not contract for any part of a student's education if it can meet the student's needs in its own program. The IEP committee must decide whether to contract for services from another program or school. Even if the district contracts with a non-public school, the school district's responsibilities for the student in the areas of [Child Find](#), Evaluation, FAPE, LRE and Procedural Safeguards continue. The school district is responsible for resolving any complaints about IDEA requirements.

Residential Placement

IEP committees must consider residential placements – placement in a facility where the student will live and go to school – if the school district cannot provide the services locally and the student cannot benefit from education without the support provided in a residential facility.

If the IEP committee determines that a student needs 24-hour residential placement, the school district must provide the educational services at no cost to the parent. Residential placement must be reviewed and re-approved annually. The school district can contract with a public or private residential program approved by the Mississippi Department of Education. The district has to provide for a residential placement only if:

- It is necessary in order for the student to receive an appropriate education; and
- The need for the residential placement to receive an appropriate education is related to the student's disability.

Many students who live in residential settings go to school in the local school district. Whether a student in a residential placement receives education services at the facility or in the local public school program, the education program must be adequate to carry out the IEP.

Private School Parent Placements (34 CFR 300.129-144)

If you, as a parent, decide to place your student who has an IEP in a private school, your student will not receive the same level of services available in the public school. The public school must provide special education services to some, but not all, students placed by their parents in private schools.

Before you place your student in a private school, observe the classes. Ask questions about services the school will provide and about teacher certifications. If you take your student out of public school and place her in a private program because the school district is not meeting her education needs, you could be reimbursed for the cost of the placement. However, this will require a due process hearing and/or court action, unless the school district agrees to pay for private placement. **The reimbursement may be reduced or denied if you did not inform the school in advance of enrolling your student in the private school, or in other specific circumstances.**

Education Scholarship Accounts

Starting in 2015, the Mississippi Department of Education's Office of Special Education was assigned by the Mississippi Legislature to administer Education Scholarship Accounts (ESAs) created for parents of students with disabilities who withdraw their children from public school and enroll them in a participating private school. The ESA provides limited financial assistance for private school tuition and other services needed for school success. To qualify for the ESA program, participants must meet all of the following criteria:

- The student must be a resident of the state of Mississippi;
- The student must have been enrolled in public school and had an IEP at some time during the last 5 years; and
- The student's parent is required to sign an agreement outlining requirements of the ESA program.

For more information on the ESA program, including access to an application, visit the [MDE website](#) or call (601) 359-3498.

Speech-Language Therapy Scholarship

The Mississippi Speech-Language Therapy Scholarship, also known as the Nate Rogers Scholarship, is a scholarship for students in kindergarten through Grade 6 with an eligibility ruling of speech-language impairment to attend a special purpose school that provides instruction in speech-language therapy and intervention.

Scholarship recipients receive comprehensive multimodality speech-language therapy delivered by speech-language pathologists licensed by MDE and the American Speech-Language-Hearing Association.

Each public school district must have a policy to screen kindergarten and first grade students in:

- Phonological awareness and phonemic awareness;
- Sound symbol recognition;
- Alphabet knowledge
- Decoding skills;
- Encoding skills; and
- Rapid naming.

Dyslexia Therapy Scholarship

Dyslexia is a specific learning disability characterized by difficulties with accurate and fluent word recognition, poor spelling and decoding abilities resulting from a deficit in phonology. Dyslexia is not a result of lower cognitive abilities or lack of effective classroom instruction. Dyslexia can lead to poor reading comprehension and reduced reading experiences, impeding vocabulary development and background knowledge.

Dyslexia therapy provides a scientific, research-based instructional program delivered by a licensed dyslexia therapist. Components address:

- Phonemic awareness
- Graphophonemic knowledge (phonics)
- Morphology, semantics, syntax and pragmatics;
- Proficiency and fluency
- Decoding, encoding, word recognition, fluency and comprehension.

These components are taught using instructional approaches that include explicit, direct instruction which is systematic, sequential and cumulative. Alphabetic principles are taught in a small group setting through intensive, highly concentrated instruction directed toward purposeful reading and writing, with an emphasis on comprehension and composition. Multisensory instruction uses two or more sensory pathways during instruction and practice.

The Dyslexia bill in Mississippi provides for dyslexia screening for public school students in the first grade. If a student fails the screener, the parent or legal guardian will be notified of the results of the screener. If a student fails the screener, the school district may perform a comprehensive dyslexia evaluation administered by a licensed professional. A parent or legal guardian of a student who fails the dyslexia screener can have a subsequent evaluation performed by an appropriately trained and licensed professional, as their own expense.

A Mississippi Dyslexia Therapy Scholarship provides students the option of receiving dyslexia therapy with a licensed dyslexia therapist at a public school other than the one to which they are assigned, or provides a scholarship to an approved special purpose school, for students in Grade 1 through Grade 6 diagnosed with dyslexia.

10) Consensus

“Consensus” means the members of the IEP committee agree in principle to the IEP, although everyone might not agree with everything in the IEP. If any member of the IEP committee – including you, the parent – disagrees with all or part of the IEP, they should write a statement of disagreement.

If you disagree with the IEP, write notes directly on the IEP document indicating with which part you disagree. Then, on a separate piece of paper, write a detailed note about the reasons for your disagreement and the changes you want. Ask the school to attach all dissenting statements with the IEP. Keep a copy for your own records. The school district must give you a Prior Written Notice addressing all seven of the required components, detailing the services they refused to give your student, information they considered in making their decision, and why they made the decision.

You might be asked to sign your student's IEP to show you were present at the IEP meeting. **Your signature on the attendance section of your student's IEP does not mean you agree or disagree with the IEP. It only means you were present at the meeting.** Signatures of attendance *are not required*; one person can simply write down the names of everyone in attendance.

Even if you refuse to sign the IEP meeting attendance statement, or disagree with your student's IEP or placement, the school can still implement the IEP unless you refuse or withdraw consent for services or file a due process complaint and the Impartial Hearing Officer agrees with you. When you file a due process complaint, you can invoke the “stay put” provision; your child will stay in the last agreed-upon placement until the Hearing Officer renders a decision.

If you refuse to give consent for placement or withdraw consent for placement, the district cannot provide services to your student. (See [Form 5](#) in the [Appendix](#).) Going to a due process hearing, refusing consent, or withdrawing consent are actions that have serious consequences. Make sure you understand your rights and the consequences of your decisions. If you believe the IEP developed by the district does not provide your student with a Free Appropriate Public Education (FAPE), you can exercise your rights as outlined in Procedural Safeguards. (See the section on [Resolving Disagreements](#) in this guide.)

11) Consent for Services (34 CFR 300.300 (b))

If this is your student's first IEP, or the first IEP in this state or district, you will be asked to give written consent for the school to provide special education services. (The consent you gave to have your student evaluated is not consent for services.) The district can ask for consent before or after developing the IEP. You are consenting for the district to "enroll" your student in special education. *You are not indicating you agree with the IEP*; nor are you consenting to individual special education services, such as speech therapy, [inclusion classes](#) or behavioral services.

NOTE: If you refuse to give consent for services prior to development of the IEP, the school is not required to develop an IEP. If you are unsure about consenting to special education services, tell the school you will decide whether you will consent to services after development of the IEP. If, after the IEP is developed, you decide not to consent to services, your student will NOT receive special education services. The school cannot ask a hearing officer to override a parent's refusal to provide consent for special education services. If the student has a disability, and the parent refuses special education services, the school might not be required to provide Section 504 services to the student. (Summary of case law)

12) Closing the Meeting

Before you leave the IEP meeting, take the following steps:

- Review the IEP Checklist ([Forms 9A](#) and [9B](#) in the [Appendix](#)) to make sure all issues have been discussed.
- Read the entire IEP to make sure everything has been documented. Sometimes things are discussed, but not written into the plan.
- If the committee reached consensus, congratulate the committee (including yourself) on a job well done!
- Ask for a copy of the IEP. You are entitled to a copy of the entire IEP, either at the IEP meeting or within a reasonable amount of time, at no cost to you.⁴ If needed, ask to have the IEP translated into your native language. For parents whose native language is a language other than English, or who use a different mode of communication, the school district *must* provide the parents with audiotape or a written copy of the IEP in their native language or primary mode

⁴ 34 C.F.R. §300.322 (f)

of communication, unless it is clearly not feasible to do so.

- If your student has multiple teachers, ask the IEP committee which staff member will make sure each teacher has a copy of the IEP.

NOTE: Some changes to the IEP can be made without an IEP meeting. This applies to corrections and changes that do not require a meeting of the entire IEP committee. To change the IEP without an IEP meeting, the school and the parent must agree to the changes, and the changes must be made in writing. If you are contacted about a change you do not agree with or do not understand, you should ask for an IEP meeting. If the IEP is changed without an IEP meeting, the school must provide you with a copy of the revised IEP at your request. Keep a copy of all correspondence and documents. (§300.324)

Transfer of Rights (§§ 300.320, 300.520, 300.613-300.625; *Miss. Code Ann. §1-3-27; 34 CFR 99.5(a)*)

In Mississippi, the school district must notify you, and your child by age 20, that all *IDEA* rights will transfer to your child at age 21. This notice must be documented on your child's IEP. When your child reaches 21 years of age, the school district must give you and your student written notice that your rights have transferred to your child, taking into consideration the type and severity of the disability). Parents retain the right to examine records, to participate in meetings, and to request an IEE. Under the regulations for FERPA in 34 CFR section 99.5(a), at age eighteen the student gains the same rights as parents regarding educational records.

Revising the IEP (§300.324)

The IEP must be reviewed at least once annually to determine whether revisions are needed. The school district must make numerous reasonable attempts to schedule the annual meeting at a mutually agreed upon time and place. If the parent refuses to meet, the district may hold an annual meeting without the parent being present.

Between annual reviews/revisions, the IEP must be reviewed, and revised if necessary, when the following circumstances warrant a review/revision:

- 1) to determine whether the annual goals for the child are being achieved;
- 2) to address lack of progress toward the annual goals and in general education;
- 3) to review results of a reevaluation;
- 4) to review new information provided to or by the parents as a result of an Independent Educational Evaluation;
- 5) to address an anticipated change in the child's needs; or
- 6) Other matters.

Districts must explain the purpose of a review/revision. The Invitation must indicate what circumstances warrant a review/revision. If you are unsure if a revision is needed, ask for further explanation.

DISCIPLINE

“Discipline: to train or develop by instruction and exercise, especially in self-control” (Webster)

The IEP committee must identify appropriate positive behavior interventions and supports and other strategies to improve student behavior.

You’ve requested records, gone through the evaluation process, determined your student’s eligibility, and helped develop an appropriate IEP—great work! What else is there to cover . . . ?

Sometimes students get in trouble at school. Students with IEPs have special protections when they get in trouble at school.

In this section you will learn about...

- ***The basics of school discipline,***
- ***What discipline can look like for a student with disabilities,***
- ***[Manifestation Determination Review](#) (MDR)***
- ***Important questions to ask and answer during the MDR,***
- ***Education services in more restrictive settings.***

➡ 34 CFR and SBP 72.19 §§300.503, 300.518, 300.530-300.536

The Basics of School Discipline

This section of the guide includes *basic information* about the discipline process for students with disabilities. A full discussion of disciplinary options is beyond the scope of this Guide. *If your student is facing disciplinary removal, we urge you to seek legal advice as quickly as possible.*

In Mississippi, parents are asked to sign a statement assuring the school their student will comply with the district's Student Code of Conduct. This applies to your student with disabilities in all disciplinary matters, so read the Student Code of Conduct carefully. Meet with the IEP committee to discuss anything in the code that might be difficult for your student to follow because of her disability. The IEP should note any exceptions to the Code of Conduct, and the alternative solutions and consequences. This can be noted as an Accommodation, or in a separate statement.

Functional Behavior Assessment and Behavior Intervention Plan (§300.503 (d)(1)(a-b))

It is important for the IEP committee to put services and supports in place to prevent behaviors that cause your student to get into trouble at school. If your student behaves in a way that interferes with her learning or disrupts other students, the IEP must include goals related to learning, practicing and using new behaviors. The school must consider using positive behavior interventions and supports (PBIS). If your student has a functional behavior assessment (FBA) and a behavior intervention plan (BIP), behavior goals on the IEP should be based on the FBA and BIP. The Behavior Intervention Plan is developed based on information gathered during the Functional Behavior Assessment. **If your student did not get an FBA, any BIP developed will likely be ineffective, as the BIP should be based on information gathered during the FBA.**

Conducting an FBA is considered to be a reevaluation and all procedural safeguards apply, including PWN, consent, independent educational evaluation (IEE), and IEP review/revision.

➡ [OSEP Letter to Christiansen, 2007](#)

See **Functional Behavior Assessment** and **Behavior Intervention Plan** in the **Glossary** for more information.

When Can My Student Be Disciplined? (§§300.530-536)

If a student with a disability violates a school rule and the misbehavior is related to the student's disability, the IEP committee *must* conduct a functional behavior assessment (FBA) to determine the triggers for behavior or review the latest FBA. To help the student learn and practice appropriate behaviors, and to prevent future misbehavior, the district must develop and follow an individualized behavior intervention plan (BIP), including Positive Behavior Interventions and Supports (PBIS). The BIP must identify a set of positive behaviors and the services (interventions) and supports (reinforcement)

needed to develop and maintain good behavior. **A list of negative consequences for misbehavior is not a Behavior Intervention Plan.** If the student already has an FBA and BIP, the IEP committee must review the plan and modify it as needed each time the student is subject to disciplinary removal.

- **Appendix V** includes **Discipline Flow Charts** to give you a basic idea of the components of a disciplinary removal in four situations: Removal that is a Change of Placement, Special Circumstances, Not Yet Eligible, and Violation of Student Code of Conduct. If your child experiences a disciplinary removal, go to the regulations for extensive guidance and/or contact an attorney.

Manifestation Determination Review (§300.503 (e))

No student with an IEP can be removed from school for more than 10 school days in one year because of behavior resulting from the disability or the school's failure to follow the student's IEP, in whole or in part. When a student with a disability is expelled or suspended, or has a change in placement of 10 or more days in a school year because of the violation of a school rule, the school district must conduct a manifestation determination review (MDR).

This meeting must occur within 10 days of the decision to remove the student for 10 or more days. The full IEP committee does not have to meet to conduct an MDR; but relevant members, **including the parent(s)**, must make the decision. Manifestation determinations are usually not required when your child has been removed from school for less than 10 days in a school year. But anytime your child has been removed from their placement several times for similar behaviors during a short period of time, the committee must meet to decide if your child's placement has changed.

What is a disciplinary removal?

Because a student's right to an MDR, and resulting placement decision, is based on how many days a student is removed for disciplinary infractions, it is important to keep an accurate record. **Anytime a student is removed from the classroom because of problems with behavior, and she did not receive all of her special education and related services or she was unable to participate meaningfully in the general education curriculum, that day counts as one full day of disciplinary removal.**

Examples include: missing school because of bus suspensions, "cooling off" periods at home initiated by the school, early dismissal to "parent care" due to behavior, shortened school days ordered by the administrator, a day of "social skills training," placement in in-school Behavior Academy, having the student sit in the principal's office or another setting most of the school day, and other in-school suspensions tended by non-licensed or inappropriately licensed personnel that deprive your student of general education participation or the services on their IEP. Make a record of any disciplinary removals and keep any supporting documentation, including emails, records of telephone calls and text messages, office discipline referral forms, etc.

NOTE: The above-mentioned circumstances are sometimes referred to as

“constructive suspensions.” The school is not “doing you a favor” when they keep a disciplinary removal out of your student’s record; *they are sidestepping your rights*. Falsifying school records, including attendance and disciplinary records, is a violation of accreditation standards. If you believe your school engages in constructive suspensions affecting your student’s right to a Free Appropriate Public Education (FAPE), consult an advocate or an attorney to help resolve this issue. You can always use the due process rights afforded to you by IDEA.

Manifestation Determination Review Procedures (§300.530 (e))

Related to the Disability

A Manifestation Determination Review (MDR) must include a review of the IEP, prior discipline records, FBAs and BIPs, and evaluation reports. If the misbehavior was caused by, or had a direct and substantial relationship to, the student's disability or was the **direct result** of a school district's failure to implement all or part of the IEP, the district cannot keep the student out of school. In those cases, the student must be returned to her *original placement* and the district must consider the student's needs for additional behavioral supports. If you think a different setting would be a better place for your student to receive special education services, you may suggest the district change your student's placement and/or location. In this case, the full IEP committee would need to meet to make a change in the student's placement.

Unrelated to the Disability

If the behavior is found to be *unrelated* to the disability and the district correctly implemented the entire IEP, the student can be disciplined in the same manner and for the same amount of time as a student without a disability. However, the student with a disability **must continue to receive education services** that allow her to **participate in the general education curriculum** and to progress toward **meeting the IEP goals**, although in another setting. The full IEP committee must meet to make any changes in the student's placement and to revise the IEP to indicate how the student will continue to participate in the general education curriculum and progress towards IEP goals.

Questions to Ask in an MDR

It is important for you to ask these questions and to document the answers during the MDR:

- Have evaluations included behavior assessment and recommendations?
 - If “no,” why not?
 - Were evaluations appropriate to identify all of the student's needs?
 - Does the student need to be re-evaluated?

- What did evaluations show about the relationship between the disability and behavior?
- How has behavior been addressed on IEPs?
- What PBIS techniques were used?
- Were data taken and used to make decisions about behavior interventions?
 - If “no,” why not?
 - How did school personnel evaluate the effectiveness of the behavior interventions?
- Was the current IEP properly designed to address known behavior issues?
- Did the IEP appropriately address behavior as a “Special Factor”?
- Are there IEP objectives that correspond to the BIP?
 - If “no,” why not?
 - What behavior goals and objectives need to be added?
- Was the IEP being followed as written?
- Does the IEP need to be revised?
- Does the student’s placement need to be changed?
- Are these behaviors similar to previous behaviors?
- Were there serial suspensions for similar behaviors in a short period of time?
- Has an FBA been conducted?
 - If “no,” why not?
 - Is one needed?
- Is there a BIP?
 - If “no,” why not?
 - Is one needed?
- Was the BIP being followed as written?
- Does the BIP need to be revised?
- What training and supports are needed for the staff?

Education Services in More Restrictive Settings Due to Disciplinary Removal (§300.536)

Students who are properly placed in more restrictive settings, such as alternative schools, must receive special education services, be able to participate meaningfully in the general education curriculum, and have the opportunity to make progress towards their IEP goals. Generally, **homebound placement due to disciplinary issues does**

not constitute the Least Restrictive Environment (LRE), is inadequate for the student to receive the required special education services, including development of appropriate behavior skills, will not afford the student the supports necessary to participate meaningfully in the general education curriculum, is not adequate to carry out the IEP, and does not deliver a Free Appropriate Public Education.

➡ [Community Consolidated School District #93 v. John F.](#)

Special Circumstances, Removals For Up to 45 Days (300.503(g))

Under the *IDEA*, a student can be removed to an [interim alternative education setting](#) for up to 45 school days for offenses involving drugs [identified under [schedules I, II, III, IV, or V in section 202\(c\) of the Controlled Substances Act \[21 U.S.C. 812\(c\)\]](#)]; weapons [as defined in [paragraph \(2\) of the first subsection \(g\) of section 930 of title 18, United States Code](#)]; or the infliction of serious bodily harm to another person [as defined in [paragraph \(3\) of subsection \(h\) of section 1365 of title 18, United States Code](#)].

Regardless of the outcome of an MDR, the student can receive the same disciplinary measures as her non-disabled peers under these special circumstances. However, special education and related services must continue in the alternative setting, including the requirement for the student to participate meaningfully in the general education curriculum.

Stay Put (§300.518)

The *IDEA* contains a “stay put” or “status quo” provision. When the parents or the school requests a due process hearing, unless the MDE or the school and the parents of the student agree otherwise, **the student must remain in the last agreed upon educational placement.**

Child’s status during proceedings

“Except as provided in §300.533 (see section below), during the pendency of any administrative or judicial proceeding **regarding a due process complaint notice requesting a due process hearing** under §300.507, unless the *MDE* or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement,” which is defined as the last agreed-upon IEP and placement.

Expedited Hearings (§§300.531-533)

A parent or LEA can request an expedited due process hearing in a disciplinary case. If the request is granted, the hearing must take place within 20 school days of the date of the request. The hearing officer must issue a decision within 10 school days of the hearing's completion.

When an appeal to an expedited due process decision has been made by either the parent or the LEA, **the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever comes first, unless the parent and the LEA agree otherwise.**

Case-by-Case Determination (§300.530(a))

On a case-by-case basis, school administrators may consider unique circumstances when considering disciplinary actions for a student with a disability who has violated the Student Code of Conduct. Some of these circumstances could include a student's disciplinary history (or lack thereof), a student's ability to understand consequences, parental involvement or a student's remorse. This means the principal is not required to apply a "zero tolerance" policy to a student with a disability.

Not Yet Eligible (§300.534)

If the parent has submitted a written request for an evaluation or a teacher has expressed concerns in writing to a school official about a student's behavior, but the district did not evaluate the student, the student might have protections under Section 300.534 of State Board Policy 7219 **Chapter 74, Rule 74.19** which are **State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004 (IDEA 2004)** and *IDEA* regulations as a student who is "not yet eligible." If the student's behavior results in disciplinary action, the student could be entitled to an *expedited* comprehensive evaluation (completed in less than 60 days). In this situation, you will probably want to contact an advocate and/or a special education attorney for assistance.

"If you've told a child a thousand times, and the child still has not learned, then it is not the child who is the slow learner."

Walter Barbee

RESOLVING DISAGREEMENTS

Parents and school personnel do not always agree on a student's education program.

Sometimes differences can be resolved with respectful two-way communication and collaboration. The IDEA provides additional avenues for resolving disputes.

In this section you will learn about...

- *Filing formal complaints with the State or U.S. Departments of Education,*
- *Mediation,*
- *Resolution Meetings, and*
- *Due Process Hearings.*

➡ *34 CFR and SBP 72.19 §§300.151-300.153; 300.500-300.518*

“The best way to minimize disagreement is to make sure that all the stakeholders are in the room.”

Cheryl Yeoh

Third Party Intervention

Through open communication, willingness to collaborate, emphasis on the student's education needs, and commitment to following the special education requirements, parents and districts can resolve most disagreements. If you disagree with a decision made by school officials about your student with a disability, you can accept that decision or seek a third party to help settle the disagreement.

The law provides for several options to settle disagreements. You can use mediation, the state administrative complaint system, resolution agreement, due process complaint, an OCR complaint, a FERPA complaint and/or a lawsuit. It is generally best to start with the quickest, least confrontational and least expensive option. **You must exhaust the remedies provided under IDEA before filing a lawsuit in court.**

Mississippi Department of Education (MDE) State Complaints System (§§300.151-152)

Students with disabilities are guaranteed a free appropriate public education (FAPE), including appropriate identification, evaluation, services, discipline protections and placement. If you believe the school district is violating the education rights of your student with a disability, you can file a formal (written) state complaint with the MDE Office of Special Education. MDE is required to make sure the district complies with the law, so it must investigate all *written* complaints. MDE must review, investigate, and resolve state complaints within sixty (60) calendar days of receiving the written complaint.

Statute of Limitations: One year (§300.153(c))

You can file a state complaint within one year of the alleged violation. You can use the MDE form, but the form is not required. Your complaint must include the name of your student; the school district and the name of the school she attends; and your name, address and a phone number at which MDE can reach you during the day. Your state complaint must be signed and contain detailed information about the alleged violation. Explain the problem you are having with getting your child an appropriate evaluation or education plan, and the actions you have taken to try to resolve the complaint, including dates and names of people you contacted.

Send one copy of your complaint and supporting documents to your school district. Keep a copy for yourself. Mail a copy to:

Parent Outreach
Mississippi Department of Education
Office of Special Education
P. O. Box 771
Jackson, MS 39205-0771

For assistance, call the MDE Parent Hotline 1 (877) 544-0408 or one of the resources listed in the [Appendix](#).

MDE State Complaint Form can be found at:

➡ www.mdek12.org/OSE/parents

Mediation (§300.506)

Mediation is a way for parents and school districts to work out disagreements without a due process hearing. Mediation is an informal and voluntary process conducted by an impartial mediator. There is no cost to either the parent or the school district. You can bring an attorney or an advocate to mediation, but it is not required. If you choose to bring a professional, you are responsible for that cost.

You have a choice about whether to:

- Ask for mediation,
- Participate in a mediation session, and/or
- Accept or reject the proposal developed during mediation.

➤ [Form 11](#) in the **Appendix** is an example of a cover letter requesting mediation.

Requesting Mediation

Requests for mediation should be made to MDE. A model form for requesting mediation can be automatically downloaded by clicking on the link below:

➡ <https://mdek12.org/sites/default/files/Offices/MDE/OAE/OSE/parents/request-for-mediation-form.docx>

To view the form without downloading, go to

➡ <https://files.constantcontact.com/98ea2d4a001/40ea33c0-c857-46f1-b67f-9f9744592acb.pdf>

If you do not have access to a computer, include the following information in your request:

- student's name
- name of the school and district
- student's grade placement
- a brief description of the issues
- your contact information (name, address, phone numbers).
- signatures of a District representative and a parent.

Your request can be mailed to:

Mississippi Department of Education
Office of Special Education
Division of Parent Outreach
P. O. Box 771
Jackson, MS 39205-0771

Call 1-877-544-0408 or 601-359-3498 for more information.

If both you and the school district agree to mediation, MDE will assign a mediator and you will be contacted to schedule a time for the mediation. During mediation, you can

ask for any remedies you could get through a due process hearing, including compensatory services, private school tuition reimbursement, additional services, etc. If mediation is successful, the mediator writes up the agreement. You and school officials sign the agreement, which is a legally binding document. The discussions at the mediation are confidential and cannot be used as evidence in any due process hearing that might follow. You have three (3) days to change your mind about accepting the Mediation agreement.

Information about dispute resolution is available from the Center for Appropriate Dispute Resolution in Special Education (CADRE). CADRE is a national project funded by the U.S. Department of Education. CADRE's publications, including *Special Education Mediation: A Guide for Parents*, are available on the website at: <http://www.directionservice.org/cadre>.

U.S. Office for Civil Rights (OCR) Complaint

Section 504 of the Rehabilitation Act of 1973 is a federal anti-discrimination statute. Under that law, an entity that receives federal funding may not discriminate on the basis of disability, or retaliate against persons who advocate for students with disabilities. If you believe the school has violated Section 504 by discriminating or retaliating against you or your student due to her disability or because you have advocated for your student, you can file a complaint with the United States Department of Education's Office for Civil Rights, the federal agency primarily responsible for enforcing Section 504.

For information about Section 504 and the OCR complaint process, call (214) 661-9600 or visit these websites:

➤ <http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

➤ <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

➤ <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

OCR complaints can be filed online at <https://ocrcas.ed.gov/>

Written OCR complaints must be mailed to the regional Office for Civil Rights:

Office for Civil Rights
Attn: Site Director
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810
Telephone: (214) 661-9600
FAX: (214) 661-958
TDD: (877) 521-2172
Email: OCR.Dallas@ed.gov

Statute of Limitations

All legal actions, including state complaints, OCR complaints, and due process complaints, must be brought within a specified timeframe (the "statute of limitations") or

the cause of action (the complaint) will be barred (not allowed). While there are some exceptions to the statute of limitations, we recommend that you promptly pursue your legal rights. You should seek legal advice immediately if you have questions about your individual case.

For information about state complaints, mediation, resolution agreements, and due process complaints in Mississippi, go to the MDE/Office of Special Education website: www.mdek12.org/OSE/parents

Due Process Hearings (§§300.507-300.515)

You should always try to reach an agreement with the school about your student's education. When considering remedies for resolving disagreements, it is important to consider multiple available options, including mediation, filing an OCR or state administrative complaint. If you and the school district cannot resolve a dispute about your student's right to a free appropriate public education, you can request a due process hearing before an impartial hearing officer (IHO).

If you request a due process hearing, the Mississippi Department of Education will offer you mediation. You can accept the offer for mediation or go directly to a due process hearing. If you bypass mediation, the school district can require you to meet with an impartial party who will encourage you to use mediation and explain the benefits. If you reject offers of Mediation, you and the district will be required to hold a Resolution Meeting before the Due Process hearing.

Representation by an Attorney

Before you ask for a due process hearing, you should decide if an attorney will represent you. Going to due process is similar to going to court, with special rules and procedures to follow. The school district's attorney has special knowledge and training in the rules of due process and court. Although some parents have represented themselves successfully, parents who go to due process without an attorney are at a disadvantage. **We encourage you to consult with an attorney on the matter before filing your due process complaint.** In a due process hearing you can only dispute the matters outlined in your complaint, unless both parties agree to a revision, so it should be comprehensive and supported through documentation. For those and other reasons, your attorney will likely prefer to write the due process complaint.

A court reporter prepares a transcript of the due process proceedings. If your case eventually goes to court, this record will be a large part of what the judge uses to decide the case. If your evidence is presented correctly at the hearing, it will not have to be presented again in a trial. It is difficult for a parent or lay advocate without legal experience to present evidence correctly. The best way to protect your rights, and those of your student, is to retain an attorney before filing your due process complaint.

If you represent yourself and lose your due process hearing, you will need an attorney if you appeal your decision to court. Likewise, if you win the hearing, the school district

can appeal the decision. It is efficient to retain the same attorney who worked with you during the due process hearing.

Finding an Attorney

Cost is a factor in your decision to ask for a hearing, go to court, and be represented by an attorney. Sometimes parents can obtain representation by an attorney at no cost to the family or at a reduced rate. *IDEA 2004* requires each school district to inform you of any free or low-cost legal assistance that might be available in your area. Ask the school officials for this information and check with parent and advocacy organizations for suggestions. If you are unable to retain free or low-cost legal representation, ask for recommendations for a private attorney who specializes in education law.

➡ See [Appendix IV](#) for more information on legal assistance.

Requesting a Due Process Hearing (§§300.508-300.509)

The party requesting due process (typically a parent or the parent's attorney) must provide what is called "due process complaint notice" to the other party (typically the school district) and to the Mississippi Department of Education.

This notice must include:

- the name and address of the student and the name of the school district the student is attending;
- a description of the issues in dispute, including relevant facts; and
- a proposed resolution to the problem.

It is important to address all the issues you are disputing in your due process complaint. At the hearing, you will *not* be able to bring up issues that were not included in your complaint unless the school agrees. The due process complaint must allege a violation that occurred not more than **two years** before the date the parent or public agency knew (or should have known) about the action that forms the basis of the complaint.

- [Form 12](#) in the [Appendix](#) is an example of a cover letter requesting due process.
- [Form 13](#) in the [Appendix](#) is a copy of the MDE due process complaint form.

Due Process Procedures (§300.508)

The MDE will send you a letter identifying the impartial hearing officer assigned to your case. The hearing officer will schedule the hearing for a date that is within a few weeks of the date MDE receives your complaint. For this reason, it is a good idea for you and your attorney to prepare your case before you request the hearing. If you do not think you can be ready in time for the hearing, your attorney can request an extension of time from the hearing officer. The school district can ask for a time extension, too. The hearing officer will usually grant reasonable requests for extensions of time.

After the school receives your due process complaint, it will check the complaint for the due process complaint requirements. If the school does not think the complaint meets

those requirements, it must notify the hearing officer and parent in writing within 15 days of receiving the complaint. Within five days of notification from the school district, the hearing officer will inform the parent whether he thinks the complaint is sufficient. If the hearing officer determines the due process complaint is *not* sufficient, he can allow the parent to amend the complaint. The parent must follow a similar process when the school district requests a due process hearing.

Within ten days of receiving your due process complaint, the school must provide you with:

- An explanation of why they proposed or refused to take the action described in the complaint;
- A description of other options considered and the reasons why those options were rejected;
- A description of the evaluations, assessments, records or reports used as a basis for their action; and
- A description of factors relevant to the school's proposal or refusal.

There are two ways you or your attorney can request a due process hearing: by drafting your own due process complaint notice or by using the MDE form. Send one copy of the completed Due Process Complaint to the district superintendent and one to MDE/OSE. Keep one copy for yourself.

Mississippi Department of Education
Office of Special Education
Division of Parent Outreach
P. O. Box 771
Jackson, MS 39205-0771

If you have questions about due process hearings, call MDE's Parent Hotline at 1 (877) 544-0408.

Resolution Meeting (§300.510)

Before the due process hearing, the school must convene a meeting with the parents and the relevant members of the IEP committee who have knowledge of the facts in the due process complaint. The meeting must include a school representative who has decision-making authority and must be held within 15 days of receiving the complaint. **The school cannot bring an attorney to the meeting unless the parent brings an attorney.**

The purpose of the resolution meeting is to give the parents an opportunity to discuss their complaint and to give the school an opportunity to resolve the complaint. **The resolution meeting is required unless both the parent and school agree in writing to waive the meeting or they agree to mediation.** If a resolution is reached, the parents and the school will sign a legally binding agreement. The agreement is enforceable in state or federal court. Either the school or the parent can withdraw their agreement within three days of signing it. If you and the school have not resolved the

complaint within 30 days of the school district receiving it, the due process hearing will proceed.

Time and Place of the Hearing (§300.510(b))

The due process hearing will proceed at a time and place set by the hearing officer, generally within 30 days of the school district receiving your complaint. If the hearing is set at a time that does not work for you, ask to have it changed. You or your attorney should immediately tell the hearing officer of the time conflict and your preferred time.

Decision of the Hearing Officer (§300.514)

At the end of the due process hearing, the hearing officer will work out an agreement with the two sides for a date on which a decision will be due. Usually the hearing officer will allow each side to submit a brief (a written summary of the arguments and authorities for their case) before the decision is due. After the hearing and submission of briefs by both parties, the hearing officer will issue written findings and decisions.

A hearing officer's decision must be based on substantive grounds. To prevail (win), the parent must prove the school failed to identify your child, through an appropriate evaluation, as a student who has a disability and needs special education and related services; or they did not provide her a free appropriate public education in her least restrictive environment.

A school's failure to meet the *procedural requirements* of *IDEA*, such as failing to provide appropriate notice or failing to have all of the required members at the IEP meeting, is not typically considered to be a *substantive violation*. In some cases, a hearing officer will find that procedural violations significantly impeded the parents' opportunity to participate in a meaningful way in an IEP meeting, significantly impeded a student's ability to receive FAPE, or deprived the student of educational benefit. The party filing the due process complaint has the burden of proof. [Schaffer v Weast](#)

The decision of the hearing officer is final, unless the losing party appeals to court.

Attorney's fees (§300.517)

Parents

If the parent is the prevailing party, the court can award the parent reasonable attorneys' fees

School Districts

IDEA allows the court to require the parent or the parent's attorney to pay attorney's fees to the school district if the parent's complaint was frivolous, unreasonable or without foundation, and/or if the complaint was presented for an improper purpose,

such as to harass, cause unnecessary delay or needlessly increase the cost of litigation. You should discuss these issues with your attorney.

Compensatory Services (§300.151)

If a hearing officer determines an appropriate IEP would have provided services you paid for, you can ask the impartial hearing officer (IHO) to order reimbursement for those expenses, or the IHO might order compensatory services. If, for example, your student does not get the one hour per week of speech therapy required by his IEP, the district must provide for missed services. Compensatory services may be warranted if an assessment demonstrates that the student needs a special service that was not included in the IEP. Common compensatory services include academic tutoring or related services before or after the school day or during a summer or holiday break. **Compensatory services offered during the summer must be in addition to, not in place of, ESY services for which your student qualifies.**

You must file a written State Complaint within one year of the perceived violation, and file a Due Process Complaint within two years of the alleged violation; but the Mississippi Department of Education, OCR, hearing officer or a court might direct the school district to offer compensatory services beyond those timelines.

A decision by the U.S. Court of Appeals for the Third Circuit provided compensatory services for services not provided for several years before the complaint was filed. ([G.L. v. Ligonier Valley School District in Pennsylvania, 2015](#)) Prior to this ruling, there were no clear guidelines regarding how many years of service a district has to make up.

To avoid a complaint, districts should act quickly to fix problems as they occur. For example, if an occupational therapist retires and no replacement is hired, the district must contract with an outside provider to ensure students continue to receive their services. The district should also hold an IEP meeting to tell parents what happened and what is being offered to the student, along with any services that need to be made up.

NOTE: There is no requirement for a district to make up missed services hour for hour. The IEP committee, which includes the parent, must decide when, how and how much compensatory service will be provided.

Appeal to Court (§§300.514-300.516)

Either party can appeal the hearing officer's decision to state or federal court. The appeal must be filed within 90 days from the date of the decision. You will need an attorney for the appeals process. All dispute remedies available through *IDEA* must be exhausted before you can file a suit in court.

ACTIVE PARENTS

Being knowledgeable and forming good relationships with school personnel will help you obtain quality education services for your student.

This Guide includes information about how IDEA, FERPA, 504, and ADA protect your student's rights and your rights to be involved in decision-making.

In this section you will learn practical ways to...

- *Stay involved in your child's education.*

➡ **34 CFR and SBP 72.19 §300.324**

"I can assure you there is no more powerful advocate for children than a parent armed with information and options."

Rod Paige, Former Secretary of Education

Ways to Stay Involved

You have just spent a great deal of time and effort getting your child evaluated and identified, and developing an appropriate IEP. Now you want to make sure the IEP is implemented and your student is progressing in the general education curriculum and receiving all of the services in her IEP. Here is a list of activities that keep you involved in your child's education.

- Be active, present and visible. Volunteer in the classroom, library, or other school program; attend school functions; join your local parent-teacher organization.
- Communicate regularly with teachers throughout the year (notebooks, phone calls, emails, meetings and conferences).
- Share articles of interest and other resources with teachers and other school personnel.
- Attend joint training with school staff.
- Read and comment on the progress reports sent by the school.
- During the school year, give positive feedback to teachers and administrators about things that work well for your student.
- Bring questions, concerns and praise to parent-teacher conferences.
- Join the Mississippi Parent Training and Information Center's (MSPTI) mailing list, email list and Facebook page.
- Check the Mississippi Parent Training and Information Center's website for up-to-date information and archive webinars at <http://www.mspti.org/>
- Stay up-to-date on information relating to general and special education services on a state and district level.
- Attend your school district's public hearing on the use of special education funds. Ask to review a copy of your school district's project application for Part B *IDEA* funds.
- Stay up to date on special education information using **Special Education Connection** at <http://www.specialedconnection.com>. Ask your Director of Special Education for your district's username and password or call the MDE Office of Special Education to obtain this information.
- Create and maintain your Parent Notebook.
- Ask for a review/revision of your student's IEP as needed.

IEP reviews (§300.324)

IEPs must be reviewed at least once a year. However, IEPs can be revised more often, if needed. The committee must revise the IEP if the student does not make expected progress toward annual goals or in the general education curriculum, or if the student makes so much progress that new goals need to be developed. Additional meetings will be needed if new information, such as a reevaluation or independent educational evaluation, indicates a need for IEP revision.

NOTE: If the IEP team tells you a service is no longer needed because your child has met the IEP goals, suggest goals to be added to the IEP to address age- and grade-appropriate skills, self-advocacy and/or postsecondary needs. Ask to see the assessment results that led the provider to make the statement that services are no longer needed.

- [Form 10](#) in the [Appendix](#) is an example of a letter requesting an IEP meeting.

APPENDICES

- **I: Glossary**
- **II: Acronyms**
- **III: Forms**
- **IV: Resources**
- **V: Discipline Flow Charts**
- **VI: Response to Intervention Diagram**

Appendix I: GLOSSARY

Educators sometimes use language that is difficult to understand. If you read or hear words you do not understand (such as "accommodations"), ask school staff to explain them. As an equal partner in planning, you must understand all the information you receive in writing or hear in a meeting so you can actively participate as a partner in planning an appropriate assessment and special education program.

Some words commonly used in the field of special education include:

A

Accommodations: Accommodations are changes made in HOW a student with a disability is taught or tested. Accommodations do not change WHAT your student is taught or what he is expected to know. Some accommodations are used for teaching and learning, others for testing. Accommodations are unique to your student's needs. The MDE maintains a list of allowable accommodations for statewide assessments. If your student uses accommodations for assessment, they must also use those accommodations for learning and testing in the classroom. There is a new resource entitled "2019 Access for All Guide" on the MDE/Office of Academic Education webpage. It is full of helpful information about accommodations and modifications for instruction, classwork, homework, etc.

<https://mdek12.org/sites/default/files/documents/OAE/OAE/2019-access-for-all-guide.pdf>

Examples of accommodations are:

- Highlighted textbooks,
- More time to complete work when your student thinks or writes slowly,
- Seating close to the teacher, and
- Enlarged text.

Adapted Physical Education: Adapted Physical Education is part of an individualized program created for students with disabilities to ensure safe and successful physical education opportunities. Physical education involves physical fitness, motor fitness, fundamental motor skills and patterns, aquatics skills, dance skills, individual and group games, and sports, to name a few. Adapted physical education is a direct service, not a related service.

Advocate: An advocate has specialized knowledge or skill in helping parents and students resolve problems with schools. Parents are their student's first and often most effective advocates, but advocates can also be attorneys, community workers, ministers, a friend with a similar experience, etc. Parents can bring advocates to any meeting. You are not required to notify the district that an advocate will be attending, but it is a good idea.

Alternative Placements: School districts are required to make alternative placement

opportunities available to meet the needs of children with disabilities for special education and related services. Examples of alternative placements include instruction in special or “alternative” schools, home instruction, and instruction in hospitals and institutions such as detention centers. Students with disabilities who are placed in alternative settings are entitled to continue to receive those special education and related services defined in their Individualized Education Programs (IEPs), and to progress in the general education curriculum.

Ameliorative: Something that improves, makes something better

Americans with Disabilities Act (ADA): The *Americans with Disabilities Act* is a federal law that prohibits discrimination against people because of their disability, race, sex, religion and national origin. The ADA bans discrimination in public places, state and local government services (including schools), employment, transportation and telecommunications. Public places, and some private entities, must make sure their buildings are fully accessible to people with disabilities. Accessibility must be provided through wheelchair ramps, wide doors that open easily, lower water fountains and accessible restrooms. All public schools must comply with the ADA. For more information, go to: <https://www.ada.gov>.

Articulation: An articulation disorder is the incorrect production of **speech sounds**, including: substituting sounds, leaving out sounds, adding sounds or distorting sounds that make it hard to understand what your child is saying.

Assessments: Assessments are tests given to students to determine their current level of functioning. In a comprehensive evaluation or reevaluation, assessments are individualized for the student. Your student might participate in class or district screeners used for monitoring progress of large groups of students throughout the year. Assessments that are given to all students in the district, in a school, or in a grade do not require written parental consent. However, assessments that are given only to your student, or only to children with disabilities, generally require parental consent. Students receiving special education services take the same state and district-wide assessments given to all students, unless the IEP Committee has determined they have a significant cognitive disability (SCD). Ask about all assessments in which your student might participate.

Assistive Technology (AT): An assistive technology device is any item, piece of equipment or product used to increase, maintain, or improve the way your student interacts with the education environment that helps them benefit from special education. AT devices for students with disabilities include: devices used for seating, positioning, mobility, environmental control, self-care, and augmentative communication; computer access and instruction; adaptive toys and games; and visual and listening aids. AT services (including assessment and training) help students with disabilities select, get or use an AT device. AT can be high-tech (such as a computer or communication device), or low-tech, (such as a simple calculator, pencil grip or piece of Velcro). AT devices, assessment and training must be listed on your student’s IEP.

B

Baseline: Collecting "Baseline data" is a way of figuring out how the child is performing on a specific skill. It is a "starting place" based on concrete, understandable information included in measurements of the child's performance. Understanding and including baselines gives the IEP committee the ability to write clear, measurable goals that will enable the committee to measure real progress.

Baseline data can be taken from a variety of places. For example, if a child's prior IEP included a goal in a specific area, the data collected from the measurement of that goal can give you a baseline for that same skill going forward. Baseline data come from criterion-referenced assessments, curriculum-based measurements, and classroom based assessments. Baselines are very specific and must include the conditions, the subject(s), and the measurements used to obtain those results.

Behavior Intervention Plan (BIP): A Behavior Intervention Plan is a clear, specific and measurable action plan for increasing positive behaviors that replace inappropriate behaviors. The Functional Behavioral Assessment leads to development of individualized behavior goals, with matching objectives on the IEP. High-quality, effective BIPs include supports and strategies that might include positive reinforcement, social work services, peer mediation, training for teachers, evidence-based intervention strategies and more. Ongoing data collection and reviews determine whether the student is making adequate progress toward her behavior goals and whether to change or continue the current goals. A student's special and general education teachers, school staff, administrators, behavior specialists, and parents must all be involved in developing, revising and implementing the BIP.

C

Child Find: Child Find refers to the statewide system for identifying, locating and evaluating all children with disabilities residing in the state, including children with disabilities attending private schools, regardless of the severity of their disability, who are in need of special education and related services. The collection and use of data to meet the requirements of Child Find are subject to confidentiality requirements.⁵

Compensatory education: Compensatory Education/Services are remedies owed to a student with a disability who has been denied a Free Appropriate Public Education (FAPE). Compensatory education may include summer services, additional therapy hours, or other measures that compensate for past violations of the Individuals with Disabilities Education Act (IDEA) by the School District. Compensatory education is intended to be a one-time offer to compensate for past denial of FAPE and does not relieve the School District of providing FAPE going forward. Compensatory education

⁵ From www.mdek12.org/OSE/CF

must be in addition to the necessary services to provide the student FAPE in the current or future Individualized Education Programs.

Comprehensive Evaluation: The comprehensive evaluation is a set of activities, including psychological, behavioral and academic assessments, to determine if a student has a disability as defined by *IDEA* that requires special education and related services. Comprehensive evaluation results are also used to determine a student's education needs. A parent, teacher or other professional must submit a request for evaluation in writing, and the evaluation must be completed within 60 calendar days of the date the parent gives informed written consent for the evaluation. The evaluation is considered to be completed on the date the last assessment is given. A new evaluation, or a re-evaluation, should be conducted at least every three years, at no cost to the parent unless the parent and school agree one is not needed. Continued eligibility must be documented in this case. The comprehensive evaluation report must be provided to parents seven days before the eligibility meeting so they can check for accuracy and make sure they understand the report before meeting with school staff. If you want help understanding the report, tell the school you would like to talk with staff who can explain the report to you in plain language. You are entitled to review all information the school district considers when making decisions about your student.

Consent: Consent means the parent certifies **in writing** they have been fully informed about the action the school district wants to take and gives written permission for the district to evaluate or place their student in special education. Parental consent is voluntary and can be withdrawn at any time. **It is extremely important for you to ask the school to explain the consequences, if you decide to withdraw consent.**

Cumulative Folder: Records are maintained by the local school district for every student enrolled in school. This file contains grades, attendance records and results of standardized assessments. The cumulative folder might contain evaluations and information about a student's disability and placement, although most school districts keep special education records in a separate file. Parents have the right to inspect any of these files upon request at no cost to them.

D

Differentiated Instruction: Differentiated instruction is used to meet the needs of students with differences in readiness, interests, abilities and learning needs. The intent of differentiating instruction is to maximize each student's growth and individual success by providing a variety of ways to access curriculum, instruction, and assessment. Differentiated instruction should be accompanied by differentiated assessment. For example, if the student learns best through oral instruction vs. written instruction, assessment should first be attempted through oral assessment.

Due process hearing (impartial due process hearing): Due process includes procedures for resolving disputes between parents and schools before an impartial hearing officer. A due process complaint is generally for resolving issues that affect a free appropriate public education, which can include the identification, evaluation or

placement of a student with a disability. If either the parent or school district is not satisfied with the ruling of the hearing officer, the party can appeal the decision to federal or state court. Parents should consider obtaining legal representation before filing due process complaints. The MDE due process form can be found at www.mdek12.org/OSE/parents. Click "Due Process Request Form."

E

Early Intervening Services (EIS): *IDEA 2004* allows schools to use up to 15% of *IDEA* funds to support students not identified as having a disability, but who need additional academic and behavioral supports to succeed in a general education classroom. EIS can include training, progress monitoring, diagnostic evaluations, intensive academic supports and other evidence-based practices. One purpose of EIS is to prevent inappropriate referrals to special education. The Tier process, or Rtl, is one aspect of Early Intervening Services.

Education Scholarship Account (ESA): In 2015, the Mississippi State Legislature created the Education Scholarship Account to provide private school tuition assistance to families of children with disabilities who withdraw their students from the public school system. To qualify, students must have had an Individualized Education Program and received special education services at anytime within the last 5 years. For more information, including access to a printable application, visit:

www.mdek12.org/OSE/esa.

Education records: Student records are collected, maintained and used by education agencies and institutions. They include instructional materials, films, tapes, e-mails, test materials and protocols that contain information specific to a student. You can request copies of many of these records. Other records, such as test protocols protected by copyright and/or disclosure laws, can be inspected at the school.

Eligibility Report: When an evaluation or reevaluation is finished, the evaluation team, which includes the parents, meets to review the results and to determine if the student is a student with a disability who requires special education and related services. The decision is documented in an Eligibility Report. Parents have the right to get a copy of all written reports.

Elementary and Secondary Education Act (ESEA): The 1965 *Elementary and Secondary Education Act (ESEA)* is a federal law intended to ensure that every student in America meets their state's high learning standards. *NCLB* is the title given to the 2001 reauthorization of the *ESEA*; the latest reauthorization to *ESEA* is referred to as *Every Student Succeeds Act (ESSA)*. There are many similarities between *NCLB* and *ESSA 2015*. Both acts emphasize standardized testing to measure educational achievement, teacher ability, school success and many other educational categories. *ESSA* requirements and standards also apply to special education programs and services. When Congress reauthorized the *IDEA* in 2004, it aligned parts of these two federal laws. For more information, visit: <http://www2.ed.gov/policy/elsec/leg/esea02/index.html>. For a copy of the document

“NCLB and IDEA: What Parents Need to Know and Do” go to: www.cehd.umn.edu/nceo/onlinepubs/parents.pdf.

Evaluation: A team of professionals gathers information about a student to decide if the student qualifies for special education and/or related services and the kind and amount of services the student needs. Evaluation can be testing, observing, or talking to people who work with the student.

Evaluation Report: A team of professionals obtains evaluation information about a student. They work together to write a draft report about the student’s strengths and needs. In Mississippi, they are required to offer you a copy of the draft report at least seven days before the meeting. Read the draft and decide if it is complete and correct. As important members of the Multidisciplinary Evaluation Team (MET), parents must have their input included in the report. If the LEA refuses your request to add or correct information, they must give you a PWN explaining what they are refusing and why. Read the information in this Guide about correcting records in the sections about Records and Requests/Referrals (**I Think the School’s Evaluation is Wrong/Incomplete (§§300.305, 300.502)**). Parents must be given a copy of the final report and have it explained to them in plain language.

Expressive Language: Expressive Language is spoken language. Language skills can be addressed by special education teachers and/or Speech Language Pathologists.

Extended School Year (ESY): Extended School Year services are provided to eligible students who require services in addition to the regular academic year, such as during the summer or winter break. ESY services must be provided according to the IEP, including transportation, and be provided at no cost to parents. For more information, access the Mississippi ESY Handbook at: www.mdek12.org/OSE/Funding/special-education-extended-school-year

F

Family Educational Rights and Privacy Act (FERPA): The *Family Educational Rights and Privacy Act* is a federal law that gives parents and students rights and protections regarding education records. Under *FERPA* and *IDEA*, a school must annually notify eligible students and parents of their rights. The annual notification must include information regarding the right to inspect and review education records, the right to ask for changes and corrections to the records, the right to consent to or decline disclosure of personally identifiable information from the records (except in certain circumstances), and the right to file a complaint with the MDE/Office of Special Education or the USDE regarding an alleged failure by a school to comply with *FERPA*. It must also inform eligible students and their parents of the school’s definitions of the terms “school official” and “legitimate educational interest.” (*Note: FERPA* provides for the disclosure of personally identifiable information from education records without consent from the parent or an eligible student in certain situations, such as pursuant to a valid subpoena or when records are sent to a school when a student transfers.)

www2.ed.gov/policy/gen/guid/fpco/ferpa/Appendix.html

<https://www2.ed.gov/policy/gen/guid/fpco/index.html>

<https://studentprivacy.ed.gov/file-a-complaint>

First Steps (Part C Early Intervention Program): First Steps is a statewide program serving children from birth to age three who have developmental delays. First Steps must make services available for every eligible infant and toddler, pursuant to Part C of the *IDEA*. For more information go to: http://msdh.ms.gov/msdhsite/_static/41.0.74.html

Fluency: (1) In speech, a fluency disorder (stuttering) is an interruption in the flow of speaking characterized by: atypical rate, atypical rhythm, and repetitions in sounds, syllables, words, and phrases. These characteristics might also be accompanied by excessive tension, struggle behavior, and secondary mannerisms. Sometimes dysfluency is referred to as “stuttering.” **(2)** Fluency in reading means the ability to read words accurately, smoothly and quickly enough to comprehend the meaning of words and sentences.

Formal State Complaint: To report allegations of any violation of a Part B requirement of the Individuals with Disabilities Education Act of 2004, any individual or organization may file a formal State complaint against a school district, the Mississippi Department of Education or any other public agency providing education to eligible students. State complaints may be filed for matters relating to the identification, evaluation or educational placement of a student with a disability, or the provisions of a Free Appropriate Public Education to the student. The MDE Formal State Complaint Form can be accessed at <http://www.mdek12.org/OSE/parents>. Click “Complaint Form Under Part B.”

Free Appropriate Public Education (FAPE): All students who have been identified as having a disability as defined by *IDEA* and *Section 504 of the Rehabilitation Act of 1973* and needing special education and related services have a right to FAPE. FAPE includes special education and/or related services designed to meet the individual needs of each student (Appropriate Education). By law, services are provided at no cost to the parent (Free) and must be provided under public supervision (Public). FAPE may include, but is not limited to, individualized classroom, home or other institutional instruction, education in general education or inclusion classes, or special education and related services in separate classrooms. FAPE may also include related services such as speech/language, physical and/or occupational therapy, and medical and/or psychological services necessary to the student’s education.⁶ The landmark court case that set the standard for FAPE is the [*Board of Education of Hendrick Hudson Central School District v. Amy Rowley, 1982*](#). [*Endrew F., 2017*](#) expanded the definition of Free Appropriate Public Education.

Functional Behavior Assessment (FBA): Functional Behavior Assessment is included as part of a problem-solving process for identifying and addressing

⁶ Please see <http://www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html> for more information

inappropriate behavior. An FBA identifies triggers (antecedents) and consequences for behavior, leading to conclusions regarding the function of student behavior. A school psychologist or other appropriately trained and licensed professional conducts observations of the student and interviews with the student, parents, and teachers. Data are taken to determine baselines. Once an FBA is completed, a Behavior Intervention Plan (BIP) is developed. The BIP attempts to replace inappropriate behaviors with acceptable behaviors serving the same function (to get something or to avoid something) through modeling, instruction, reinforcement and other Positive Behavior Interventions and Supports. If your student has an IEP, an FBA is considered to be a reevaluation and requires prior written notice and informed written parental consent.

H

Highly Qualified Teachers: *The Elementary and Secondary Education Act (ESEA)* and the *IDEA* require each state to make sure all teachers (including special education teachers) who teach core academic subjects such as reading and math are highly qualified.⁷ *ESEA* defines highly qualified teachers as those who, at a minimum, hold at least a bachelor's degree, have completed an approved traditional or alternative route teacher preparation program, and have demonstrated content and/or grade-level competency by passing State required tests on teaching skills and subject knowledge. For specific information go to: www.wrightslaw.com/idea/tchr.hq.require.htm.

I

Inclusion: Inclusion is an instructional practice whereby a general education teacher and a special education teacher share teaching responsibilities for students with and without IEPs in general education classrooms. <https://www.mdek12.org/sites/default/files/documents/OAE/OAE/2019-access-for-all-guide.pdf>

Independent Educational Evaluation (IEE): Parents can request an evaluation conducted by a qualified examiner who is not employed by the school district once for every evaluation with which the parent disagrees. School districts are required to either pay for the evaluation in full or otherwise ensure that it is provided at no cost to the parent.

Individualized Education Program (IEP): An IEP describes the special education and related services provided to an eligible student who receives special education. The IEP committee develops the IEP, and includes the parent, a school district representative, special and general education teachers, support personnel, other people invited by the parent, and, if appropriate, the student. The plan lists the student's present levels of academic, social and behavioral functioning; measurable annual goals; and any special education and related services that will allow the student to be involved and make progress in the general education curriculum. The IEP is a legal document that must be reviewed and revised at least once a year. However, more frequent revisions are

⁷<https://mdek12.org/OTL/OEL>

required if the IEP is not working or if the student's needs change.

Individualized Family Service Plan (IFSP): An IFSP is a family-centered written plan describing early intervention services for families of infants and toddlers with developmental delays from birth to age three.

Individuals With Disabilities Education Act (IDEA): First signed into law in 1975, the *Individuals with Disabilities Education Act* guarantees every eligible student a “free appropriate public education,” or FAPE, to prepare them for future education, employment, and independent living. Under the *IDEA*, a school must:

- Identify students with disabilities;
- Involve parents in decision-making;
- Evaluate students in a nondiscriminatory way;
- For each eligible student, develop an IEP that includes measurable annual goals, such as academic and functional goals, designed to enable the student to be involved and make progress in the general education curriculum;
- Provide special instruction and related services to eligible students;
- Provide services in the least restrictive environment;
- Maintain education records/files; and
- Provide processes for resolving parent complaints and grievances.

IDEA 2006 Regulations: <https://www.parentcenterhub.org/partb-subparta/>

Interim Alternative Education Program (IAEP): An Interim Alternative Education Program is often a disciplinary program for students who have been found in violation of a range of rules listed in state law and/or in the district's Student Code of Conduct, such as having a weapon on campus or causing serious bodily harm. Some IAEPs operated by the school district are known as Alternative Schools. Students with disabilities who are in the juvenile justice system or other alternative placement not operated by the school district are still entitled to special education services and their Individualized Education Plans must be implemented in their IAEP.

Itinerant Instruction: Itinerant Instruction is provided by staff traveling to multiple schools or school districts and sometimes to the student's home.

L

Least Restrictive Environment (LRE): LRE is the student's right to be educated, as much as appropriate, alongside her peers without disabilities and as close to home as possible. The landmark case describing LRE in the Fifth Circuit is [Daniel R. R. v. The Board of Education, El Paso, Texas, 1989.](#)

Literacy-Based Promotion Act: In 2014 the Mississippi Legislature passed a law intended to build literacy skills of students in Kindergarten through third grade.

Students who do not pass the third grade state-mandated reading assessment will not pass on to fourth grade, unless they qualify for an exemption. Some students with disabilities may be eligible for good cause exemptions. For more information on the Literacy-Based Promotion Act, visit:

<https://codes.findlaw.com/ms/title-37-education/#!tid=NFA8796501F8811E38151AD0C33EC83AC>

<https://mdek12.org/sites/default/files/Offices/MDE/OAE/OEER/Literacy/LBPA%20FAQs-2018%208.15.18.pdf>

Local Education Agency (LEA): The LEA is the school district or other public agency providing education to students.

Local Education Agency Representative (agency representative): The LEA Representative is the person on the IEP Team who has knowledge about the school's resources and can commit those resources so the student receives the IEP services. The Agency Representative can be a special education teacher or somebody qualified to supervise special education. All IEP meetings must have an agency representative.

At your student's IEP meeting ask which person is the agency representative.

Local School District Policies: Contact your school district's supervisor of special education to find out about your district's policies and procedures relative to the *Individuals with Disabilities Education Act of 2004*, *Family Education Rights and Privacy Act*, *Section 504 of the Rehabilitation Act of 1973* and the *State Board Policy Chapter 74, 74.19*.

M

Manifestation Determination Review (MDR): When a school takes disciplinary action towards a student with a disability, resulting in a change of placement (generally 10+ school days in a year), the school district must hold a meeting, known as a Manifestation Determination Review. The MDR helps to determine whether the student's behavior is related to her disability. For example, when a student with dyslexia acts out when asked to read, an MDR might determine that her behavior is related to her reading disability. If there is a substantial relationship between the disability and the behavior, then the student cannot be suspended beyond the 10-day period.

Mediation: Mediation is a voluntary process used to resolve disagreements between parents and schools. Mediation is provided at no cost to the parent or school district, and either one can request mediation. The mediator is an impartial person trained in mediation techniques.

Mississippi College and Career-Ready Standards (MCCRS): State standards establish expectations for the academic content and skills students are expected to have mastered in each grade level. The MCCRS define the knowledge and skills Mississippi students should have within their K-12 education careers so that they will

graduate from high school equipped to compete and succeed in entry-level, credit-bearing academic college courses and in workforce training programs.⁸

Mississippi Department of Education (MDE): The MDE is the State Education Agency (SEA) responsible for making sure every student with a disability in Mississippi is provided a free appropriate public education. For more information go to www.mdek12.org/OSE.

Mississippi Department of Education/Office of Special Education (MDE/OSE): The OSE is an office within the Mississippi Department of Education tasked with general supervision and monitoring of school districts in the implementation of *IDEA*. For more information go to <http://www.mdek12.org/OSE>. The MDE/OSE has a **Parent Hotline** 1 (877) 544-0408 for parents who seek additional information or have questions about dispute resolution.

Mississippi Policies and Procedures Regarding Children with Disabilities under the *Individuals with Disabilities Education Act Amendments of 2004*: The state plan for providing special education services to students with disabilities in Mississippi is also known as State Board Policy Chapter 74, Rule 74.19.

School districts are required to follow federal *IDEA* regulations as well as the Mississippi State Board Policies. The most recent revisions to the Mississippi policies for IDEA 2004 were completed in 2013. You may access and print a copy of the Mississippi State Board Policies at: <http://www.mdek12.org/OSE/PP>. Click “Policies” near the bottom of the page. Your local school district should also have a copy you can review.

Mississippi Special Education Advisory Panel (SEAP): The *Individuals with Disabilities Education Act* requires each State to establish and maintain an advisory panel for the purpose of promoting the education of eligible children and youth with disabilities. The Mississippi Special Education Advisory Panel advises the Mississippi Department of Education on special education matters including rules, regulations, evaluations, data reporting, corrective action and policy implementation. Members of the Advisory Panel include parents of students with disabilities, individuals with disabilities, teachers and administrators from public and private schools, representatives of student welfare and juvenile corrections agencies, state and local education officials, and community members concerned with transition services available to students with disabilities. The Advisory Panel hosts meetings open to the public. For more information on the Mississippi Special Education Advisory Panel go to <http://www.mdek12.org/OSE/AP>.

Mitigating measures: Accompanying conditions that have the effect of reducing the effects (medication, prosthetics, durable medical equipment, hearing aids, etc.)

Modifications: Modifications can be made to education materials or to the environment. Curricular modifications, unlike accommodations, change the *level* or

⁸ From <http://www.corestandards.org/about-the-standards/>

content of instruction provided or tested. Modifications create a different, or alternative, standard for children who receive them. The most common modifications are those made to the general education curriculum for a student with a cognitive (learning or thinking) disability. *Modifications must be listed in your student's IEP.* Curricular modifications can affect your student's ability to earn a diploma, and could determine the statewide assessment she will take. Be sure to talk to the IEP committee about decisions and ramifications regarding modifications.

Multidisciplinary Evaluation Team (MET): The multidisciplinary evaluation team is a group of qualified individuals who evaluates a student to determine the special education eligibility and educational needs of a student. The team includes the parent and a group of qualified professionals that will vary from evaluation to evaluation, depending on the assessments, observations, and procedures used. The Special Education Eligibility Determination Guidelines specify which qualified professionals are required for each eligibility category.⁹

N

Native language: Native Language is the language normally used in a student's household. Written information and verbal explanations given to parents must be in their native language. An interpreter might be needed. A student must be evaluated in their native language, with assessments normed on other students with the same native language.

No Child Left Behind Act of 2001 (NCLB): See the definition of *Elementary and Secondary Education Act*.

O

Occupational Therapy (OT): Occupational Therapy is a related service that can include therapy to improve fine motor skills, activities of daily living, and sensory issues that are needed for the student to benefit from special education services.

Office for Civil Rights (OCR): Situated within the U.S. Department of Education, OCR is the agency that enforces Section 504 of the *Rehabilitation Act* (see below for definition of Section 504). A parent or advocate can file a complaint with the OCR if they believe they or the student is being discriminated against based upon disability, due to the parent advocating for the student, or if the 504 plan is not being followed. For more information go to: www2.ed.gov/about/offices/list/ocr/index.html.

The OCR National Headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Blog
400 Maryland Avenue, SW

⁹ From

www.mdek12.org/sites/default/files/documents/part-34-rule-74-19_20160614161027_365113.pdf

Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 877-521-2172
Email: OCR@ed.gov

Office of Special Education Programs (OSEP): OSEP is an office within the U.S. Department of Education whose goal is to improve results for children with disabilities (birth through 21 years of age) by providing leadership and financial support to assist states and local districts. For more information, visit: www2.ed.gov/about/offices/list/osers/osep/Index.html.

Orientation and mobility services: Orientation, mobility and travel training are related services, usually provided to students with visual impairments, that enable students to move safely within the home, school, and community, so they can benefit from special education services.

Orofacial Examination: An orofacial examination is required for suspected articulation disorders. When the speech specialist conducts an orofacial examination, they note physical problems which would interfere with speech production. They look at the face, jaws and teeth, tongue, lips, pharynx, and palates. If they find problems with any of these structures, they will probably refer your child to a specialist for a follow-up examination.

P

Paraprofessional Educator: Paraprofessionals, also known as paras, teacher assistants or aides, provide assistance to teachers and students in the classroom, but **they are not certified to provide direct instruction.**

Parent: Under the *IDEA*, the definition of “parent” includes: biological, adoptive or foster parents; guardians (unless the student is a ward of the state); individuals acting in the place of natural or adoptive parents such as grandparents, stepparents, and other relatives with whom the student lives; individuals responsible for the student’s welfare; and assigned surrogates.

Parent counseling and training: Parent counseling and training are related services that help parents understand the special needs of their student. Parents can receive information about student development and learn skills to help with the development and implementation of their student’s IEP or IFSP.

Physical therapy (PT): Physical Therapy is a related service that can include activities to improve gross motor skills needed for the student to benefit from special education, such as walking, running and climbing on playground equipment.

Portfolio Assessment: A portfolio assessment is a collection of student work used to measure the student’s progress toward mastery of the IEP objectives. Student portfolios might include samples of writing, drawings, or other work. At the time of this writing,

Mississippi no longer uses portfolios for statewide assessments. Portfolios could be used for classroom assessments.

Placement Options: School districts must offer a continuum of alternative placements for special education and related services to meet the needs of children with disabilities, including instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. They must also offer supplementary services such as a resource room or itinerant instruction (inclusion) to be provided in conjunction with *general education* class placement. When children with disabilities receive instruction in a general education classroom, the district must provide access to general State-wide and district-wide assessment programs, with appropriate accommodations, where necessary.

Preschool Program for Children with Disabilities: Preschool special education services for children between the ages of three and five who qualify for special education services must be made available by the school district where the parents live. Preschoolers can receive special education services and supports in settings such as a regular preschool in the community, a Head Start program or a pre-kindergarten class. *Options for 3 and 4-year olds cannot be limited to classrooms containing only students with disabilities.*

Prior Written Notice: Schools are required to provide written notice to parents when the school **proposes** to initiate or change, **or refuses** to initiate or change, the identification, evaluation, or educational placement or the provision of a free appropriate public education to your student. The prior written notice is also referred to as the written prior notice (PWN) in Mississippi.

Procedural Safeguards: At least once a year, schools must provide an easily understood explanation of procedural safeguards that describe the parent's rights. For more information go to: <http://www.mdek12.org/OSE/parents> and click on the Procedural Safeguards link for your native language.

R

Receptive Language: Receptive Language is the ability to listen, process and understand spoken language.

Rehabilitation Act of 1973: For more information, go to: [Rehabilitation Act of 1973, Public Law 93-112, Section 504](#). The Rehabilitation Act is the civil rights statute designed to protect individuals with disabilities from discrimination; to improve their employment opportunities; and to increase economic self-sufficiency, independence, inclusion and integration into society. Under Section 504 of the Rehabilitation Act,¹⁰ no program or activity receiving federal money can discriminate against any qualified person with a disability because of that disability. These regulations apply to all schools,

¹⁰ [29 U.S.C.A. Section 794](#)

including private schools, which receive or benefit from federal funds. Each school district is required to have a 504 officer.

Some students who do not qualify for IDEA services get Section 504 services. Section 504 requires that all students have an equal opportunity to participate in activities and services at school, including school clubs, athletic programs, social activities, transportation, health and counseling services and vocational programs. If you think your student might be eligible for Section 504 services rather than IDEA services, ask to talk to your school district's 504 officer. For more information on Section 504, please visit: <http://www2.ed.gov/about/offices/list/ocr/504faq.html> or

<https://www.disability.gov/rehabilitation-act-1973>

Related services: Sometimes additional services are necessary for a student to benefit from special education. Related Services can include speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, early identification and assessment, counseling, rehabilitation counseling, orientation and mobility services, school health services, social work services, parent counseling and training. This list is not exhaustive.

Resolution Meeting: A conflict resolution process established under the *IDEA*, a resolution meeting must be held within 15 calendar days of receiving notice of a due process complaint, unless the parent and school district agree in writing to waive the meeting or agree to use the mediation process.¹¹

Response to Intervention (Rtl): When a student displays problems with learning or behavior that require increasingly more intensive high quality instruction, the school must design interventions following a 3-tiered process called Rtl. Response to Intervention in Mississippi refers to general education instruction used to support students who need supplementary academic and/or behavioral support; to prevent inappropriate referrals to special education; or to keep special education students out of more restrictive settings. Parents should be included in determining which intervention services best support their student's needs.

Tier 1 is high quality instruction offered to all students. Tier 2 is targeted interventions offered to students with similar struggles. Tier 3 includes individualized, intensive interventions designed and monitored by the Teacher Support Team. They involve frequent progress monitoring to keep track of student progress and to make decisions regarding whether to continue Tier 3 or move to another Tier. Rtl cannot be used to delay or deny the appropriate evaluation of a student suspected of a disability ([Letter from Musgrove, January 21, 2011](#)). See [Rtl Triangle](#) Graphic in [Appendix VI](#) of the [Glossary](#).

S

¹¹ Please visit:

<https://www.cadreworks.org/resources/idea-early-intervention-family-guides/.pdf> for more information.

Scientifically-based Instruction: Both *IDEA* and *ESEA* require scientifically-based instruction to the extent possible. Scientifically-based instruction relies on rigorous, systematic and objective research. The research must:

- (a) Use systematic methods that rely on observation or experiment;
- (b) Involve rigorous data analyses to test hypotheses and draw conclusions;
- (c) Rely on measurements that get the same results regardless of the evaluator or assessment used;
- (d) Get the same results when repeated;
- (e) Have been published or accepted by a reputable group of peers.

Self-advocacy: Self-advocacy is the development of specific skills which enable individuals with disabilities to explain their disabilities to others; cope positively with the attitudes of peers, parents, teachers and employers; and directly advocate for themselves.

Sensory diet: Sensory diets are usually developed for individuals who need a large amount of sensory input throughout the day. Occupational Therapists figure out the amount, type, and frequency of activities your child needs to function at his optimal level. The sensory diet needs to be prescribed and followed under the care and supervision of an Occupational Therapist. Some things that might be included in a sensory diet include: items with varying textures, weighted blankets or vests, movement activities, different kinds and levels of lights and colors, a variety of taste experiences, and multiple options for seating (bean bags, core disks, rocking chairs, etc.)

Service Animal: According to guidance from the Department of Justice, under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The work or task a dog has been trained to provide must be directly related to the person's disability. Allergies and fear of dogs are not valid reasons for denying access or refusing services to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same classroom, they both should be accommodated by assigning them to different locations within the room or to different rooms. The Department of Justice published a 2015 FAQs document about Service Animals. http://www.ada.gov/regs2010/service_animal_qa.pdf

Fry v. Napoleon Community Schools is a seminal case regarding service animals, ADA and IDEA. www.supremecourt.gov/opinions/16pdf/15-497_p8k0.pdf

Special Education Services: Special Education Services include specially designed instruction to meet the individual needs of a student with a disability. Qualified personnel provide special education services in a variety of settings at no cost to parents.

Speech Associate: In Mississippi a Speech Associate has a 216 License designation. A 216 Speech Associate can conduct [Articulation](#) (Speech) testing and provide Articulation therapy. The Speech Associate cannot provide language, [voice](#) or [fluency](#)

therapy, or the corresponding evaluations, and cannot be the chairperson of an eligibility determination committee. The Speech Associate must be supervised by the Master's level fully-certified Speech Language Clinician.

Speech-language Clinician (speech-language pathologist (SLP)): In Mississippi an SLP has a 215 License designation. Speech-language pathologists provide language/speech services, including evaluation and therapy for speech, voice, fluency and language impairments. Language impairments include all four language areas: Spoken language ([receptive](#) and [expressive](#)) and written language (reading and writing). After conducting an orofacial examination, the SLP might recommend additional follow up by other professionals, especially if your child has cleft palate, cleft lip, voice problems, dysphagia, or other structural issues affecting the production of speech. Some school

SLPs are trained in swallowing therapy for dysphagia. If your child needs swallowing therapy to benefit from special education, the school must provide an SLP who is appropriately trained in dysphagia therapy.

State Education Agency (SEA): The state education agency for Mississippi is the Mississippi Department of Education. The SEA in each state is responsible for general supervision and monitoring of local education agencies and other public programs providing education to preschool, elementary and secondary students ages 3-21.

Student with a disability (SWD): According to *IDEA*, a student with a disability has been evaluated and determined to have an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability, an orthopedic impairment, autism, traumatic brain injury, developmental disability, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and to need special education and related services.

Subject Area Alternate Assessment Program: The State must ensure that all students with disabilities are included in State and district-wide assessment programs, with appropriate accommodations and alternate assessments, if necessary, as indicated in their IEPs. The State must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments if they cannot participate in regular assessments, even with accommodations. The alternate assessments and guidelines must be aligned with the State's challenging academic content standards and challenging student academic achievement. For more information go to <https://www.mdek12.org/OSA/SP/MAAP-A>

Supplementary Aids and Services: *IDEA* uses this term to describe those aids, services, and other supports given in general education classes, extracurricular activities, and/or non-academic settings, so that a student with a disability can be educated with students who do not have disabilities. **Schools must try supplementary aids and services before recommending removal of your student**

with a disability from a setting with non-disabled peers. Some Supplementary Aids and Services might include social work, literacy support, transportation, and counseling.

I

Teacher Support Team (TST): The Teacher Support Team is the problem-solving team composed of teachers and school administrators responsible for developing and monitoring individualized Tier 3 interventions for students struggling in general education. [State Board Policy 41.1](#) requires teacher support teams to operate on every school campus. The chairperson of the TST shall be the school principal as the school's instructional leader or the principal's designee. The designee may not be an individual whose primary responsibility is special education. The student should be referred to a TST once she reaches Tier 3 of the RtI process. For more information, go to the [MDE Response to Intervention Best Practices Handbook](#) and the [Parent and Family Guide to Understanding RtI](#).

Transition Portfolio: A Transition Portfolio is required for all students whose IEP indicates they will exit high school with an option other than a standard diploma.

Transition Services and Planning: Transition services prepare a student for life after high school. In Mississippi, transition planning is a required part of every student's IEP starting by age 14. Transition planning is also required for the preschooler moving from an Early Intervention Program to a school's early childhood special education program. For more information on transition, visit: www.ncset.org and [PACER's National Center on Transition and Employment](#).

Transportation: Transportation is a related service that includes specialized equipment and supports (i.e. paraprofessional, special or adapted buses, lifts, and ramps) required to provide transportation for a student with a disability to and from school and school activities. If your student is experiencing problems on the bus, ask the IEP Team about including Transportation on the IEP.

U

Universal Design for Learning (UDL): Universal Design for Learning is based on research. UDL guides development of flexible learning environments to accommodate individual learning differences. Because people are unique, schools should provide multiple ways for students to: gain information and skills; demonstrate what they know; engage learners through their interests; and challenge and motivate them to learn. Curriculum includes instructional goals, methods, materials, and assessments. UDL increases access to learning by reducing physical, cognitive, intellectual, and organizational barriers to learning.

<http://www.cast.org/our-work/about-udl.html#.XHhlgINKhsY>

V

Voice: A voice disorder is the abnormal production and/or absence of: vocal quality (hoarse or breathy), pitch (too high or too low), loudness (too loud or too soft), resonance, and/or duration, which are inappropriate for an individual's age and/or sex.

Appendix II: ACRONYMS

The field of Special Education uses many acronyms. Some professionals have become so comfortable using acronyms they simply forget they are using them. If someone is using an acronym with which you are unfamiliar, ask them to tell you what the acronym stands for and what it means. Write it down in your notes so you can reference it later.

ABA	Applied Behavior Analysis
ADA	<u>Americans with Disabilities Act</u>
AP	Advanced Placement, Adaptive PE
ASL	American Sign Language
AT	Assistive Technology
AU	Autism
ASD	Autism Spectrum Disorder
AYP	Adequate Yearly Progress
BIP	Behavior Intervention Plan
CADRE	Center for Appropriate Dispute Resolution in Special Education
DB	Deaf/Blind
DD	Developmentally Delayed
EI	Early Intervention
EIS	<u>Early Intervening Services</u>
ELL	English Language Learner
EmD	Emotional Disability
ESA	Education Scholarship Account
ESEA	Elementary and Secondary Education Act (also known as NCLB)
ESSA	Every Student Succeeds Act

ESY	Extended School Year
FAPE	Free Appropriate Public Education
FBA	Functional Behavior Assessment
FERPA	Family Education Rights and Privacy Act
HI	Hearing Impaired
ID	Intellectual Disability
IDEA	Individuals with Disabilities Education Act
IEE	Independent Education Evaluation
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
IHO	Impartial Hearing Officer
L/S	Language/Speech
LEA	Local Education Agency (school district)
LEP	Limited English Proficiency
LRE	Least Restrictive Environment
MD	Multiple Disabilities
MDE	Mississippi Department of Education
MDR	Manifestation Determination Review
MET	Multidisciplinary Evaluation Team
MSPTI	Mississippi Parent Training and Information Center
MSDH	Mississippi Department of Health
MTSS	Multi-Tiered System of Support
NCLB	No Child Left Behind (aka ESEA)

OCR	Office of Civil Rights
OHI	Other Health Impairment
OI	Orthopedic Impairment
OSE	Office of Special Education (state)
OSEP	Office of Special Education Programs (federal)
OSERS	Office of Special Education and Rehabilitation Services (federal)
OT	Occupational Therapy/Therapist
PBIS	Positive Behavior Intervention and Supports
PLAAFP	Present Levels of Academic Achievement and Functional Performance
PWN	Prior Written Notice
PT	Physical Therapy/Therapist
ROPO	Report of Physical Observations
Rtl	Response to Intervention
SEA	State Education Agency
SLD	Specific Learning Disability
SLP	Speech Language Pathologist
STIO	Short-term Instructional Objective
TBI	Traumatic Brain Injury
TST	Teacher Support Team
UDL	Universal Design for Learning
USDE	United States Department of Education
VI	Visually Impaired

APPENDIX III, FORM 1: Parent Notebook

Keep an accurate record of important meetings, phone conversations, emails and letters about your student in a notebook.

EXAMPLE:

Date/Time/Location:

January 3, 2019

3:00 P.M.

IEP committee meeting at First Elementary School

Who:

- Mr. Langley, principal of First Elementary School
- Mrs. McMillan, special education director of (name of school district)
- Mr. Lloyd, Johnny's teacher at First Elementary School
- Ms. York, physical therapist
- Johnny Jones, student
- Mr. and Mrs. Jones, parents

What We Talked About:

An IEP was developed for Johnny (see IEP in file). Johnny will continue in his current placement in the 5th grade at the First School, but will no longer receive physical therapy.

As parents, we disagreed and thought Johnny should continue to receive physical therapy. The school members of the IEP committee refused to agree to physical therapy because they did not have enough therapists and Johnny was a low priority for physical therapy. I asked them to attach my disagreement statement to the IEP.

Important Documents:

IEP

IEP committee meeting report

Tape of IEP committee meeting

Invitation to the Meeting

Prior Written Notice documenting the LEAs refusal to continue PT

Progress Reports from his PT

Recommendations from his doctor and/or therapists

My statement of disagreement

APPENDIX III, FORM 2: REQUEST FOR STUDENT RECORDS

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. The purpose of this letter to request the following information under the *IDEA 2004* federal regulations:

1. a list of the types and locations of education records collected, maintained, or used by the (name) School District relating to (name of student)
2. to review the record of people obtaining access to (name of student) education records collected, maintained, or used by the (name) School District
3. to review and receive copies of (all or the name of specific records) education records collected, maintained, or used by the (name) School District relating to (name of student)

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: Name, Director of Special Education
Your School District

APPENDIX III, FORM 3: REQUEST FOR CHANGE TO STUDENT RECORD

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. There is a statement in (name of student's) (name of record, e.g., "physical therapy evaluation performed by Mrs. Small on April 5, 2011") that I believe is (examples: misleading, inaccurate, in violation of my student's rights) because (give reasons).

I request that you change (student's name) records so they will no longer be (example: misleading, inaccurate, in violation of my student's rights). Please let me know if you will change my student's record or if it will be necessary to have a hearing to decide if the record must be changed.

If it is decided that the record will not be changed, I plan to add my own statement regarding the record to my student's permanent record.

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: Name, Director of Special Education

Your school district

APPENDIX III, FORM 4:

REQUEST FOR INITIAL COMPREHENSIVE EVALUATION

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I believe my student has a disability and is in need of special education and related services. I have attached the following information supporting my concerns: (independent evaluation, report card, discipline reports, doctor's reports, etc.).

(OR: I am the parent of (name of student), a student that resides in your district that is or will be three years old on (birthdate). I believe my student has a disability and is in need of special education services.)

I am requesting a comprehensive evaluation of my student. I believe testing is needed in the area(s) of: (list areas of suspected disability and other areas of need).

I understand the Multidisciplinary Evaluation Team (MET) must meet within 14 days to consider my request and to review current information. Within 7 days of the meeting, they must send me a Prior Written Notice indicating their decision, and requesting my consent for testing, if they agree to test. I expect to hear from the MET in 21 or fewer days, which will be (date) or sooner. I can meet on (weekdays except Thursday) (after 10:00 a.m., 3:00 p.m., etc.). I understand the evaluation must be completed within 60 calendar days from the date I sign consent for evaluation. In the meantime, please refer (student) to the Teacher Support Team for development and implementation of Tier 3 interventions.

I look forward to a reply.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: (Name), Director of Special Education

Your School District

APPENDIX III, Form 5: PWN for Refusal/Revocation

OFFICE OF SPECIAL EDUCATION SERVICES

Student's Name: _____

Date given: _____

The purpose of this Notice is to provide the parent with information to make an informed decision when considering the written refusal/withdrawal of consent for evaluation and/or special education services and to provide information regarding the implications of this decision. While the school considered the initial provision/continuation of the evaluation process and/or special education services, that option was rejected because the parent refused/revoked consent for evaluation and/or special education services. When the parent rejects or withdraws consent for the provision of special education services, the school has no other options but to comply with the parent's wishes.

"Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. There are many rights and protections offered to students in special education that are not available to students in general education. Eligibility for special education is determined on the basis of evaluations which assess the need for specialized instruction designed to provide a free appropriate public education to eligible students in a public school setting. A copy of the *Notice of Procedural Safeguards: Rights of Parents of Students with Disabilities* can be obtained from the Mississippi Department of Education/Office of Special Education's website and your child's school.

Refusing/withdrawing consent for evaluation and/or special education services carries the implications listed below:

Place your initials next to each statement to acknowledge that you understand the content of this Notice.

I am refusing/withdrawing consent for ____ Evaluation ____ Services.

_____ The evaluation process will cease immediately.

_____ The student will be dismissed from special education in 7 days and will not receive any special education or related services.

_____ If I change my mind, I must request an initial evaluation and my child must be considered for an initial evaluation by the Multidisciplinary Evaluation Team.

- _____ The student will not be considered to have a disability under the Individuals with Disabilities Education Act (IDEA) and will be placed full-time in general education.
- _____ The student will be educated in all general education classes and will not have the benefit of special education accommodations, modifications, specialized instruction or related services. All instruction will be provided on grade level and the student will be held to the same assessment and accountability standards as any other non-disabled student.
- _____ The student will be expected to meet the same promotion standards applicable to all general education students. This will include, but may not be limited to, any state or district assessment and criteria for promotion of general education students.
- _____ The student will be required to meet all graduation requirements, including the achievement of passing scores on required Subject Area Tests (SATP). If the student does not achieve passing scores on the SATP, the student will not be able to graduate or receive a standard high school diploma.
- _____ The student will be expected to follow the Code of Student Conduct and will be subject to the same expectations and discipline consequences of non-disabled students. If, after dismissal from special education, the District proposes to discipline the student in a manner that involves removal to an alternative education program or expulsion, the District will be deemed to have no basis of knowledge of a disability. The student will have no IDEA disciplinary protections unless and until an initial evaluation is completed and eligibility is appropriately determined.
- _____ If the student received an evaluation and/or special education and related services, the District is not required to amend education records to remove any references to the receipt of an evaluation and/or special education and related services because of my refusal/revocation of consent.
- _____ I understand the provision of special education and related services as stated in any previous IEP will cease and will not be provided by the school district. This includes any compensatory services, requests for independent education evaluations (IEE), any services agreed to as part of resolution session agreements, settlement agreements, "stay put" provisions and any services ordered by an impartial hearing officer as a result of any due process hearing that may have been filed.

If you have questions regarding this *Notice* or need to obtain assistance in understanding special education issues, you may contact your Special Education Director at _____, the Parent Outreach Division of the MDE/OSE, an advocate or an attorney. Free and low-costs services are available through the agencies listed in the attached Resource page.

Your signature below indicates you: 1) understand the contents of this *Prior Written Notice: Refusal/Revocation of Consent for Special Education Evaluation and/or Services*; 2) understand the statements above; 3) are withholding/withdrawing your consent for evaluation and/or the provision of special education and related services; 4) fully understand the consequence of your refusal/withdrawal of consent; and 5) are in agreement with the termination of evaluation and/or special education services.

Parent Printed Name

Parent Signature

Date: _____

Witness Printed Name

Witness Signature

Date: _____

The school district has reviewed the student's records, including the cumulative record, work samples, assessments/evaluations and IEPs, and ___ agrees ___ does not agree with the parent's refusal/revocation of evaluation and/or special education services, but has no other options available under *IDEA* and *State Board Policies Chapter 74, 74.19*.

School District Personnel

School District Personnel

Date: _____

APPENDIX III, FORM 6:

REQUEST FOR ADDITIONAL TESTING AS PART OF THE INITIAL EVALUATION

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I have studied the reports of the school's evaluation of my student and feel **she** needs additional testing to determine appropriate eligibility and special education and related services needs. I believe additional testing is needed in the area(s) of: (list areas needing further testing).

I look forward to hearing from you within five (5) school days of the date you receive this letter so we can arrange a time and place for a meeting. Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: **Name**, Director of Special Education
 Your School District

APPENDIX III, FORM 7:

REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION

Date

Name of Superintendent

Name of School District

Address of School District

Dear (name of Superintendent):

I am the parent of (name of student), a student at your school. I disagree with the school's evaluation of (name of student), and I am requesting an independent educational evaluation (IEE).

Please send me a copy of the written criteria under which independent educational evaluations must be conducted. If your district has a written list of independent evaluators for consideration, please include it, too.

I understand the district must pay for the independent evaluation unless it requests a hearing that proves its evaluation was appropriate. I will send you the results of the IEE when I receive the report. I understand it must be considered in future decisions about my student's education.

Please send me the criteria and list within seven (7) days of the date you receive this letter.

Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: Name, Director of Special Education

Your School District

APPENDIX III, FORM 8:

REQUEST FOR REEVALUATION WITH TESTING

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I recently reviewed my student's evaluations and IEP, and I believe a new evaluation with testing is needed to determine appropriate:

___eligibility category,

___Present Levels of Academic Achievement and Functional Performance,

___annual goals,

___individualized instruction,

___special education services,

___related services,

___accommodations,

___modifications,

___access to general education curriculum,

___Least Restrictive Environment,

___Statewide Assessment decision,

___Transition Services,

___ESY,

___Other_____.

I look forward to hearing from you within five (5) school days of the date you receive this letter to schedule an IEP meeting to discuss my request.

Thank you for your help.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: Name, Director of Special Education, Your School District

APPENDIX III, FORM 9A:

PREPARING FOR THE IEP MEETING

- ___ Read your notice to see what issues will be discussed, who will attend and their role(s).
- ___ Be sure enough time is allotted for the meeting.
- ___ If necessary, request the meeting be rescheduled at a place and time you can attend or when more time can be allotted for the meeting.
- ___ Ask the school to invite any representatives of outside agencies you think should attend (e.g. MS Department of Mental Health, MS Department of Rehabilitative Services, etc.).
- ___ Ask the school for copies of any relevant information you do not already have, including:
 - ___ Latest evaluation and any new screening the school has done
 - ___ Teacher and therapists' progress notes (if necessary, talk with the teacher(s) and others for information on the student's progress)
 - ___ State Standards for your student's age and grade level
 - ___ Copy of your student's latest state assessment results
 - ___ Student Code of Conduct
 - ___ Blank IEP forms/any drafts of IEPs the school might have created
- ___ Gather any reports you have from outside therapists, tutors, consultants or doctors.
- ___ Make a list of your student's gifts and talents.
- ___ Read the state standards and list the ones you think your student could learn "as is" or with modifications.
- ___ Make a list of the instructional modifications and accommodations and behavior supports you know will work for your student.
- ___ Make a list of other things you would like your student to learn during the year.
How is this going to help her? _____

Will she be able to participate more fully in school life? _____

Will he become more independent? _____

How will her life change or improve? _____

How does this relate to post-secondary plans? _____

____ Review the lists and mark 4-5 things you think are most important for your student. These will be the basis for developing her IEP goals during the IEP meetings.

____ Make a list of her areas of functioning that would increase with assistive technology (communication, mobility, etc.). Be prepared to make requests for assistive technology if it is needed.

____ Make extra copies of each list to bring to the meeting.

____ Decide who you will bring to the IEP meeting and make sure they are available.

____ Decide if you want to meet with the teacher(s), diagnostician or related services provider before the IEP meeting.

____ Write a letter or make a list of Parent Concerns to discuss or to attach to the IEP.

____ If you want to tape record the IEP meeting, gather the equipment and send notice to the school at least **24 hours in advance of the meeting in writing.**

Notes:

APPENDIX III, FORM 9B: IEP MEETING CHECKLIST

Be sure the IEP for your student includes:

- ___ an offer of Procedural Safeguards
- ___ excusal of any member who will not attend all or part of the meeting, and their written input, prior to beginning the meeting
- ___ a statement of progress your student has made on her previous IEP goals
- ___ information about current academic achievement and functional performance
- ___ sources of data, including current assessments used to develop baselines and goals (make sure you are allowed to view these assessments before making decisions)
- ___ a statement of how the disability affects the student's involvement and progress in the general curriculum
- ___ measurable baselines for every goal
- ___ measurable annual goals based on peer-reviewed research
- ___ short-term objectives if your student will be alternately assessed
- ___ method for measuring progress toward goals and how and when progress will be reported to you
- ___ special education and related services to be provided
- ___ positive behavior strategies and/or a behavior intervention plan (if your student's behavior interferes with her learning or the learning of others)
- ___ modifications of the general curriculum (such as a different instructional level) your student needs to participate in the same learning activities as other students her age
- ___ supplemental aids and services your student needs to participate in general education classes and activities
- ___ supports and training to be provided for school personnel
- ___ specifics about each instructional and related service, including date services begin, minutes per session, frequency of sessions, location of services, and the position responsible for each service in the IEP (e.g., special education teacher, physical therapist, etc., rather than someone's name). You should also clarify whether your student will be receiving direct or consultative services.
- ___ special materials, equipment, resources and/or assistive technology needed and when they will be made available
- ___ a statement of ANY academic or extracurricular activity in which your student will NOT participate with non-disabled students, and the reasons why
- ___ a determination of which state assessments she will take, and how
- ___ any accommodations she needs to take required assessments
- ___ a statement of any exceptions to the district policies such as participation in extracurricular activities and the Student Code of Conduct, and the reasons for the exceptions

- ___ transition services to be provided beginning in the school year in which your student turns 14 or younger if determined appropriate
- ___ goals for ESY from the current IEP (if the IEP meeting is in the spring)
- ___ a listing of the IEP committee members and statements of members' agreement or disagreement with any part of the IEP
- ___ Parental Concerns have been listed in the Parental Concerns Section
- ___ Parental Concerns have been addressed in goals, services and placement decisions
- ___ Minutes reflect Parental Concerns
- ___ Prior Written Notice reflects any district denials of parental requests/services

APPENDIX III, FORM 10: REQUEST FOR IEP MEETING

Date

Name of principal

Name of school

Address of school

Dear (name of principal):

I am the parent of (name of student), a student at your school. I recently reviewed my student's IEP which was developed in (month and year), and I believe it is (out-of-date, incomplete, based on insufficient evaluation information, etc.) because (state your reasons). I request a new meeting be held as soon as possible to review and, if necessary, revise (name of student)'s IEP.

Please contact me within 5 days so the meeting can be scheduled at a mutually agreeable time and place.

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

Your name

Your address

Your telephone number

Your email address (optional)

CC: Name, Director of Special Education
Your School District

APPENDIX III, FORM 11: REQUEST FOR MEDIATION

Date

Parent Consultant
Mississippi Department of Education
Office of Special Education
Post Office Box 771
Jackson, MS 39205-077

Dear MDE Parent Consultant:

I am the parent of **name of student**, a student who receives special education. I am writing this letter to request mediation of my dispute with the **Your** School District concerning the education of my student. It is my hope that mediation will resolve this disagreement so it will not be necessary for me to request an impartial due process hearing.

In this paragraph explain why you are requesting mediation. Briefly describe the facts and tell why you disagree with the school.

Sincerely,

Your name (required)

Your address (required)

Your telephone number (required)

Your fax number (optional)

Your email address (optional)

cc: Superintendent, **Your** School District

APPENDIX III, FORM 12:

REQUEST FOR DUE PROCESS HEARING

Date

Name of Superintendent

Name of School District

School district mailing address

Dear Superintendent:

I am requesting a due process hearing before an impartial hearing officer regarding my child, [student's name](#). I have included the MDE Office of Special Education Due Process Hearing Complaint Form.

I am requesting a copy of all correspondence sent and received between the [School District](#) and MDE regarding my complaint.

Thank you for your assistance in this matter.

Sincerely,

[Your name](#)

[Your address](#)

[Your telephone number](#)

[Your fax number \(optional\)](#)

[Your email address \(optional\)](#)

CC: Parent Consultant
Mississippi Department of Education
Office of Special Education
Post Office Box 771
Jackson, MS 39205-0771

[Name](#), Director of Special Education

[Your School District](#)

APPENDIX III, FORM 13

This is a model form. All information is required, however, you may use another form of documentation in conveying your request to the Office of Special Education.

Mississippi Department of Education, Office of Special Education

REQUEST FOR DUE PROCESS HEARING UNDER PART B OF IDEA

I am requesting a hearing before a State Level Hearing Officer.

Your name _____
Child's name _____
Parent's name _____
Address of the residence of the child _____
Parent's address _____
Child's resident district and school _____
Parent's phone number _____
Email Address _____

This problem(s) results from:

_____ **Proposal to initiate or change:**

- _____ The child's identification
- _____ The child's evaluation
- _____ The child's educational placement
- _____ Provision of a free appropriate public education to the child

_____ **Refusal to initiate or change:**

- _____ The child's identification
- _____ The child's evaluation
- _____ The child's educational placement
- _____ Provision of a free appropriate public education to the child

Describe the following (use additional sheets of paper if more space is needed).

The nature of the problem(s) relating to the proposal or refusal indicated above:

The facts of this case relating to the above problem(s):

Your proposed resolution of the problem(s):

I/we agree to participate in a mediation process: ☐ YES ☐ NO (This will not delay the opportunity for a hearing.)

Parent Signature _____

Date Form Completed _____

*Address and phone number of person filing request _____

*Position/role of person filing request, if not parent _____

*If an attorney or other individual representing the parent completes this form on behalf of the parent, an authorization for representation signed by the parent must accompany this form.

APPENDIX IV: RESOURCES

US Department of Education Grant Funded Programs

Mississippi Parent Training and Information Center (MSPTI)

2 Old River Place, Suite M

Jackson, MS 39202

(601) 969-0601; (800) 721-7255

Check the Mississippi Parent Training and Information Center's website for up to date information and archive webinars at <http://www.mspti.org/>

Disability Rights Mississippi (DRMS)

5 Old River Place, Suite 101

Jackson, MS 39202

(601) 968-0600; (800) 772-4057

www.drms.ms

Mississippi Council on Developmental Disabilities

1101 Robert E. Lee Building

239 N. Lamar St.

Jackson, MS 39201

(601) 359-6238

www.msccd.org

The Institute for Disability Studies

University of Southern Mississippi

118 College Drive #5163

Hattiesburg, MS 39406-0001

(601) 266-5163; (888) 671-0051 (TTY)

www.usm.edu/disability-studies

Mississippi Hearing-Vision Project

University of Southern Mississippi

Department of Curriculum, Instruction, and Special Education

118 College Drive # 5115

Hattiesburg, MS 39406-0001

(800) 264-5135

https://www.usm.edu/sites/default/files/groups/mississippi-hearing-vision-project/pdf/hearing_vision_project_brochure_-_2014.pdf

Mississippi State Agencies

Mississippi Department of Education (MDE)

359 North West Street

P.O. Box 771

Jackson, MS 39205-0771

(601) 359-3513

www.mdek12.org

Mississippi Department of Education/ Office of Special Education

Phone Number: (601) 359-3498

Parent Hotline: 1-877-544-0408

www.mdek12.org/ose

Mississippi Policies and Procedures Regarding Children with Disabilities under the *Individuals with Disabilities Education Act Amendments of 2004*

www.mdek12.org/sites/default/files/documents/part-34-rule-74-19_20160614161027_365113.pdf

Procedural Safeguards Document

www.mdek12.org/OSE/parents (available in English, Spanish and Vietnamese)

Mississippi Extended Curriculum Frameworks (MECF) (Language Arts, Mathematics, and Science for Students with Significant Cognitive Disabilities)

www.mdek12.org/OSE/IP

IEP Form

www.mdek12.org/sites/default/files/Offices/MDE/OAE/OSE/Info-and-Publications/IEP.REVISED.8.24.18.002.pdf

IEP Guidance Document

www.mdek12.org/sites/default/files/Offices/MDE/OAE/OSE/Info-and-Publications/iep-guidance-doc-2014-07-02.pdf

ESY Information

<https://www.mdek12.org/OSE/funding/special-education-extended-school-year>

School District Monitoring Reports

www.mdek12.org/OSE/monitoring/monitoring-reports

Special Education Advisory Panel (members, meeting information and annual reports) www.mdek12.org/OSE/AP

Response to Intervention Tools and Supports

www.mdek12.org/OAE/OEER/InterventionServices

Mississippi College and Career-Ready Standards

www.mdek12.org/OAE/college-and-career-readiness-standards

Office of Student Assessment

601-359-3052

www.mdek12.org/osa

Mississippi State Department of Health (MSDH)

570 East Woodrow Wilson Drive

Jackson, MS 39216

(601) 576-7400; (866) 458-4948

www.msdh.state.ms.us

First Steps Early Intervention Program

Mississippi State Department of Health

P.O. Box 1700

570 E. Woodrow Wilson Boulevard

Jackson, MS 39215-1700

(601) 576-7427; (800) 451-3903

hmsdh.ms.gov/msdhsite/_static/41,0,74.html

Children's Medical Program (CMP)

http://msdh.ms.gov/msdhsite/_static/41,0,163.html

Mississippi Department of Human Services (MDHS)

750 North State Street

Jackson, MS 39202

(800) 345-6347

www.mdhs.state.ms.us

Division of Youth Services

750 North State Street

Jackson, MS 39202

(601) 359-4999; (800) 345-6347

www.mdhs.ms.gov/youth-services/

Mississippi Department of Mental Health

1101 Robert E. Lee Building
239 N. Lamar Street
Jackson, MS 39201
(601) 359-1288; (877) 210-8513
www.dmh.state.ms

Intellectual and Developmental Disabilities Programs

www.dmh.ms.gov/who-we-are/idd-programs

Behavioral Health Programs

www.dmh.ms.gov/who-we-are/psychiatric-hospitals

Community Services

www.dmh.ms.gov/who-we-are/community-services

Mississippi Department of Mental Health State Plans and Annual Reports

www.dmh.ms.gov/resources

Mississippi Division of Medicaid

Sillers Building
550 High Street Suite 1000
Jackson, MS 39201-1399
(601) 359-6050; (800) 421-2408
www.medicaid.ms.gov
<https://medicaid.ms.gov/programs/>

Mississippi Department of Rehabilitation Services

1281 Highway 51
Madison, MS 39110
(800) 443-1000
www.mdrs.ms.gov

Office of Vocational Rehabilitation (OVR)

<http://www.mdrs.ms.gov/VocationalRehab/Pages/default.aspx>

Office of Vocational Rehabilitation for the Blind (OVRB)

<http://www.mdrs.ms.gov/VocationalRehabBlind/Pages/default.aspx>

Office of Special Disability Programs (OSDP)

<http://www.mdrs.ms.gov/SpecialPrograms/Pages/default.aspx>

Disability Determination Services (ODDS)

<http://www.mdrs.ms.gov/Disability/Pages/default.aspx>

Home and Community Based Services

<http://www.mdrs.ms.gov/SpecialPrograms/Pages/Waiver-Programs.aspx>

Office on Deaf and Hard of Hearing - a division of MDRS that focuses on the needs of the deaf and hard of hearing and enhances services to this population.

<http://www.odhh.org/index.php>

Supported Employment Program - provides the opportunity to assist individuals with the most significant disabilities with finding employment.

<http://www.mdrs.ms.gov/VocationalRehab/Pages/Supported-Employment.aspx>

The Transition Services Program – works with eligible secondary school students with disabilities to enable them to transition from school to subsequent work environments.

<http://www.mdrs.ms.gov/VocationalRehab/Pages/Transition.aspx>

AbilityWorks, Inc. - a network of community rehabilitation programs that provide vocational assessment, job training and actual work experience for individuals with disabilities.

<http://www.mdrs.ms.gov/AbilityWorks/Pages/default.aspx>

Mississippi Project START

P.O. Box 1698

Jackson, MS 39215-1698

800-852-8328

www.msprojectstart.org

Mississippi Project START (Success Through Assistive Rehabilitative Technology) was established to provide information about assistive technology to consumers and other interested parties so they may make informed decisions about available assistive technology services.

Non-Profit, Parent and Disability Advocacy Organizations

Autism Organizations in Mississippi

Autism Center of North Mississippi

146 S. Thomas St., Ste. C

Tupelo, MS 38801

(662) 840-0974

www.autismcenternms.com

Mississippi Centers for Autism and Related Developmental Disabilities

4061 Suzanne Dr., Suites C & D

D'Iberville, MS 39540

(228) 396-4434

www.mscentersforautism.org

TEAAM

P.O. Box 37

Mize, MS 39116

(601) 782-9005

(866) 993-2437

www.teaam.org

Brain Injury Association of Mississippi

1640 Lelia Drive, Suite 100

Jackson, MS 39216

(601) 981-1021

(800) 444-6443

www.msbia.org

Coalition for Citizens with Disabilities

2 Old River Place, Suite M

Jackson, MS 39202

(601) 969-0601; (800) 721-7255

www.msccd.org

Down Syndrome Societies in Mississippi

Central Mississippi Down Syndrome Society (CMDSS)

Post Office Box 935

Jackson, MS 39205

(601) 385-3696

www.cmdss.org

Gulf Coast Down Syndrome Society (GCDSS)

P.O. Box 654

Gautier, MS 39553

(228) 447-0270

Northeast Mississippi Down Syndrome Society (NEMDSS)

137 Stage Drive

Saltillo, MS 38866

(662)871-8578 or (662) 871-2387

nemdss@bellsouth.net

Epilepsy Foundation of Mississippi

5 Old River Place, Suite 105

Jackson, MS 39202

(601) 936-5222

www.epilepsy-ms.org

Families As Allies

840 E. River Place, Suite 500

Jackson, MS 39202

(601) 355-0915

800-833-9671

www.faams.org

Living Independence for Everyone (L.I.F.E.)

Statewide Independent Living Center and Offices

1304 Vine Street

Jackson, MS 39202

(601) 969-4009; (800) 748-9398

www.lifeofms.com

Canopy Children's Solutions

P.O. Box 1078
Jackson, MS 39215
(601) 352-7784

<https://mycanopy.org>

The Mississippi Client Assistance Program

P.O. Box 4958
Jackson, MS 39296
(601) 362-2585; (800) 962-2400

www.msdisabilities.com/client-assistance-program

Provides advocacy services for clients and client applicants of the Office of Vocational Rehabilitation, Vocational Rehabilitation for the Blind and the Independent Living programs.

Mississippi Society for Disabilities

1675 Lakeland Drive, Suite 303
Jackson, MS 39216
(601) 982-7051

www.msdisabilities.com

Mississippi Speech-Language-Hearing Association

P.O. Box 22664
Jackson, MS 39225
(800) 664-6742

www.mshausa.org

NAMI Mississippi (National Alliance on Mental Illness)

2618 Southerland Street, Suite 100
Jackson, MS 39216
(601) 899-9058; (800) 357-0388

www.namims.org

Parent Teacher Association (PTA)

Mississippi Congress of Parents and Teachers, Inc.

120 North Congress St, Suite 901

Jackson, MS 39202

(601) 352-7383; (800) 795-6123

www.misspta.org

Parents for Public Schools

125 South Congress Street, Suite 1218

Jackson, MS 39201

(601) 969-6936; (800) 880-1222

www.parents4publicschools.org

The Arc of Mississippi

704 North President Street

Jackson, MS 39202

(601) 355-0220

www.arcms.org (find your local Arc chapter on the website)

Tourette's Syndrome Association

Support Group of Memphis, TN (also serves Northern MS)

kmoore630@gmail.com

Legal Assistance

ACLU of Mississippi

P.O. Box 2242
Jackson, MS 39225
(601) 354-3408
www.aclu-ms.org

Disability Rights Mississippi (DRMS)

5 Old River Place, Suite 101
Jackson, MS 39201
(601) 968-0600; (800) 772-4057
www.drms.ms

Mississippi Center for Justice

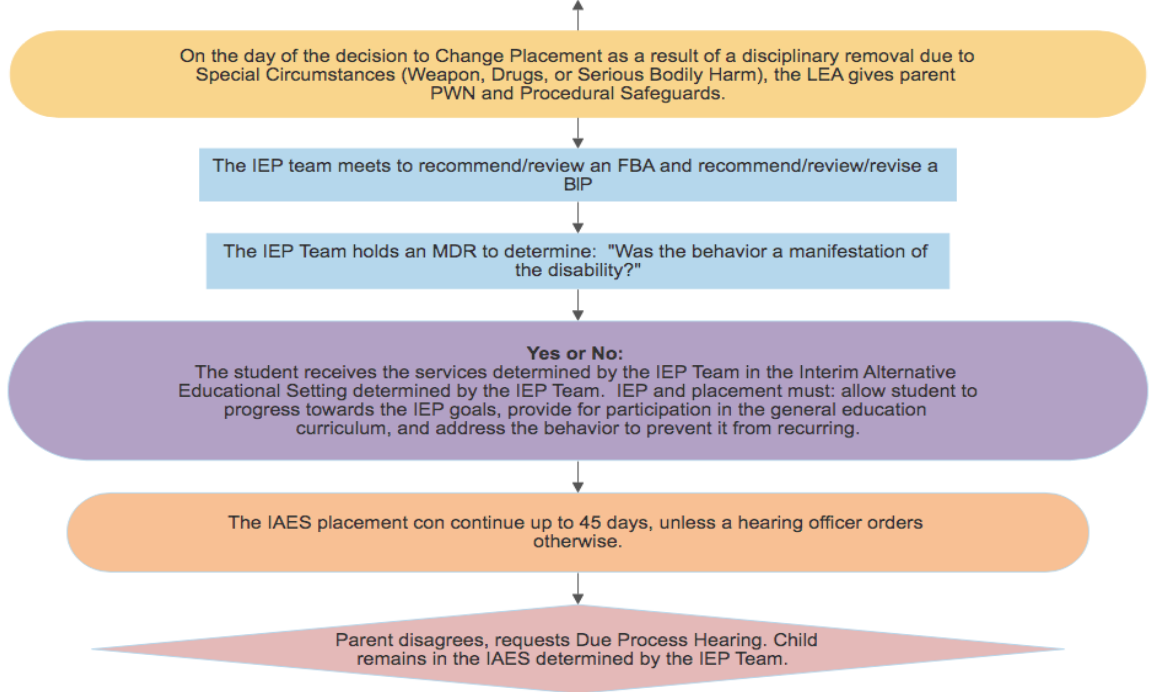
5 Old River Place Suite 203
Jackson, MS 39215
(601) 352-2269
www.mscenterforjustice.org

Southern Poverty Law Center

111 East Capitol Street Suite 280
Jackson, MS 39201
(601) 948-8882
www.splcenter.org

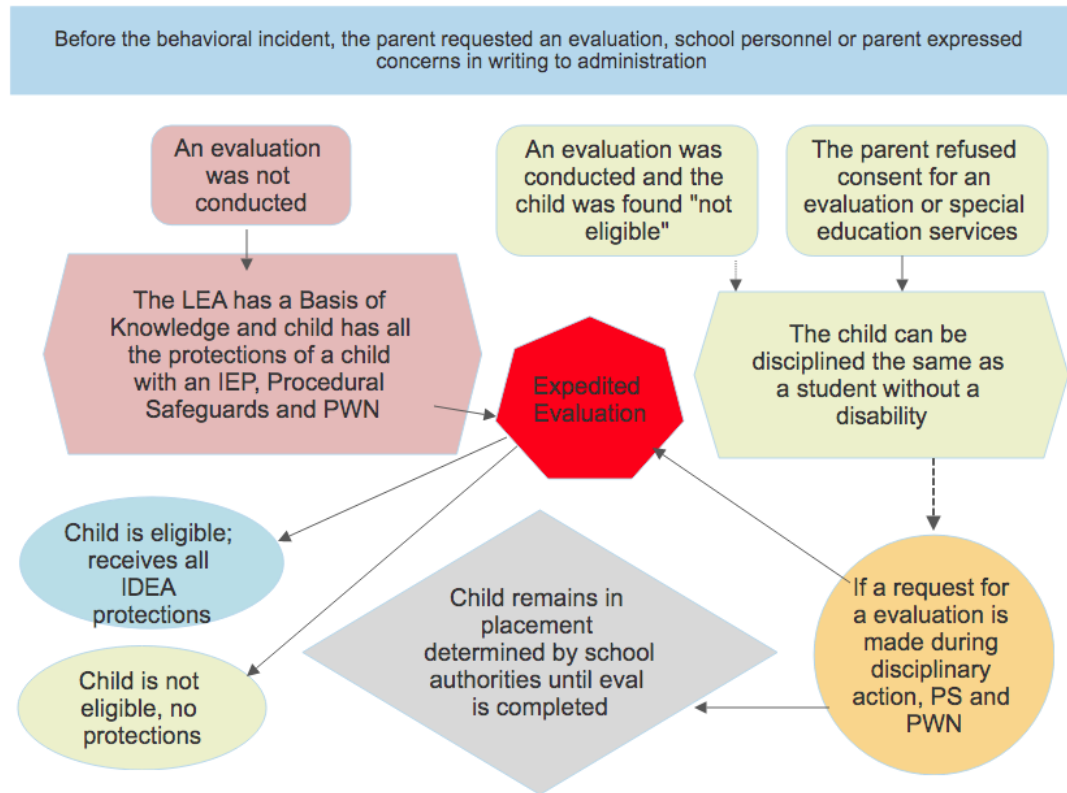
APPENDIX V: Discipline Flow Charts

DISCIPLINARY REMOVAL: SPECIAL CIRCUMSTANCES



APPENDIX V: Discipline Flow Charts

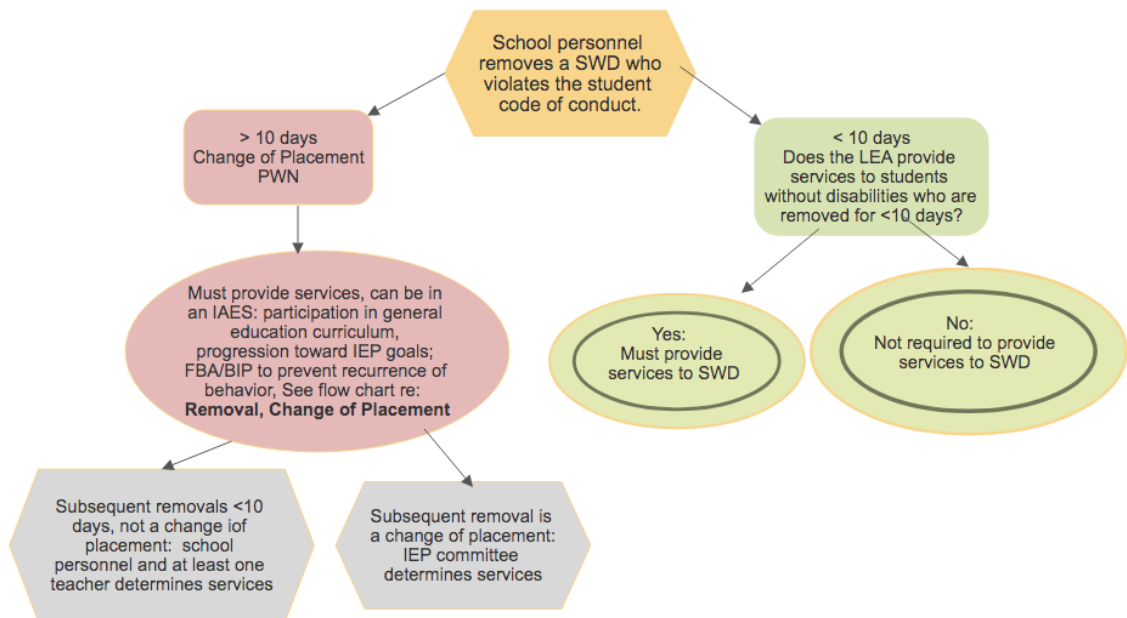
Discipline Flow Chart: Not Yet Eligible



APPENDIX V: Discipline Flow Charts

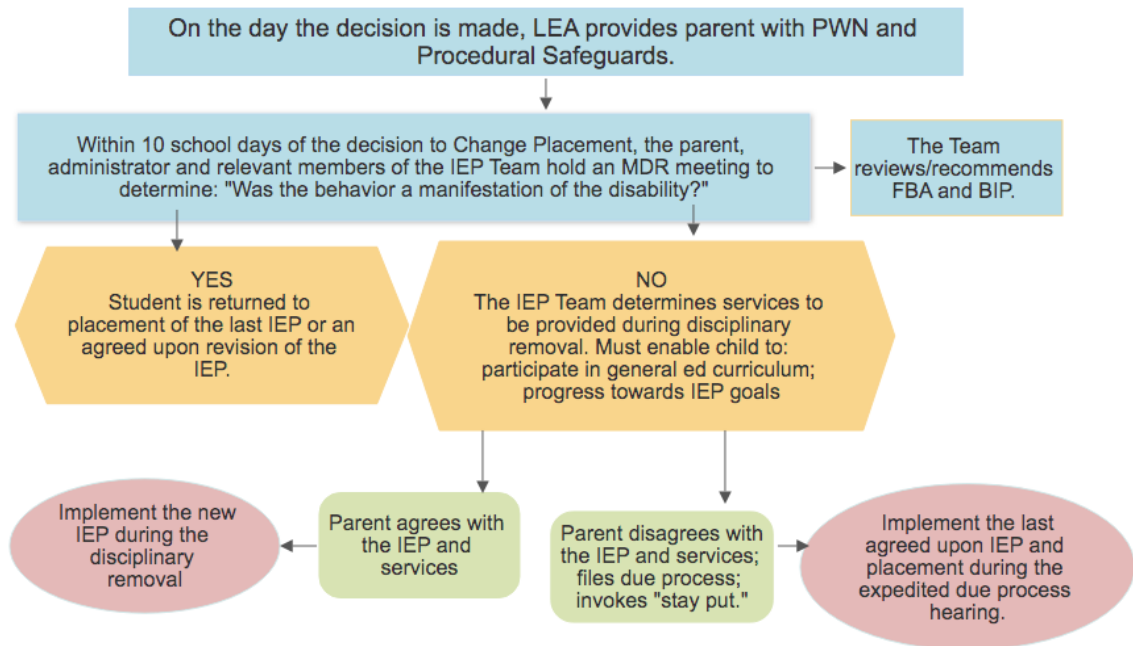
Discipline Flow Chart: Student Code of Conduct

School personnel may consider unique circumstances on a case-by-case basis
Parent receives a copy of Procedural Safeguards



APPENDIX V: DISCIPLINE FLOW CHARTS

Discipline Flow Chart: Removal, Change of Placement



APPENDIX VI:

Response to Intervention Diagram

Designing Schoolwide Systems for Student Success

Referred to in Mississippi as Multi-Tiered System of Supports (MTSS)
sometimes known as Response to Intervention (RtI)

