

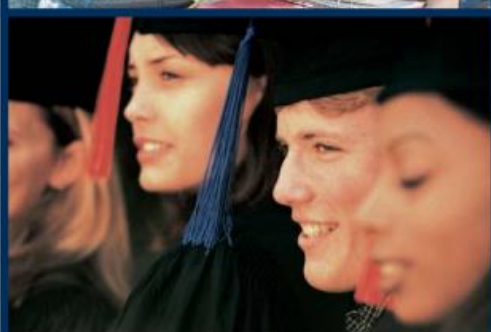
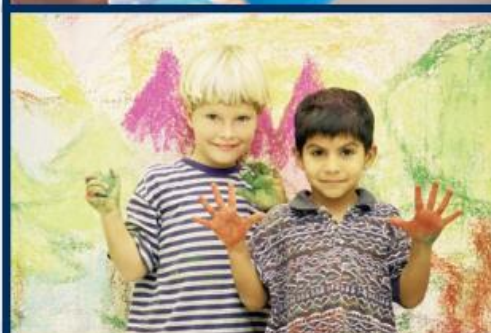
A Parent's Guide to Special Education in Connecticut

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2007



Connecticut State Department of Education
Bureau of Special Education



Connecticut State Department of Education

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in
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Introduction

This document provides information for parents, guardians and other family members about laws, regulations, and policies affecting special education programs and services. These protections, rights and opportunities will best help students with disabilities reach their full potential when parents, families and schools work collaboratively. Setting high expectations for students and high standards for programs will provide the greatest opportunities for a successful adult life.

Special education laws and regulations are meant to protect a student with a disability to ensure that he or she receives the services and assistance that may be necessary to make meaningful progress in his or her education program. In Connecticut, the special education system is based on the federal special education law, Individuals with Disabilities Education Improvement Act (IDEA 2004) and its implementing regulations, in combination with the state's special education law, Connecticut General Statutes Section 10-76a to 10-76h, inclusive and the implementing regulations.

These laws are complex. The goal of this Guide is to help families understand the key concepts of the laws and how to be an effective partner with the schools in the special education process. This booklet has been developed to answer frequently asked questions regarding special education. For further assistance in understanding your rights or to receive a statement of your procedural safeguards, contact the Director of Special Education in your local school district. You may also write or call the Bureau of Special Education, Connecticut State Department of Education, P.O. Box 2219, Room 369, Hartford, CT 06145-2219, at (860) 713-6910. Additional resources are listed at the end of this Guide.

In consideration of its obligations under IDEA 2004, the Connecticut State Board of Education has stated that a unified and coordinated continuum of educational opportunities and supports, designed to address individual needs, serves and benefits all students. The Connecticut State Board of Education also supports the principle that *Connecticut's Common Core of Learning* defines common goals for all students, including students with disabilities. Connecticut's public education system has the duty to provide opportunities for all students to achieve these statewide student goals (motivation to learn, mastery of basic skills, acquisition of knowledge, competence in life skills and understanding society's values). The Board presumes that these goals are best achieved in the child's local school, although it recognizes that some children who present significant and/or unique needs require placement in alternate settings to achieve those goals.

Commonly Used Terms

ACCOMMODATIONS: Teaching supports and services that the student may require to successfully demonstrate learning. Accommodations should not change expectations to the curriculum grade levels. Examples include, extra time for assignments or tests, the use of taped textbooks, study carrel, etc.

ALTERNATIVE ASSESSMENT: Use of assessment strategies, such as performance assessment and portfolios, to replace or supplement assessment by machine-scored multiple-choice tests.

APPLIED BEHAVIOR ANALYSIS (ABA): An intensive, structured teaching program. Behaviors to be taught are broken down into their simplest elements. These elements are taught using repeated trials where the child is presented with a stimulus. Correct responses and behaviors are rewarded with positive reinforcement. When incorrect responses occur, they are ignored and appropriate responses are prompted and rewarded.

ASSISTIVE TECHNOLOGY: Any item, piece of equipment or product system, whether acquired commercially, off the shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities.

BEHAVIOR INTERVENTION PLAN (BIP): A plan and/or strategies, program or curricular modifications, and supplementary aids and supports developed by a planning and placement team (PPT) to teach a child appropriate behaviors and eliminate behaviors that impede his/her learning or that of others. It should be positive in nature, not punitive.

BSE: Bureau of Special Education

CSDE: Connecticut State Department of Education

EVALUATION: Tests and other assessment procedures, including a review of information, that are used to decide whether your child is eligible for special education services and what services your child may need.

EXTENDED SCHOOL YEAR (ESY): Special education and related services that are provided to a student: in accordance with the student's individualized education program (IEP); beyond the normal school year; and/or school day and at no cost to parents. The determination of the need for ESY services to a student is determined by the PPT on an individual basis.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA): A federal law, enacted in 1984, that gives all parents of students under 18 or students over the age of 18 or attending post-secondary schools, the right to see, correct and control access to student records.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE): Special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet state and federal requirements, include preschool, elementary school, or secondary school education; and are provided according to an IEP.

FUNCTIONAL BEHAVIOR ASSESSMENT (FBA): A FBA is an assessment that looks at why a child behaves the way he or she does, given the nature of the child and what is happening in the environment. It is a process for collecting data to determine the possible causes of problem behaviors and to identify strategies to address the behaviors.

IDENTIFICATION: The decision that a child is eligible for special education.

INDIVIDUALIZED EDUCATION PROGRAM (IEP): A written education program for a child with a disability that is developed by a team of professionals (administrators, teachers, therapists, etc.) and the child's parents; it is reviewed and updated at least yearly and describes the child's present performance, what the child's learning needs are, what services the child will need, when and for how long, and identifies who will provide the services.

LEAST RESTRICTIVE ENVIRONMENT (LRE): A child with a disability must, to the maximum extent appropriate, be educated with children who are nondisabled in the general education class in the school that he/she would attend if the child did not have a disability that required special education and related services. A child with a disability should not be removed from the general education setting unless the nature and severity of the child's disability is such that education in the general class with the use of supplemental aids and services cannot be achieved satisfactorily.

MANIFESTATION DETERMINATION: When a child with a disability behaves in a way that violates the school's code of conduct and, as a result, the school seeks to change the child's education placement, a determination needs to be made as to whether the child's behavior is caused by the child's disability.

MODIFICATIONS/ADAPTATIONS: Changes made to curriculum expectations in order to meet the needs of the student. Modifications are made when the grade level or age appropriate expectations are beyond the student's level of ability. Modifications may be minimal or very complex depending on the student performance. Modifications must be clearly acknowledged in the IEP.

OFFICE OF CIVIL RIGHTS (OCR): A branch of the U.S. Department of Education that enforces several Federal civil rights laws (such as, Section 504) that prohibit discrimination in programs or activities that receive federal financial assistance. These laws prohibit discrimination on the basis of race, national origin, gender, disability and on the basis of age.

OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP): A division of the U.S. Department of Education dedicated to improving results for children with disabilities ages birth through 21, by providing leadership and financial support to assist states and local districts. OSEP administers the Individuals with Disabilities Education Improvement Act (IDEA).

PJ SETTLEMENT AGREEMENT: P.J., et al. v State of Connecticut Board of Education, et al. was filed in 1991 in federal district court on behalf of five school-age children with mental retardation and their families against, among others, the Connecticut State Board of Education and the State Commissioner of Education. The lawsuit was later certified by the court as a class action. The class is made up of all school-age children in Connecticut identified with the label of mental retardation/intellectual disability who are not educated in the general classroom. On May 22, 2002, a settlement agreement was approved by the federal court and five goals and outcomes were established.

POSITIVE BEHAVIOR SUPPORTS (PBS): An approach to addressing challenging behaviors that includes functional assessment of the behavior, organizing the environment, teaching skills, rewarding positive behaviors, anticipating situations and monitoring the effect of interventions and redesigning interventions as necessary.

PLANNING AND PLACEMENT TEAM (PPT): A group of professionals who represent each of the teaching, administrative and pupil personnel staffs and who, with the parents, are equal participants in the decision making process to determine the specific educational needs of the child and develop, review and revise a child's IEP. A planning and placement team reviews referrals to special education, determines if the child needs to be evaluated, decides what evaluations will be given to the child, and determines whether the child is eligible for special education services.

PRIOR WRITTEN NOTICE: An explanation why the school district proposes or refuses to take an action. The school must inform parents of any actions proposed or refused by the PPT, a description of other options that the PPT considered, an explanation why those options were rejected including assessment information used to make the decision. All this must be done in writing. In Connecticut, prior written notice is attached to the IEP. The proposed action cannot be implemented until five school days from the date the parents receives the notice.

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REGIONAL EDUCATION SERVICE CENTER (RESC): A Connecticut public educational authority formed by four or more boards of education for the purpose of cooperative action to furnish programs and services.

SECTION 504 OF THE REHABILITATION ACT OF 1973: A federal civil rights statute that protects the rights of persons with disabilities in programs and activities that receive federal financial assistance, which includes public schools.

STAY PUT: The requirement that your child must stay in his or her current program or placement during the course of a due process hearing, unless you and the school district agree to a change.

SUPPLEMENTARY AIDS AND SERVICES: Aids, services, program modifications, and/or supports for school personnel that are provided in general education classes or other education-related settings to enable students with disabilities to be educated with students who are nondisabled.

Special Education and Related Services

What is special education?

Special instruction education to meet is provided his/her unique to a child needs with and an to identified enable the disability child to who access needs the specially general curriculum designed of the school district. A child who is eligible for special education services is entitled by federal law to receive a free appropriate public education (FAPE). FAPE ensures that all students with disabilities receive an appropriate public education at no cost to the family. FAPE differs from student to student because each has unique needs. As a parent of a child who has or who may have a disability that requires specially designed instruction, you will work with a team of educators and, as appropriate, specialists to determine the needs of your child and to design an appropriate program to address your child's educational needs.

What are related services?

Related services are those services that are required in order for a child to benefit from special education. Related services may include, but not be limited to, psychological and counseling services, speech and language services, audiological services, guidance, social work, transportation, physical and occupational therapy and medical services that are required for diagnostic or evaluation purposes.

How am I notified of my child's rights?

You must be given a copy of Steps to Protect a Child's Right to Special Education: Procedural Safeguards in Special Education one time each year that your child receives special education. Additionally, a copy must be given to you when:

- ✧ your child is referred for an initial evaluation or you request an evaluation;
- ✧ you file a complaint or request a due process hearing; or
- ✧ you request a copy.

Eligibility

Who is eligible for special education and related services?

To be eligible for special education and related services:

- ✧ Your child must be between 3 and 21 years old;
- ✧ Your child must have one or more of the following disabilities, determined by the federal Individuals with Disabilities Education Improvement Act (IDEA 2004):
 - Autism

- Deaf-blindness
 - Deafness
 - Developmental delay (for 3- to 5-year-olds, inclusive)
 - Emotional disturbance
 - Hearing impairment
 - Intellectual disability (mental retardation)
 - Multiple disabilities
 - Orthopedic impairment
 - Other health impairment (limited strength, vitality or alertness due to chronic or acute health problems such as lead poisoning, asthma, attention deficit disorder, diabetes, a heart condition, hemophilia, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome)
 - Physical impairment;
 - Specific learning disability
 - Speech or language impairment
 - Traumatic brain injury
 - Visual impairment including blindness
- ✧ The disability must adversely affect your child's educational performance; and as a result; ✧ Your child requires a specially designed instructional program to address his or her unique educational needs.

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In Connecticut, a school district is also required to provide identification, referral and evaluation services for a child who may be gifted and/or talented. A district is not required, but has the option of, providing services to a child who has been identified as being gifted and/or talented.

What about children with disabilities placed by their parents in private schools?

Children with disabilities placed by their parents in private schools do not have an individual right to receive some or all of the special education and related services that he or she would receive if enrolled in a public school. The school district in which the private school is located is responsible for providing what special education services it designates to children with disabilities placed by their parents in the private elementary or secondary schools in its town.

Referral to Special Education

Before general a child education is referred must 2

to be a planning and placement team, alternative procedures and programs explored and, where appropriate, put into place in the classroom and in used. School districts have teams in individual schools that provide a variety of alternative strategies to your child's teacher to use in the classroom. These teams are sometimes called child study teams, or student assistance teams. You may request assistance from your school's team. If your child's difficulties persist, you should complete a referral to special education.

What is a referral to special education?

A referral to special education is the first step in the process of determining if a child should receive special education services. The referral is a written request for an evaluation of a child who is suspected of having a disability and who may be in need of special education and related services. A referral to special education may be made by:

✧ the student, 18 years old or older; ✧ a parent, guardian or surrogate parent; ✧ school personnel; or ✧ other individuals from other agencies (e.g., physicians, social workers) to whom parental permission to make a referral has been given.

A prompt referral to a planning and placement team (PPT) is required for any child who has been suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of

acceptance.

What if my child hasn't started school, but I suspect a disability may exist?

If your child is over the age of 3, and you believe that he or she may have a disability, you may refer your child for an evaluation by submitting a written request to the director of special education in your local school district. For further assistance in referring your child for an evaluation, you may call the statewide Child Find Number 1(800) 445-2722.

What happens when a referral to special education is made?

When your child is referred to special education by someone other than you, you will receive written notice of this referral. You will receive a notice asking you to participate as a member of the school's planning and placement team (PPT) to review existing evaluation information that the school district has about your child and determine whether there is a need for any additional data or information. *Your participation in this process is very important.*

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The PPT may determine that the existing data provides enough information to determine that your child is eligible for special education or it may decide that the existing data does not support eligibility and refer your child for general education services. If the PPT decides that additional data are needed in order for it to determine whether your child is a child with a disability, you will work with educators and, as appropriate, specialists to design the evaluation procedures for your child. If you disagree with the decision of the PPT to conduct an initial evaluation, you may refuse consent for the evaluation. In this case, the school district may continue to pursue those evaluations by using due process. The school district is not required to pursue an initial evaluation of a child suspected of having a disability if the parent does not provide consent for the initial evaluation. If the PPT refuses to evaluate your child, you may exercise your due process rights to contest its decision. (See page 16 for further explanation of due process and mediation.)

Planning and Placement Team (PPT)

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What is a Planning and Placement Team?

planning be evaluated, and decides placement which team evaluations reviews referrals will be given to special to your education, child, and determines determines if your whether child your needs to

child is eligible for special education services. *You are a valued member of the team.* The PPT is composed of: ✧ The parents of the child with a disability;

✧ At least one regular education teacher of the child (if the child is, or may be participating in the general education environment); ✧ At least one special education teacher of the child, or if appropriate, at least one special education

provider of the child; ✧ A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities and is knowledgeable about the general curriculum and about the availability of resources of the school district; ✧ A pupil services personnel member (for example, a school psychologist, school social worker or guidance counselor); ✧ An individual who can interpret the instructional implications of evaluation results (who may be

one of the previously listed team members other than the parent); ✧ If appropriate, the child with a disability; and ✧ At the discretion of the parent or the school, other individuals who have knowledge or special expertise regarding the child, including related services personnel.

You and the school district may agree in writing that the attendance of a required member of the PPT is not necessary and excuse that PPT member from attending the meeting where the excused team member's area of curriculum or related service is not going to be modified or discussed at the meeting. Additionally, you and the school district may agree in writing to excuse a required member of the PPT where the excused team member's area of curriculum or related service will be discussed at the meeting and the team member submits written input into the development of the

IEP to the parent and the team prior to the meeting. You do not have to enter into such an agreement; if you don't agree to excuse the team member, the team member will be expected to attend the meeting.

Individualized Education Program (IEP) Team Meeting

What is an IEP Team meeting? **A**

n revise individualized an individualized education education program program (IEP) team for a meeting child who is a has meeting been determined of the PPT to to develop, be eligible review for

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special education and related services. The federal law uses the term IEP team but, in Connecticut the term more commonly used is PPT. The PPT is also responsible for reviewing, and as appropriate, revising your child's IEP periodically, but not less than annually. You and the school district may agree in writing to change your child's IEP between annual reviews without holding a PPT meeting. If you don't agree to change the IEP without holding a PPT meeting, the PPT meeting will be held.

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At a PPT meeting, you have the right to:

- ✧ Expect the school district to ensure that you understand the proceedings of the meeting (which may include arranging for a language interpreter or sign language interpreter if necessary to allow you to understand the proceedings);
- ✧ Expect that the school district will use other ways to make sure you can participate in meetings. You and the school district may agree to use individual or conference telephone calls if you cannot attend;
- ✧ Tape-record the meetings as a means to help you understand the proceedings. A school district may also choose to tape-record the meeting. If the school district tape-records the meeting, the tape-recording becomes a part of your child's education record. If either the school district or the parent records the meeting, all participants in the meeting must be informed that they are being taped; and
- ✧ Invite advisors of your own choosing, at your own expense, to be present at and to participate in all portions of the meeting that are convened for the purpose of developing, reviewing and revising the IEP.

Individualized Education Program (IEP)

What is an individualized education program (IEP)?

If your child is determined to be eligible for special education services, you will begin the team process of developing an IEP to meet the specific needs of your child. The IEP is a written plan that describes in detail your child's special education program. Some key elements of a child's IEP include the following:

- ✧ Present levels of educational and functional performance;
- ✧ Measurable educational goals linked to present levels of academic and functional performance for the coming year and short-term instructional objectives derived from those goals;
- ✧ Evaluation procedures and performance criteria;
- ✧ An explanation of the extent, if any, to which your child will not participate in the regular education class, the general education curriculum or extracurricular activities;
- ✧ Modifications and accommodations your child needs to participate in the general education curriculum including nonacademic and extracurricular activities;
- ✧ Special education and related services required by your child including transportation and physical and vocational education programs;
- ✧ Recommended instructional settings and a list of people who will work with your child to implement the IEP;
- ✧ The date services will begin and end, and the frequency of the identified services;
- ✧ The length of the school day and year;
- ✧ Statement of accommodations and modifications needed to facilitate CMT/CAPT, or district-wide

testing; ✧ Recommendations for participation in alternate assessments (if needed); and ✧ Transition service needs. You must receive a copy of your child's IEP within five school days after the PPT meeting held to develop or revise your child's IEP.

Notice of PPT Meetings

How will I be invited to participate in PPT meetings? To schedule these meetings, you have the opportunity to mutually agreeable to participate in PPT meetings. If the meeting is scheduled at a time that is not agreeable to you, you can ask the school district to reschedule the meeting or to arrange for your participation in the meeting through an alternative method, such as a conference telephone call. The school district must notify you in writing at least five school days prior to the meeting to ensure that you will have an opportunity to attend the meeting. The school district may hold a PPT meeting without you being present if it has made repeated attempts to include you and you are unable to attend the scheduled

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meeting. The school district must document the results of its attempts to have you participate in the meeting.

What information must be included in the notice of a PPT meeting?

The written notice of a PPT meeting is provided to you to help you participate in the PPT process. The written notice must state the purpose, time and location of the meeting and must be provided to you in your dominant language at least five school days prior to the meeting. The written notice must also:

✧ inform you who will be in attendance at the meeting; ✧ inform you of your right to invite other individuals to the meeting who have knowledge or

expertise regarding your child or who may provide support; and ✧ invite your child to attend the meeting if your child is at least 16 years old (or younger if the team

thinks it is appropriate), and the purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child.

Informed Consent

What does informed written consent mean? Informed knowledgeable written decision consent about means a proposed that you have activity been by 5

given all the information that you need to make a your school district regarding your child's education, and that you agree in writing when such written consent is required, to that proposed activity. You have the right not to give your consent. You also have the right to revoke your consent at any time. Your failure to respond within ten school days to a request for a written consent will be considered by the school district to be a refusal of consent except when your consent is being sought for a reevaluation of your child.

When must the school district obtain my written consent?

Your written consent is required in the following situations:

✧ Before your child is evaluated for the first time to determine whether your child is eligible for

special education; ✧ Before your child's initial placement into special education; ✧ Before your child is placed in a private placement; and ✧ Before your child is reevaluated. (However, if the school can show that it made a good effort to

get your consent for the reevaluation of your child, and you do not respond, then the school district may proceed with the reevaluation without having obtained your written consent.)

Written consent to evaluate your child for the first time is not the same as the consent that places your child into special

education and related services. A separate written consent is required to begin your child's special education program.

What happens if I do not give written consent for the proposed activity?

If you should disagree with the proposed activity for which written consent is required and you do not give written consent for the proposed activity, the school district must take steps, as necessary, to ensure that your child continues to receive a free appropriate public education.

✧ If you refuse permission for the school district to conduct either an initial evaluation or reevaluation of your child, the school district *may* initiate due process procedures as a way for it to proceed with the recommended evaluation(s).

✧ If you do not give permission for your child to receive special education services, the school district *may not* use due process procedures as a way to *place your child into special education*. If you refuse consent for initial placement of your child in special education, you waive all rights to special education services and protections at the time consent is refused. You may still ask for a reevaluation or due process hearing on the evaluation or the appropriateness of the special education and related services being offered.

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✧ If you refuse permission for the placement of your child into a private school for the purpose of providing your child with a special education program, the school district *must* initiate due process procedures, unless the private placement being offered is for the initial placement of a child in special education in which case the school district may not use due process procedures.

If you refuse written consent for any proposed activity for which written consent is required, your child's current educational placement will not change unless you and the school district reach agreement on a different course of action or until due process procedures have been completed.

What if I want to withdraw my written consent after it has been given?

Giving written consent is voluntary. You can withdraw your written consent at any time by notifying the school district in writing. Withdrawing your written consent does not affect the actions taken or the services provided during the time the school district had your permission.

Must the school district obtain my written consent each time there is a proposal to change my child's program or placement?

No. Once services have started, you or the school district may propose changes to your child's program or placement at a PPT meeting. The school district must provide you with prior written notice of the proposed changes. Your written consent is not required to implement the changes to your child's special education program except when your child is placed initially into a private school for the purpose of receiving his/her special education program. However, if you do not agree with the proposed changes to your child's program, you have the right to initiate due process to stop the changes from occurring. (See page 17 for a further explanation of due process procedures.) If you do not pursue due process review, the proposed changes to your child's program will go forward.

Evaluation

What is an evaluation? **A**n needs, evaluation and to study determine is the whether process used or not by your the PPT child to is determine eligible for your special child's education specific services. learning It strengths must be

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sufficiently comprehensive to identify all of your child's special education and related services needs, whether or not those needs are commonly linked to a specific disability category. The evaluation study must be conducted in a nondiscriminatory way and tests must be validated for the purpose for which they are being used. All assessments must be provided and administered in the language or form of communication with which your child is most comfortable, unless it is clearly not possible to do so.

As the parent, it is essential for you to share with the PPT all the important information you have about your

child's skills, abilities and needs. You should also share results of evaluations you have concerning your child. The PPT must consider information from parents when making decisions concerning the child's program.

The evaluation study will also include a review of information collected by the school district through informal and formal observations, a review of schoolwork, standardized tests and other school records and information from your child's teachers. The PPT will also review and consider any evaluations and information that you are able to provide. As an active participant in the PPT process, one of your responsibilities is to assist the PPT in the design of the evaluation procedures to be used in the study.

When is an evaluation needed?

When your child is referred to special education, an evaluation study will be conducted to determine if your child is eligible to receive special education services. Before this evaluation study can begin, you will receive a written notice that describes the tests and procedures to be used with your child. You have the right to withhold your written consent for the evaluation study or to revoke your consent at any time. A screening done by your child's teacher is not considered an evaluation.

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How will I be informed of the results of the evaluation?

Once the evaluation has been completed, the planning and placement team will meet to interpret the evaluation data. The interpretation of the data will determine: 1) if your child has a disability; 2) if the disability is having an adverse affect on your child's education; and 3) whether your child requires special education and related services. You will receive a copy of the evaluation report generated by the PPT. You may also request a copy of any of the individual evaluation reports that were generated as part of the evaluation process.

Independent Educational Evaluation

What if I disagree with an evaluation conducted by the school district? You (licensed have the and/or right certified) to obtain examiner an independent who is 7

educational evaluation (IEE) conducted by a qualified not employed by your school district. When the school district agrees to pay for the IEE, the criteria under which the IEE is obtained, including the location and the qualifications of the examiner, must be the same as the criteria that the school district would use when it does its own evaluation.

Who pays for an independent evaluation?

If you disagree with an evaluation conducted by the school district, you have a right to an independent educational evaluation at the school's expense, unless the school district can prove its evaluation is appropriate or the IEE does not meet the school district's criteria. If the school believes its evaluation is appropriate, it must initiate a due process hearing or pay for the IEE. If the school district initiates a due process hearing, a hearing officer will decide whether the school district's evaluation is appropriate. If the hearing officer decides in favor of the school district, you may still obtain an independent evaluation, but you will have to pay the costs associated with the independent evaluation.

Do I need to inform the school district if I intend to seek an independent educational evaluation?

Although it is often helpful to consult with the school district when seeking an independent educational evaluation, you are not required to inform the school district in advance. Your decision to consult or not to consult with the school district will have no bearing on your right to ask that the independent educational evaluation be at no cost to you but instead paid by the school district.

If I inform the school district that I am obtaining an IEE because I disagree with the school district evaluation and expect the school district to pay for the evaluation, what is the school district required to do and how long may it take for the school district to respond?

The school district must, without delay; either agree to pay for the IEE or initiate due process procedures to defend the appropriateness of its evaluation.

Is the school required to accept the results of an independent education evaluation?

The school district must consider the results of any independent educational evaluation, including the one you pay for,

when making decisions regarding your child's educational program. However, the school district is not required to agree with or implement any or all of the results or recommendations of the independent educational evaluation. You may also submit the results of an independent educational evaluation as evidence at a due process hearing.

How do I find a professional or clinic to conduct an independent educational evaluation?

The school district must provide you with a list of qualified independent evaluators when you ask for an independent evaluation.

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Reevaluation

What is the purpose of a reevaluation?

The purpose of a reevaluation is to determine:

✧ The educational needs of your child and whether the child continues to be a child with a disability; ✧ The present levels of academic achievement and related developmental needs of your child; ✧ Whether your child continues to need special education and related services; and ✧ Whether your child's IEP needs to be modified.

How often must my child be reevaluated?

The PPT must decide if your child needs a reevaluation at least once every three years. A reevaluation may occur sooner if conditions warrant, or if you or your child's teacher requests it. The federal law states that a reevaluation shall not occur more than once a year unless the parent and the school district agree otherwise.

How is a reevaluation conducted?

The PPT team reviews the existing data and decides whether additional testing is required to determine if your child continues to be eligible for special education services. Existing data may include information provided to the PPT by the parent, teacher reports and assessments, and school staff observations. If the PPT decides that no additional information is needed to determine your child's continuing eligibility for special education services, it must inform you of that decision. If you believe additional information is needed to determine whether your child continues to be a child with a disability who requires special education services, you may request that the school district conduct additional assessments of your child. The school district must either conduct these assessments or request a due process hearing.

Does the school district need my written consent to reevaluate my child?

The school must obtain your written consent before conducting a reevaluation of your child. If you refuse consent, your school district may continue to pursue consent for the reevaluation through mediation and/or due process hearing. If the school district can show that it has tried to get your consent for the reevaluation and you failed to respond to the school district's attempts to obtain your consent, the school district may proceed with the reevaluation as planned.

Transition from the Connecticut Birth to Three System to Special Education

When should my child be referred by my Birth to Three program to my school district? **Y**

our Birth child's to Three Birth System to Three and service throughout coordinator your early will intervention work with you services from to entry identify into the when Connecticut you are comfortable with sharing information about your child and/or making a formal referral to the school district. Transition will be discussed with you each time you have an individualized family service plan (IFSP) meeting with your service coordinator. It is recommended that a formal referral to your child's school district be made when your child is 2 and no later than six months before your child's third birthday. The earlier a referral is made the better, as this gives everyone plenty of time to meet each other and prepare for the transition out of the Birth to Three System. It is important to remember that Birth to Three services will end by the time your child has turned 3 and the goal is to have other services and support programs in place for you and your child after early intervention ends.

Who is responsible for convening the transition planning conference?

Your child's service coordinator from your child's Birth to Three Program is responsible for convening the transition planning conference. The purpose of the transition planning conference is to plan the 'next steps' for you and your child before your child turns 3. At a minimum, three important people need to attend the transition planning conference: you, your child's Birth to Three service coordinator and a representative from your school district. The transition planning conference is scheduled at a mutually convenient time for everyone including you and personnel from your school district. Your service coordinator will notify you and your child's school district of the date, time and place for the meeting. By law, the transition planning conference must take place *no later than 90-days* before and as early as nine months before your child's third birthday.

Should my school district participate in the transition planning conference?

Yes. By law, a representative from your school district is required to participate in the transition planning conference. The responsibility for the participation of the school district in this meeting is not limited to the 180 days that schools are in session. That means that your school district must participate in the transition planning conference even if that meeting needs to be scheduled during the summer months. Should the school district find it difficult to attend the transition meeting, the law allows for their participation by telephone conference call.

When must my school district convene a planning and placement team meeting to design an IEP for my child?

There is no prescribed timeline by law for the scheduling of a PPT meeting for children transitioning from a Birth to Three program to special education. However, the law is clear that all special education activities must take place before the child turns 3. Special education activities include the referral, evaluation, determination of eligibility for special education and the development of the individualized education program for your child. All of those special education activities take place through the PPT. If your child is eligible for special education, your child's IEP must be implemented by their third birthday. In order for the special education and related services to be provided by your child's third birthday, all PPT meetings and activities must be completed before your child's third birthday.

Is my Birth to Three Provider part of the PPT?

Federal law requires that, an invitation to the initial PPT meeting be sent to your child's service coordinator and/or any other representatives from your child's Birth to Three program. The Birth to Three providers can participate in the PPT by sharing information about your child including your child's last Individual Family Service Plan (IFSP). When these individuals participate in the PPT meetings for your child, they can assist you, your child and the school district in the transition process and in making the transition both smooth and effective.

What happens if my child turns three over the summer months?

School districts must still conduct all of their required activities including: convening PPT meetings to discuss your child's referral, planning your child's evaluation, determining your child's eligibility and if eligible, developing an IEP. All of these activities will occur before your child turns 3 even during summer months. During the PPT to develop the IEP, the members of the PPT, including you, must decide if your child will require extended school year (ESY) services. ESY is the special education and related services that take place outside of the regular school calendar, including during the summer months. If the PPT determines that your child is eligible for special education, and is eligible for ESY services, then your child's special education and related services will be provided by your child's third birthday even if that falls during the summer months. If your child is determined eligible for special education and related services, and is not eligible for ESY services, then your child's special education and related services will be provided by the first day of school.

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What happens if my child is referred to the school district late?

In cases of children who are referred to the school district at either 34 or 35 months of age, the goal of school districts will be to provide your child's special education and related services by age three, however, because of the late referral, this may not be possible. In these situations, a reasonable standard for school districts would be to use a 45 school day rule that exists in Connecticut regulation concerning special education. That means that no more than 45 school days

shall pass from your child's referral to the provision of special education and related services if your child is found eligible for special education.

Is there important information that I am responsible to provide?

In order for children to begin receiving their special education and related services, parents must provide documentation that a child's immunizations are up-to-date and provide documentation from a recent visit to the doctor. There is a state form that must be completed. It is often printed on blue paper and can be obtained from your service coordinator, the school and/or the transition booklet that you receive from the Birth to Three Program. If your child is eligible for special education, the health form must be completed and submitted to the school before your child's special education services begin.

Transitioning from High School to Post-School Activities

What about transition services at the secondary level?

✧ At the annual PPT meeting following your child's fifteenth birthday (or younger, if determined appropriate) you will begin to discuss transition planning from school to adult life. Your child must be invited to this PPT meeting, and all subsequent PPT meetings until he/she either graduates from high school with a regular diploma or until the end of the school year in which he or she turns 21.

✧ At the same PPT, your child's IEP will be planned and must include:

- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and
- The transition services needed to assist the child in reaching those goals.

✧ The term "transition services" is defined as a coordinated set of activities for a child with a disability that:

- Is designed to be within a results-orientated process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult services; independent living or community participation;
- Is based on the individual child's needs, strengths, interests and preferences; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Before your child graduates high school with a regular diploma or completes the school year in which your child turns 21, the school district must provide your child with a summary of his or her academic achievement and functional performance. This Summary of Performance (SOP) must include recommendations on how to assist your child in meeting his or her post-high school goals. The SOP must be completed during the final year of your child's high school education. You can view the SOP form on the CSDE website at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2678&Q=320730>.

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Placement

Where will my child receive his/her special education and related services? Your the general child, to education the maximum class in extent the school appropriate, that the must child be would educated attend with if his/her he/she 11 nondisabled did not have peers a in disability that required special education and related services. This is referred to as the LRE or least restrictive environment. The removal of your child from the general educational environment to another instructional site such as a special class or separate school should only occur when the nature or the severity of the disability is such that educating

your child in the general educational environment with the use of supplementary aids and services can not be achieved satisfactorily. If your child's IEP, with the use of supplementary aids and services, cannot be implemented in the school that the child would have attended, the PPT must find an appropriate educational placement for your child as close as possible to your child's home.

What is a Regional Educational Service Center (RESC)?

A RESC is a public educational authority formed by four or more local boards of education for the purpose of cooperative action to provide programs and services to school districts. There are six RESCs in Connecticut, covering six geographical areas of the state.

What is an approved private special education program?

An approved private special education program is a private program that provides special education and related services to children. Although it is not a public agency, an approved private special education program must meet the standards that were established by the State Board of Education. See the directory of state approved private special education programs at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2678&Q=320730>.

Who is responsible to pay for the costs if the PPT places my child in a RESC or an approved private special education program?

The board of education of the school district in which you reside is responsible for the costs of the placement.

Who is responsible to pay for the costs if I place my child in a private placement?

You are responsible for the costs of the placement.

What can I do if I believe my child must be placed in a private school in order to receive an appropriate education?

You can, on your own, place your child in a private placement. If you place your child in a private placement, you may seek reimbursement for the cost of the enrollment by filing for a due process hearing. Full or partial reimbursement is not guaranteed and will depend on a finding by a hearing officer or a court that the school district did not make a free appropriate public education available to your child in a timely manner, and that the private school meets your child's educational needs.

If you plan to place your child in a private school and seek reimbursement from the school district, you must do the following:

- ✧ Inform the school district at the last PPT meeting before you remove your child from the public school of your intention to enroll your child in a private school at public expense, advise the PPT that you do not want the public school's proposed program, and state your concerns about the recommended program; or
- ✧ Provide the school district with written notice at least ten business days prior to the enrollment of your child in the private school. You must state your concerns with the school district's IEP, the program or services proposed by the school district and your intention to enroll your child in a private school.

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Failure to inform the school district of your intention to make a private placement and seek reimbursement from the school district could result in a hearing officer's decision to reduce or deny reimbursement for the private placement. However, the award may not be reduced or denied if you can show that:

- ✧ Giving notice would have resulted in physical or serious emotional harm to your child;
- ✧ The school prevented you from giving notice;
- ✧ You were unaware of the requirement to give notice because you never received a copy of *Steps to Protect a Child's Rights to Special Education: Procedural Safeguards in Special Education* and the school district did not inform you of the need to give notice; or
- ✧ You cannot read and write English and were not otherwise provided the information.

What if my child attends a public, charter, magnet school, Vocational Agriculture Center or a Connecticut Technical High School?

A child with a disability retains all rights under IDEA in each of these schools. School personnel must ensure that your

child's IEP is implemented and all services are delivered. A resource guide entitled *Students with Disabilities and Parental Choice in Connecticut* is available at <http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/ParentalChoice.pdf>.

Notice of Proposed or Denied Change: Prior Written Notice

How will I be informed of decisions regarding my child's special education program? Your change school or not district to change must provide the identification, you with prior evaluation, written educational notice when placement a school district or the 12

makes a decision to provision of FAPE to your child. Prior written notice is found on page three of your child's PPT meeting paperwork. This prior written notice must be provided to you at least five school days before the school district can implement its decision to change or not to change the identification, evaluation, educational placement or the provision of FAPE to your child. The prior written notice provided to you must be written in a way that is easy for you to read and understand, unless it is clearly not possible to do so. If your language is not a written language, the school district must take steps to ensure that the notice is given to you orally or by some other means. The school district will help you to understand the notice and document its efforts in this regard.

What must be included in written notice?

Written notice must include the following:

✧ What the school proposes or refuses to do; ✧ The reasons for the proposed or refused action; ✧ A description of any other options considered and why those options were rejected; ✧ A description of each evaluation procedure, test, observation, record or report the district used as a basis for proposed or refused action; ✧ A statement that you have protections under the procedural safeguards; and ✧ Sources you may contact to get help in understanding your procedural safeguards.

Confidentiality and Access to Educational Records

T

he student Family education Educational records. Rights FERPA and Privacy gives parents Act (FERPA) certain is

rights a federal with law respect that to protects their children's the privacy of

education records. These rights transfer to the student when he or she reaches the age of 18 or attends school beyond the high school level. *Can I see my child's educational records?*

If your child is under 18-years old, you have the right to inspect and review his/her school records unless your rights have been terminated under state law. The school district must provide you with the

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opportunity to inspect and review your child's school records within ten school days of your request, or within three school days of your request if you need the information to prepare for a PPT meeting or to prepare for a due process proceeding. Your request must be in writing.

Can anyone else see my child's school records without my consent?

School district employees can access your child's education records when they need to do so in order to perform their job responsibilities. If your child transfers to a different school district, the employees of the new district also have access to your child's school records. In addition, school districts are required by law to share information with certain government agencies, including the State Department of Education, and to organizations conducting studies for, or on behalf of, educational agencies or institutions.

The school district is required to keep a record of persons, other than school district employees, who access your child's school records. You may request from your school district an opportunity to review the school district's policy or

procedures regarding the access to educational records.

How can I obtain a copy of my child's school records?

Connecticut law gives you the right to receive one free copy of your child's records. Your request for a copy of your child's school records must be submitted to the school district in writing. The school district may take up to five school days to provide you with a copy of your child's records. The school district may charge a fee for any additional copies of your child's school records that you request.

What should I do if I find false or misleading information in my child's school records?

You may request in writing that the school district change your child's school records if you believe them to be inaccurate, misleading, or to violate the privacy or other rights of your child. When you ask the school district to change your child's records, the school district must act upon the request within a reasonable period of time. If your request is refused, you have the right to a hearing under the FERPA. If, as a result of the hearing, the hearing officer denies your request to change your child's records, you have the right to place a statement in your child's records regarding your concerns. This statement must be maintained in your child's records as long as the documents you object to are maintained, and your statement must be released whenever those documents are disclosed. You may ask your school district for a copy of its student records policy to review your rights to challenge the content of your child's records.

Do I have a right to review my child's record when he becomes an adult student?

Until your child reaches age 18, you have access to all educational records maintained by the school. After the transfer of rights to your child upon reaching the age of majority (see next section), you have the right of access to your child's educational records only if you have your child's written consent for access unless you maintain your child as a dependent for tax purposes.

What if I move?

If you move within Connecticut, the staff at the new school district in which you enroll your child must notify the school district where your child previously was enrolled and the school district in which your child was previously enrolled must, within ten days, send your child's education records to the new school. The new school district must provide services that are comparable to the services described in your child's IEP until or unless the school district develops a new IEP.

Transfer of Rights upon Reaching Age of Majority

When are parental rights transferred to the student? **W**hen under your special child education reaches age law 18 will (age transfer of majority), to your or child is declared unless a an court emancipated has appointed minor, a legal all rights

guardian for your child. At least one year before your child turns age 18 the school district must inform both you and your child of the transfer of these rights. Once these rights have been transferred, you will still receive all required procedural notices, but your child may grant or withhold consent as appropriate.

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I *Surrogate Parents*

If you have been appointed as a surrogate parent of a child with a disability, you represent the child in all matters relating to identification, evaluation, placement and provision of FAPE. A surrogate parent has all the rights of the parent in the PPT process including: ✧ The receipt of written notice of meetings and prior written notice of proposed or refused changes

in the child's educational program;

✧ The attendance at PPT meetings (regarding referral of the child for evaluation, planning or review

of evaluation and reevaluation results, determining eligibility, developing and reviewing the IEP, and determining transition needs);

✧ The granting or withholding of written consent when written consent is needed for a proposed activity;

✧ The initiation of due process procedures to resolve disputes; and

✧ The review of educational records prior to the transfer of rights and request changes of any inaccurate or misleading records.

Disciplinary Procedures

Code Unless of student an emergency conduct exists, applies your to child all students, has the 14

including special education students. right to an informal hearing by the school administration before being suspended or removed from his or her education program. Your child should be informed of the reasons for the disciplinary action at this time and given an opportunity to explain the situation.

Does my child have the right to receive educational services during a suspension from school?

Removal of up to ten consecutive school days in any school year:

If your child has violated the school district's discipline code, he/she may be suspended for a period not to exceed 10 consecutive school days. The length of the removal must be comparable to the length of the removal that would be applied to nondisabled child who breaks the same rule. The school district is not required to provide services if the removal does not exceed ten consecutive school days in the same school year and if the school district does not provide services to a nondisabled child who has been suspended from school for removals that do not exceed 10 consecutive school days in the same school year.

Removal of more than 10 school days in a school year: Change in Placement

If in the same school year, your child has been subjected to a series of short term removals that add up to more than 10 school days in a school year, school personnel must decide whether the removals constitute a change in placement. A change in placement occurs if:

✧ The removal is for more than 10 consecutive school days; or ✧ The child has been subjected to a series of removals that constitute a pattern:

- The series of removals total more than ten school days in a school year;
- The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- Additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Determination that removals do not constitute a change in placement:

If school personnel decide that a series of removals for more than ten school days in a school year do not constitute a change in placement, school personnel, in consultation with one of your child's teachers, determine the extent to which education services are needed to enable your child to continue to participate in the general curriculum and to progress toward meeting the goals set out for your child in his/her IEP. The child shall receive, as appropriate, a functional behavior assessment and behavioral intervention services and modification that are developed to address the behavior so that it does not recur.

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Determination that removals are a change in placement:

If school personnel determine that the series of short-term removals is a change of placement, your child's PPT determines the appropriate educational services to enable your child to continue to participate in the general education curriculum and to progress toward meeting the goals in the IEP.

Is my child protected from being disciplined for behaviors related to his or her disability?

If it is determined by you and relevant members of the PPT that the behavior that your child engaged in was caused by, or had a direct and substantial relationship to your child's disability, or that the behavior was the direct result of the school district's failure to implement the IEP, then your child may not be removed from the current educational placement (except in the case of weapons, drugs, or infliction of serious bodily injury) and the PPT must conduct a functional behavioral assessment, if one hasn't been done, and implement a behavioral intervention plan or review an existing one and modify it, as necessary, to address the behavior and return the child to the placement from which the child was removed, unless the parent and the school district agree to a change in placement as part of the modification of the behavior intervention plan. If the group determines that your child's disability did not cause your child's behavior, your child may be disciplined as any other child, except that the school district must continue to provide services to enable your child to progress in the general curriculum and to advance appropriately toward attaining the annual goals set out in his or her IEP.

This determination of the relationship between your child's behavior and your child's disability is referred to as the manifestation determination. Within ten school days of the decision to change the placement of a child with a disability, a manifestation determination must be made.

If you disagree with the manifestation determination, you have the right to initiate due process. Your child will remain in the disciplinary placement pending the decision of the hearing officer or until the expiration of the time period imposed for the misconduct, whichever comes first, unless you and school district agree otherwise.

Removal for up to 45 school days for offenses involving weapons, drugs, serious bodily injury or danger to self or others:

The school district may place your child in an interim alternative education setting (IAES) for up to 45 school days, whether or not the behavior is found to be a manifestation of your child's disability, if your child:

✧ Carries a weapon to school or a school function, or is in possession of a weapon in school or at a school function; ✧ Knowingly possesses or uses illegal drugs, or sells or solicits the sale of controlled substances while at school or a school function; or ✧ Inflicts serious bodily injury upon another person while at school, or at a school function.

Additionally, a hearing officer may place your child in an IAES if the hearing officer determines that keeping your child in the current placement is substantially likely to result in an injury to your child or to others.

If your child is placed in an IAES for up to 45 school days, the child must receive necessary services to enable him/her to continue to participate in the general curriculum and to progress toward meeting the goals set out in his/her IEP and, if appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. Placement in an IAES for matters that relate to drugs, weapons, serious bodily injury is made by the PPT. For matters related to the safety of your child or others, a hearing officer determines the IAES. Your consent is not required, but you may initiate due process if you disagree with the school district's decision to place your child in an IAES. If you initiate due process, your child will remain in the IAES pending the outcome of the due process proceedings or the expiration of the time for which he/she was placed in that setting, whichever occurs first.

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Special Education Complaint Resolution Process

What is the special education complaint resolution process? **T**he interested special education party or parties complaint may file resolution a written process complaint is a mechanism with the Bureau whereby of Special a parent Education and/or other alleging that the local school district has violated a requirement of federal or state law concerning special education. Bureau staff will not look into any part of a complaint that is also part of a due process hearing until the final hearing decision has been made. If an issue raised in a complaint was already decided in a due process hearing with the same parties, the hearing decision is final and the issue raised in the complaint will not be reviewed. Similarly, if an issue involving the same parties was decided in a due process hearing, the issue will not be considered through the complaint

resolution process. A complaint alleging that a school district has failed to carry out a final decision of a due process hearing must be resolved by the Bureau of Special Education of the State Department of Education.

How long do I have to file a complaint?

A complaint must be filed within one year of the time it is believed that the school district failed to follow the law.

How will I be notified of the results of the complaint investigation?

A written report of findings, conclusions, corrective action and recommendations, if appropriate, will be mailed within 60 calendar days of receipt of the request, unless an extension is granted for extenuating circumstances.

A complaint form is in the appendix of this Guide.

You can file a complaint by writing to: The complaint should state the following:

Connecticut State Department of Education

• The school district is not carrying out IDEA or Bureau of Special Education

state laws that protect children with disabilities; P.O. Box 2219, Room 359

and Hartford, CT 06145-2219 • The facts on which the complaint is based. FAX: (860) 713-7153

Mediation

What is mediation?

Mediation is a way to settle a dispute when you and school district do not agree on:

✧ How or whether your child is disabled; ✧ Evaluating your child; ✧ Placing your child in a school program that meets his or her needs; or ✧ Any other matters related to providing your child with a free appropriate public education that meets his or her needs.

Both you and the school district must agree to enter into mediation before it can occur. The mediation session will be held in a place and at a time that is convenient for both you and the school staff.

What happens during mediation?

The mediator will try to help you and the school district settle your differences. If you and the school district reach agreement on the issues, what you have agreed to will be put in writing. The mediation agreement is a

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legally binding contract enforceable in court. If you and the school district cannot reach agreement, the mediator will certify in writing that mediation has not resulted in an agreement. Discussions that take place during mediation are confidential and cannot be used as evidence at any subsequent due process hearing or court action.

Who may act as a mediator?

The State Department of Education, Bureau of Special Education, has a list of mediators and will assign a mediator on a random basis from a list of individuals who:

✧ Are trained in mediation techniques; ✧ Do not show favor to either the parent or the school district; ✧ Are familiar with special education laws; ✧ Are education consultants with Connecticut State Department of Education; and ✧ Do not provide direct service to the child who is the subject of the mediation.

May I bring an advocate or lawyer to the mediation conference?

You may bring an advocate and/or lawyer with you to help you in the mediation conference. The school district may also bring a lawyer to the mediation conference. You will be responsible for the cost of your attorney's fees.

Do I have to try mediation?

Mediation is voluntary and may not be used to:

✧ Deny or delay your right to a hearing; or ✧ Deny any other rights that you have under state or federal special education law.

A Request for Mediation form is in the appendix of this Guide.

Placement during Due Process Procedures

What happens to my child while a due process hearing is ongoing? While changed a due from process what hearing they were is pending, at the time your a 17

child's classification, program, or placement cannot be due process hearing was requested unless you and the school district agree otherwise. This is referred to as stay-put. However, there are exceptions to the stay- put provision. If you request due process because you disagree with a decision to remove your child from his/her education placement to an interim alternative education setting (IAES) for matters related to weapons, drugs or infliction of serious bodily injury, your child will remain in the IAES pending the decision of the hearing officer or the expiration of the time for which he or she was placed in that setting, whichever occurs first unless you and the school district agree otherwise. If you request a due process hearing to challenge a manifestation determination, stay-put would not apply and your child's placement could be changed while the due process procedures were happening.

Due Process Hearing

When may I request due process hearing?

You may ask for a due process hearing within two years of the time the school district proposes or refuses to:

✧ Consider or find that your child is disabled; ✧ Evaluate your child; ✧ Place your child in a school program that meets his or her needs; or ✧ Provide your child with a free appropriate education that meets his or her needs.

If you have not been given a copy of *Steps to Protect a Child's Right to Special Education: Procedural Safeguards in Special Education*, the two-year limit begins when you receive one. The two-year limit would not apply if the school told you that the issues had been resolved when in fact the issues had not been resolved.

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What is a due process hearing?

Due process is a way of ensuring fairness in the decision-making process regarding your child. If you disagree with a proposed or refused action regarding your child's education, you may initiate due process in order to resolve the disagreement. The due process hearing is a legal process in which a hearing officer appointed by the Due Process Unit of the Bureau of Special Education, State Department of Education, decides the resolution of a disagreement between you and the school district. A school district may request a due process hearing as well. Due process procedures include advisory opinions, hearings and expedited hearings.

What has to happen before a due process hearing can begin?

The party receiving a request for a hearing, usually the school district, has 15 calendar days from the date the hearing request is received to notify the hearing officer and the other party in writing if they think the request for a hearing does not include required information. The hearing officer has to make a decision as to the adequacy of the hearing request within five calendar days. Once the hearing officer has reviewed these responses, the individual will decide if any other changes must be made to the hearing request. For more detailed information on how to request a hearing, please review *Steps to Protect a Child's Right to Special Education: Procedural Safeguards in Special Education*. The procedural safeguards are posted on SERC's website <http://www.ctserc.org/> and on the CSDE website <http://www.sde.ct.gov/sde/>. The school district may place a copy of the procedural safeguards on the school's website.

Once a request for a hearing is made by the parent, several things will occur, some at the same time. The school district must offer to meet with you and relevant members of the PPT that have specific knowledge of the facts identified in the due process complaint within 15 calendar days of receiving notice of your request for a hearing. This is referred to as a *resolution meeting*. This resolution meeting gives both you and school staff a chance to discuss the due process complaint and resolve the problem. If you do not bring an attorney to the resolution meeting, the school cannot have an attorney at the meeting. If the dispute is not resolved within 30 days of receiving the complaint, the due process hearing the 45 day timeline to issue a hearing decision begins.

Does a resolution meeting have to be held?

No. You and the school can agree in writing to not hold the resolution meeting. Additionally, a resolution meeting would not have to be held if you and the school decide go to mediation.

Where and when does a hearing occur?

The hearing will be held at a time and place that will make it easy for you and your child to attend. When a hearing is requested, several things have to happen. If the school has not sent prior written notice to you regarding the issues raised in your request for the hearing, the school must, within ten calendar days of receiving your request for the hearing, send you a response that explains why the school did what it did, what other options the PPT took into consideration, why those options were rejected and what evaluation information the school district is relying on. From the start of the 45 day timeline, a final decision will be made by the hearing officer. A copy of the decision shall be mailed to each of the parties. The hearing officer may grant specific extensions of time beyond the 45 calendar day timeline for certain reasons at the request of either party.

What happens during a hearing?

You and the school district may present evidence, including expert testimony, cross-examine witnesses, and compel the presence of any witnesses. You and the school district must exchange copies of all documents and the names of all witnesses you intend to present no later than five business days prior to the hearing. Evaluations to be used at the hearing must be presented no later than five business days prior to the hearing. You must also provide this information to the hearing officer by the same deadline. A record of the hearing will be made. You have the right to obtain a written, or, at your request, electronic copy of the word for word record of the hearing as well as the hearing decision.

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May I bring an advocate or lawyer to the hearing?

You may bring an advocate and/or lawyer with you to help you at the hearing. The school district may also bring a lawyer to the hearing. The school district must make you aware of any free or low-cost legal services available when:

✧ You ask for it; or ✧ You or the school district asks for a hearing.

If you receive a written hearing decision in your favor, you may file a lawsuit in state or federal court for an order that the school district pay you the reasonable costs of your attorney's fees.

Protection of Child's Anonymity

The State Department of Education shall (after removing data that would make the identity of your child known) send the written findings of fact and decisions to the State Advisory Council for Special Education and also make them available to the general public by posting the decisions on the department's website. A Request for Impartial Special Education Hearing form is in the appendix of this Guide.

Expedited Hearing

An undue expedited delay. hearing In an expedited is a hearing hearing, that is the held hearing quickly must so that occur a situation within 20 can school be addressed days of the without date the hearing is requested and the hearing officer must make his or her decision within ten school days of the close of the hearing. The parties involved in the hearing must exchange information to be presented as evidence at least two business days prior to an expedited hearing. An expedited hearing will be arranged when the following occurs:

✧ The school district thinks that keeping your child in the current placement is highly likely to result in injury to your child or to others and the school district wants to put your child in an IAES for no more than 45 days;

✧ The school district does not want your child, who is placed in an IAES, to return to his or her original placement at the end of the 45 day period because it believes your child is likely to injure him/herself or others in that placement;

✧ You believe that the school district has improperly removed your child for more than ten consecutive school days;

✧ You believe that the school district has improperly removed your child for more than ten school days in a school year;

✧ You do not agree with the school district's placement of your child in an IAES; or

✧ You do not agree with the manifestation determination.

The hearing officer may order that your child be returned to the placement from which he or she was removed or placed in an interim alternative education setting for no more than 45 school days if it is determined that keeping your child in the current placement will more than likely result in injury to the child or to others. The hearing officer may not order a placement in an IAES for more than 45 school days at any one time. However, the school may ask for this process to be repeated.

Advisory Opinion

What is an advisory opinion?

An advisory opinion is a non-binding opinion issued by a hearing officer after consideration of a brief presentation of information by both the parents and the school district. Based upon this non-binding opinion, you or the school may decide not to bring the matter to a full due process hearing and, instead, settle the dispute.

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What happens in the advisory opinion process? You and the school district will each have 45 minutes to present your case to a hearing officer. Each party may present one or two witnesses during their allotted time and introduce reliable and essential documents such as the most recent IEP, revisions to the IEP, educational evaluations, progress reports, transcripts, independent evaluations, and teacher narratives. You and the school district must exchange copies of any documents and the names of any witnesses you intend to present no later than five calendar days prior to the advisory opinion. You must also provide this information to the hearing officer at the same time. You will have 15 minutes to respond to the school district's presentation, and the school district will have 15 minutes to respond to yours.

Afterwards, the hearing officer will render an oral opinion. No record will be made of the advisory opinion process.

May I bring an advocate or lawyer to the advisory opinion hearing? You may bring an advocate or lawyer and up to two witnesses with you to the advisory opinion session. The school district may also bring a lawyer and up to two witnesses. You will be responsible for the cost of your attorney's fees.

What can I do if I disagree with the advisory opinion? An advisory opinion is non-binding and does not restrict your right or the school district's right to engage in other forms of resolution such as mediation or due process hearing.

Are advisory opinions confidential? Advisory opinion sessions are not open to the public and no record of the proceeding is made. The advisory opinion is confidential and may not be used as proof in any future due process hearing.

A form that may be used to request a hearing and an advisory opinion is in the appendix of this Guide.

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Timelines

Here are important timelines concerning the special education process.

From the date of the initial referral to special education:

21 Written notice of referral shall be sent to the parents no later than five school days after the date of the referral

IEP implementation: The IEP shall be implemented within 45 school days from referral

(not including time needed to obtain consent) and

The IEP shall be implemented within 60 school days for students in out-of-district placement (not including time needed to obtain consent)

Parental consent for evaluation, placement or private placement:

Within ten school days of the date of the notice or PPT meeting in which the parent participated

Prior to PPT meetings: Parental receipt of written notice at least five school days prior to a PPT meeting

From IEP meetings: Parental receipt of a copy of the IEP within five school days of the IEP meeting

From the receipt of the IEP: Implementation of the IEP five school days after parent receipt of

the IEP or as otherwise indicated on the IEP

Reevaluation: At least once every three years unless the parent and the district agree a reevaluation is not necessary, at the request of the parent or staff working with child and not more often than once a year unless the parent and district agree

From the start of the timeline: 45 calendar days after wrap-up of resolution meeting if held, to mailing of the final decision, unless hearing officer grants an extension (No extensions may be granted for an expedited hearing)

From the filing of complaint: 60 calendar days to the mailing of the decision, unless an extension is granted due to extenuating circumstances

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Steps to Getting Services

What Happens If My Child Is Having Trouble Learning In School? **I**

If you have concerns about your child's school performance, you should contact the school district to discuss problems. Some school teams consist of the teacher, principal, and other school personnel. You should discuss your child's school performance with the school team.

and suggest academic and/or behavioral strategies in an attempt to change or improve student performance. Please be prepared to provide information that may be helpful to the team. Whether or not this process is going on, you can make a referral for special education services. The chart below will guide you through the special education process.

Parent/Guardian School District Referral Make a written referral to determine

✧ Make written referral to determine eligibility for special education and related services or believe that your child has related services if child is suspected of significant learning problems having a disability ✧ Receive a copy of parent rights

✧ Contact parent, explain referral process, (procedural safeguards)

and provide copy of procedural ✧ Have questions answered

safeguards ✧ Ask for information about advocacy

groups or area parent support groups

Before PPT

✧ Review procedural safeguards

✧ Notify parent of meeting(s) and Meetings

information

participants ✧ Seek support, if needed

✧ Determine mutually agreed time and ✧ Bring support person(s) to meetings, if place for meeting(s) needed

✧ Consider parent request for alternative ✧ Bring concerns, questions, and means of meeting participation suggestions to meeting

✧ Provide a copy of procedural safeguards ✧ Ask to participate in meeting or a

✧ Arrange for appropriate school personnel telephone conference to be present

Evaluation ✧ Provide information for evaluation

process (e.g., medical, family, and educational history; perceptions of child's strengths and needs at home and in community) ✧ Provide input, in collaboration with

the school district to determine the specific assessments needed to evaluate ✧ Receive notification of the evaluation decision ✧ Provide consent to evaluate if you wish

for the evaluation to occur ✧ Withhold consent if you do not agree with the evaluation(s) to be conducted ✧ If it is determined that no evaluation is needed, receive in writing the reasons for not conducting the evaluation(s) ✧ Receive a copy of procedural safeguards ✧ Provide copy of eligibility determination to parent at end of meeting ✧ Notify parent of their right to an

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✧ Collect information from parent, teacher, and others ✧ Review existing information in collaboration with the parent to determine the specific assessments needed to evaluate the child ✧ Notify parent of the evaluation decisions ✧ Obtain parent/guardian permission to evaluate ✧ Complete evaluation ✧ If determined that no evaluation is needed, provide in writing reasons for not conducting the evaluation to parent and person who made the referral ✧ Provide parent with procedural safeguards

During the Eligibility Meeting

✧ Ask questions about evaluation results ✧ Share information about child's strengths and needs ✧ Contribute to the determination of eligibility

✧ Summarize, interpret and document evaluation results ✧ Determine eligibility for special education services

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Parent/Guardian School District

independent evaluation if there is a disagreement about the evaluation results ✧ If child is not eligible for special education services consider eligibility for services under Section 504, if appropriate

During the Individualized Education Program (IEP) Meeting

23 If child *is eligible* for special education services:

✧ Share information about child ✧ Assist in development of goals and objectives/benchmarks ✧ Contribute to the determination of

appropriate special education and related services to be provided ✧ Contribute to the determination of appropriated educational placement ✧ Give permission for child to receive

special education and related services (initial placement only) *OR* ✧ Withhold consent if you do not agree with the special education program being recommended

If child *is eligible* for special education services:

✧ Develop IEP that will enable the child to

be involved in and progress in the general curriculum which includes: child's strengths and needs; annual goals and short-term objectives/benchmarks; appropriate special education and related services; and appropriate educational placement

Annual Review (The IEP meeting that reviews the educational status and special education placement)

✧ Gather school papers and other

information that may be helpful at the meeting ✧ Bring support person(s) to meeting if

desired ✧ Review child's progress in current IEP

goals and objectives ✧ Assist in the development of a new IEP

✧ Notify parent of meeting and

participants ✧ Gather information on child's progress, including involvement and progress in the general curriculum ✧ Review current IEP ✧ Develop new IEP that will enable the

child to be involved in and progress in the general curriculum ✧ Discuss and document the need for extended school year services ✧ Discuss graduation, if appropriate

Reevaluation ✧ Provide consent or refuse consent

✧ Provide input in collaboration with the school district to determine the specific assessments needed to evaluate ✧ Receive notice of the reevaluation

decisions ✧ Provide information for reevaluation process (e.g. medical, family and educational history; perceptions of the child's strengths and needs at home and in community, progress during year) ✧ Provide information from doctors or other professionals that might be helpful ✧ Request an evaluation sooner than the three years if you feel there is a change in your child's educational needs

✧ Notify parent that a three-year

reevaluation needs to be done ✧ Explain reevaluation process ✧ Answer questions ✧ Obtain parental consent to reevaluate ✧ Review existing evaluation data, in

collaboration with the parent to determine the specific assessments needed to evaluate ✧ Notify parent of the evaluation decisions ✧ Hold meeting to determine continued

eligibility ✧ If child continues to be eligible, hold IEP

meeting and determine appropriate special education and related services and educational placement

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Resources

Who can I contact for help in understanding my rights?

For assistance in understanding your rights, you may write or call the director of special education in your local school district or contact the Bureau of Special Education, Connecticut State Department of Education, P. O. Box 2219, Room 369, Hartford, CT 06145-2219 at (860) 713-6910.

In many communities there are social service organizations to which you may turn for help in understanding your rights. These groups may be affiliated with state and national advocacy groups. Local directors of special education may also have information about local groups and meetings are often publicized in newspapers.

Other sources of information are:

Connecticut State Department of Education Website: <http://www.ct.gov/sde/>

State Education Resource Center (SERC) 25 Industrial Park Rd. Middletown, CT 06457 (860) 632-1485 Website: <http://www.ctserc.org>

Connecticut Parent Advocacy Center, Inc. (CPAC) 338 Main Street Niantic, CT 06357 (800) 445-2722 Website: <http://www.cpacinc.org>

Connecticut State Child Find Number (800) 445-2722

U.S. Office of Civil Rights U.S. Department of Education 33 Arch Street, Suite 900 Boston, MA 02110-1491 (617) 289-0111 FAX: (617) 289-0150; TDD: (877) 521-2172 Website:

<http://www.ed.gov/about/offices/list/ocr/docs/howto.html> (for Section 504 and Americans With Disabilities Act (ADA) complaints)

Other State Agencies

Connecticut Birth to Three System 460 Capitol Avenue Hartford, CT 06106 (800) 505-7000 Website: <http://www.birth23.org>

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Connecticut Commission on the Deaf and Hearing Impaired 67 Prospect Avenue Hartford, CT 06106 (800) 708-6796 (TTY/Voice) Website: <http://www.state.ct.us/cdhi>

Board of Education and Services for the Blind (BESB) 184 Windsor Avenue Windsor, CT 06095 (860) 602-4000; (860) 602-4221 (TDD) Website: <http://www.besb.state.ct.us>

Bureau of Rehabilitation Services (BRS) 25 Sigourney Street, 11th Floor Hartford, CT 06106 (800) 537-2549; (860) 424-4839 (TDD/TTY) Website: <http://www.brs.state.ct.us>

Department of Mental Retardation 460 Capitol Avenue Hartford, CT 06106 (860) 418-6000 Website: <http://www.dmr.state.ct.us>

Office of Protection and Advocacy for Persons with Disabilities 60-B Weston Street Hartford, CT 06120 (800) 842-7303 (V/TTY); (860) 297-4300 Website: <http://www.ct.gov/opapd>

Free or Low Cost Legal Assistance

Statewide Legal Services of Connecticut, Inc. (800) 453-3320 or (860) 344-0380 Statewide Legal Services is a legal aid telephone Hotline program. The legal services programs in Connecticut are a group of nonprofit organizations that provide legal assistance in civil matters to low-income persons. Services are free. Eligibility depends on income, family size, assets and legal issue. Applicants should call Statewide Legal Services as the first step to find out if they qualify for services.

Office of Protection and Advocacy for Persons with Disabilities 60-B Weston Street Hartford, CT 06120 (800) 842-7303 (V/TTY); (860) 297-4300 Website: <http://www.ct.gov/opapd>

Center for Children's Advocacy, Inc. University of Connecticut School of Law 65 Elizabeth Street Hartford, CT 06105 Tel: 860- 570-5327 Website: <http://www.kidscounsel.org>

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Appendix

1. Request for Mediation Form 2. Request for Impartial Special Education Hearing 3. Request for Advisory Opinion 4. Special Education Complaint Form

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Connecticut State Department of Education Bureau of Special Education **Due Process Unit** P.O. Box 2219, Room 359, Hartford, CT 06145-2219 Fax: (860) 713-7153

Request for Mediation

I request a mediation concerning ,

(name of student) (date of birth)

who is currently within the jurisdiction of (address of residence of student)

the and attends

(school district) (name of the school the student attends)

Parent Signature Date District Signature Date

Telephone Fax Telephone Fax

The date of the IEP meeting at which the parties failed to reach agreement:

Description of the nature of the issues in dispute, including related facts:

Proposed resolution of the issues to the extent known and available at this time.

Please provide three mutually agreeable dates for the mediation, which will be held within 30 days of this request.

From these dates, one will be selected for the convening of the mediation.

Please forward to the above address and, as appropriate, the parents or the school district.

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Connecticut State Department of Education Bureau of Special Education **Due Process Unit** P.O. Box 2219, Room 359,
Hartford, CT 06145-2219 Fax: (860) 713-7153

Request for Impartial Special Education Hearing

I request an impartial hearing concerning ,
(name of student) (date of
birth)

who is currently within the jurisdiction of (address of residence of student)
the and attends
(school district) (name of the school the student
attends)

Print Name Signature Date

Telephone Fax

The date of the IEP meeting at which the parties failed to reach agreement:

Description of the nature of the issues in dispute, including related facts:

Proposed resolution of the issues (to the extent known and available at this time).

Please forward to the above address and, as appropriate, the parents or the school district.

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Request for Advisory Opinion

We request an advisory opinion. We understand both parties must agree to an advisory opinion and we are not required to pursue an advisory opinion prior to a hearing.

Parent Signature Date School District

Representative

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Date

Two mutually agreeable dates for the advisory opinion: ,

From these dates, one will be selected for the advisory opinion.

Please forward to the address on the front of this form and, as appropriate, the parents or the school district.

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Connecticut State Department of Education - Bureau of Special Education

Special Education Complaint Form

This is a recommended form for the filing of special education complaints. You do not have to use this form to file a complaint although it will help you to include the required information. (Questions may be directed to Bureau staff at 860-713-6921 or 860-713-6938.) Please complete this form and forward to the parents (as appropriate) and responsible school district with a copy to:

State Department of Education Bureau of Special Education P. O. Box 2219 – Room 359 Hartford, CT 06145-2219 Fax: (860) 713-7153

Date: Person/Agency filing the Complaint:

Address: Phone: (street)

(town) (state) (zip)

Parent's Name (if different): Phone:

Child's Name: Date of Birth:

(last) (middle) (first) Education Agency (school district):

Name of School the Child Attends: Disability Category:

Child's Address:

(street)

(town) (state) (zip)

Be specific as to why you believe that a requirement of the Individuals with Disabilities Education Act has been violated. Include a description of the relevant facts, the nature of the child's problem and a proposed resolution of the

problem to the extent known and available at this time. Please forward a copy of this complaint to the education agency. If necessary, you may attach additional sheets as well as documentation of your complaint allegations.

Signature of Complainant:

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State of Connecticut M. Jodi Rell, Governor

State Board of Education Allan B. Taylor, Chairperson Janet M. Finneran, Vice
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