

State Mandated Training
In accordance with 603 CMR 28.03

State and Federal Special Education
Requirements, as well as Local Special
Education Policies and Procedures

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The Referral Process

State Regulations (from 603 CMR 28.04):

(1) Referral for Initial Evaluation. A student may be referred for an evaluation by a parent or any person in a caregiving or professional position concerned with the student's development.

(a) When a student is referred for an evaluation to determine eligibility for special education, the school district shall send written notice to the student's parent(s) within five school days of receipt of the referral.

(b) The notice required by 603 CMR 28.04(1)(a) shall meet all of the content requirements set forth in M.G.L. c. 71B, § 3, and in federal law and shall seek the consent of a parent for the evaluation to occur, and provide the parents with the opportunity to express any concerns or provide information on the student's skills or abilities.

(c) School districts shall provide the student's parents with an opportunity to consult with the Special Education Administrator or his/her designee to discuss the reasons for the referral, the content of the proposed evaluation, and the evaluators used.

(d) Upon referral, school districts shall evaluate children who are two and a half years of age and who may be receiving services through an early intervention program. An initial evaluation shall be conducted in order to ensure that if such child is found eligible, special education services begin promptly at age three.



How do these regulations apply to my position?



Initiating a Referral

A referral for an evaluation to determine eligibility for special education services can be made by a variety of parties. Under the regulations, school districts must ensure a responsive school environment that meets the needs of all students and should implement and document the use of attempted instructional strategies on a case-by-case basis. A parent's right to refer for a special education evaluation, however, is not limited and should never be delayed because the school district has not fully explored and/or attempted some or all of the available instructional support programs or any other type of interventions. In any case where the parent or person making a referral has concerns about the student's development or a suspicion that the student may have a disability, school districts must promptly send notice and seek permission to conduct an initial evaluation to determine if the student is eligible for special education.

School Referral - After the Principal determines that all efforts have been made and documented to meet the needs of the student within the regular education program, and these efforts have not been successful, a student should be referred by school personnel for an evaluation to determine eligibility for Special Education. The Principal shall ensure that documentation of the use of instructional support services for the student is provided as part of the evaluation information reviewed by the Team when determining eligibility.

The Principal (with the assistance from either guidance or other assigned regular education staff and consultation with the Chairperson) must complete the Referral for An Initial Team Evaluation (Sped-D1) and send the completed form to the Special Education Administrator for review.

The Pupil Support Services Administrator or (designee) will notify the Chairperson of the referral. The Chairperson will be the contact person for the entire evaluation process. The parents will be contacted by the building Principal or designee to discuss the reasons for referral and the nature of the proposed evaluation.

Within 5 working school days of the Special Education Office receiving the completed Referral for An Initial Evaluation (SPED-D1) from the school principal or (SPED-2) from the parent, the special education team clerical secretary will mail a Parent Consent Packet to the parents.

Referrals from Parents

If someone outside of the District requests a Team evaluation, the Principal of the child's school should immediately arrange for a meeting with the parent to discuss concerns and offer general education instructional support services. The parent (including a foster parent, guardian, an individual with whom the child resides, or an individual legally responsible for the child's welfare) should document their request for evaluation in writing by completing the Parent or Other Caregiver Request for an Initial Team Evaluation (SPED-2) and send it directly to the school Principal who will immediately forward it to the Special Education Office for processing.

Referrals of Students Attending Private Schools

Dartmouth Public Schools is required by law to do a complete evaluation of students in private school at public expense. Dartmouth has 45 school working days from the date of the parent's consent to conduct an evaluation including all required assessments and to convene a Team and determine if the student is eligible for special education. The public school that the child would be enrolled in if attending the Dartmouth Public Schools is responsible for completing the evaluation in cooperation with the assigned school psychologist.

The Role of RTI in the Referral Process

The Dartmouth Public School District has authority to use a process called RTI, which determines if the child responds to scientific, research-based intervention as part of the evaluation procedures.

(Below is an excerpt from: <http://www.projectidealonline.org/v/special-education-referral-process/>)

“RTI is a model designed to address the needs of all children through a continuum of services, which include:

- High-quality instruction and tiered evidence-based or practice-based intervention strategies aligned with individual student needs;
- Frequent monitoring of progress to make results-based academic or behavioral decisions; and
- Application of child response data to important educational decisions (such as those regarding placement, intervention, curriculum, and instructional goals and methodologies)” (TEA, 2007).

RTI provides three levels of intervention for students who are experiencing problems. Generally, the first level (sometimes referred to as Tier 1) is focused on utilizing high-quality general education instruction in the core curriculum with all students. RTI theorizes that around 80% of all students will respond positively to core curriculum and behavior systems. The second level (or Tier 2) provides targeted group instruction or some form of group remediation to improve performance. The RTI model believes that second level services will improve performance for approximately 15% of all students. If performance does not improve in the second level, then students are moved to the third level which consists of intensive, individualized interventions.

If, after interventions in the general education classroom, the student continues to experience difficulty, school personnel may refer the child for a special education evaluation.”

Evaluations

State Regulations (from 603 CMR 28.04):

(2) Initial Evaluation. Upon consent of a parent, the school district shall provide or arrange for the evaluation of the student by a multidisciplinary team within 30 school days. The assessments used shall be adapted to the age of the student and all testing shall meet the evaluation requirements set out in state and federal law. The school district shall ensure that appropriately credentialed and trained specialists administer all assessments.

(a) Required assessments.

1. An assessment in all areas related to the suspected disability.
2. An educational assessment by a representative of the school district, including
 - (i) a history of the student's educational progress in the general curriculum. Such assessment shall include information provided by a teacher(s) with current knowledge regarding the student's specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district curriculum; and
 - (ii) an assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults.
 - (iii) The school district shall also thoroughly evaluate and provide a narrative description of the student's educational and developmental potential.
 - (iv) When a child is being assessed to determine eligibility for services at age three, an observation of the child's interactions in the child's natural environment or early intervention program is strongly encouraged.
 - (v) For children who are receiving early intervention services, school districts are encouraged to use current and appropriate assessments from early intervention teams, whenever possible, to avoid duplicate testing.

(b) Optional assessments. The Administrator of Special Education may recommend or a parent may request one or more of the following:

1. A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records.
2. A psychological assessment by a licensed school psychologist, licensed psychologist, or licensed educational psychologist, including an individual psychological examination.
3. A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of a parent.

(c) Reports of assessment results. Each person conducting an assessment shall summarize in writing the procedures employed, the results, and the diagnostic impression, and shall define in detail and in educationally relevant and common terms, the student's needs, offering explicit means of meeting them. The assessor may recommend appropriate types of placements, but shall not recommend specific classrooms or schools. Summaries of assessments shall be completed prior to discussion by the Team and, upon request, shall be made available to the parents at least two days in advance of the Team discussion at the meeting occurring pursuant to 603 CMR 28.05(1).

(3) Annual reviews and three-year reevaluations. The school district shall review the IEPs and the progress of each eligible student at least annually. Additionally, every three years, or sooner if necessary, the school district shall, with parental consent, conduct a full three-year reevaluation consistent with the requirements of federal law.



How do these regulations apply to my position?



Initial Evaluations

Evaluations of the student must be made in all areas of suspected disability in order to determine eligibility for Special Education. Eligibility must not be based on lack of reading or math instruction or on Limited English Proficiency (LEP). Evaluation activities should be tailored to the specific referral questions for the individual student and need to address whether or not there is a disability, and if the disability affects the student's learning. Evaluations must provide information to determine present levels of academic achievement and related developmental needs. No single test should be used as the sole criterion for determining eligibility. Rather, a variety of techniques (both formal and informal assessments), including information provided by parents, observation of the student in the classroom, work samples/portfolios, interviews, and review of the record should be used.

An observation of the student must be made by at least one Team member other than the student's teacher to determine a specific learning disability. Consent for an initial evaluation for wards of the state is not required if the LEA cannot, after reasonable efforts, locate the parent or the parent's rights have been terminated under state law or a judge has subrogated the parents' rights to make educational decisions. Dartmouth is obligated to seek a surrogate parent through the DESE for wards of the state. A ward of the state includes foster children (except if the child has a foster parent) and a child in the custody of a public child welfare agency.

Evaluations must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide and administer.

Re-Evaluations

A reevaluation will be conducted for each student with a current IEP every three years or more frequently if requested or recommended. Reevaluations occur not more frequently than once a year unless both parents and LEA agree that evaluation is needed. When a student is referred for a reevaluation, existing evaluation data should be reviewed first. If no additional information is needed to determine whether the student continues to be eligible, Dartmouth may request that a parent waive particular types of assessment(s). The parent may either consent to waive the assessment(s) or may choose to have the assessment completed regardless of the recommendation for waiver. Evaluations are required prior to a finding that a student is no longer eligible, except for graduation with a regular diploma or aging out. For those children, the LEA must provide summary of academic and functional performance, including recommendations on how to assist the child to meet post-secondary goals.

Please note that an observation of the student must be made by at least one Team member other than the student's teacher to determine a specific learning disability. No single test should be used as the sole criterion for determining eligibility. Rather, a variety of techniques (both formal and informal assessments), information provided by parents, observation of the student in the classroom, work samples/portfolios, interviews, and review of the record should be used.

Evaluations must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide and administer.

Required Assessments

Initial Evaluations:

- Educational Status Assessment Report (28R/1) Completed by the Principal or Guidance Counselor and the current classroom teacher.
- Specialist Assessment(s) should include assessments in all areas of the child's suspected disability: (speech, language, gross and fine motor areas and behavioral areas). Functional Behavioral Assessments (FBA) must be conducted if the student's behavior interferes with learning.

Re-Evaluations:

- Educational Status Assessment Report (28R/1) completed by the Principal or Guidance Counselor.
- Teacher Assessment (28R/1)
- Specialist Assessment(s) should include assessments in all areas of the child's suspected disability. Functional behavioral assessments (FBA) must be conducted if the student's behavior interferes with learning.
- Developmental Family History Questionnaire (SPED-D9)

Optional Assessments

Initial Evaluations:

The following assessments can be recommended by the Team or requested by parents:

- Psychological
- Home Assessment (SPED-D-5). The Team should request this only if there are significant concerns related to the home or family environment as they affect student's school performance.
- Health Assessment (SPED-D-6)

Re-Evaluations:

The following assessments can be recommended by the Team or requested by parents:

- Psychological
- Home Assessments (SPED-D-5). The Team should request this only if there are significant concerns related to the home or family environment as they affect students' school performance.

- Health Assessment (SPED-D-6)

- Reevaluation activities should be tailored to the specific questions for the individual student in order to help the Team determine whether the student would continue to make progress in the general education curriculum without the continued provision of special education services.

Evaluation Procedures

1. Team members should coordinate their assessments with the student's teacher(s) and other evaluators so that the child is not over-tested on any given day. The persons conducting the assessments should ensure that the child is notified in advance of any pullout from class.
2. The Chairperson will ensure that the assessments are completed within 30 school working days of the parent's signed consent. If consent is received within thirty (30) to forty-five (45) school working days before the end of the school year, Dartmouth Public Schools ensures that a Team meeting is scheduled so as to allow for the provision of the proposed IEP or written notice of the finding that the student is not eligible no later than fourteen (14) days after the end of the school year.
3. Evaluation Team members must give the Chairperson two copies of their final, "word processed" evaluation report four days prior to the Team meeting. This allows the Chairperson to be well prepared for the Team meeting and also allows the Chairperson to collate a set of reports for the parents to pick up two days prior to the Team meeting.

All evaluation reports should be written in clear, jargon-free language. Assessors should interpret and summarize results and diagnostic impressions to help the Team determine eligibility including the student's present levels of educational performance and areas of need arising from the student's disability. Educationally relevant accommodations and modifications should be identified to ensure the student's involvement and progress in the general education curriculum.

Outside Evaluations

If an Outside Evaluation has been completed and submitted to the Dartmouth Public Schools, the Chairperson (if the evaluation is received directly in the school building) should forward the evaluation directly to the Pupil Support Services Administrator. The results of the outside evaluation will be considered in determining the need for a referral for a Team evaluation. A meeting with the parents should be scheduled within ten days of receipt of the outside report. If it is determined that further evaluation by Dartmouth Public Schools is necessary, staff should follow the referral process.

The Team Process and Development of the IEP

State Regulations (from 603 CMR 28.05):

(1) Convening the Team. Within 45 school working days after receipt of a parent's written consent to an initial evaluation or reevaluation, the school district shall: provide an evaluation; convene a Team meeting to review the evaluation data, determine whether the student requires special education and, if required, develop an IEP in accordance with state and federal laws; and provide the parents with two copies of the proposed IEP and proposed placement, except that the proposal of placement may be delayed according to the provisions of 603 CMR 28.06(2)(e); or, if the Team determines that the student is not eligible for special education, the school district shall send a written explanation of the finding that the student is not eligible. The evaluation assessments shall be completed within 30 school working days after receipt of parental consent for evaluation. Summaries of such assessments shall be completed so as to ensure their availability to parents at least two days prior to the Team meeting. If consent is received within 30 to 45 school working days before the end of the school year, the school district shall ensure that a Team meeting is scheduled so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible no later than 14 days after the end of the school year.



How do these regulations apply to my position?



The IEP/Eligibility Team

The Team consists of the following members:

- the student's parent(s);
- at least one regular education teacher familiar with the student;
- at least one special education teacher familiar with the student;
- a representative of the district who has the authority to commit resources;
- an individual who can interpret evaluation results;
- other individual(s) who have knowledge or expertise regarding the student;
- if appropriate, the child.

IDEA 2004 permits members being excused if parent and LEA agree (written agreement from parent). If excused member has input, it must be provided in writing. If parent and LEA agree, amendments and revisions can be made via written documentation without a Team meeting. Alternatives to "physical meetings" are explicitly allowed, including video conferencing or virtual meetings or telephone conference calls.

Please note: When IEPs are forwarded to the Director for signature, required elements are reviewed. If it is noted that required members of the Team were not present, the Director must request an explanation for the absence.

Teams are charged with managing three important activities:

- **Eligibility Determination/Initial and Reevaluation**
 - **Development of the IEP**
 - **Placement Decision**

Eligibility Determination

The Special Education Eligibility Flowchart has been designed to assist Teams in making eligibility determinations. The flowchart is a worksheet and not a notice form. This worksheet should become part of the student record but does not need to be mailed to parents and, if the student is determined eligible for services, it should not be attached to the IEP.

To be eligible for Special Education Services a student must first be found to have a disability that is causal to an inability to make effective progress in school. A Special Education Eligibility/Initial and Reevaluation Determination (ED1) should be used to assist the Team in making an eligibility determination according to State and Federal SPED regulations.

Team members should identify the type of disability from the section titled "Disability Definitions" before taking the next step in the eligibility process.

After there has been a determination of a disability, Teams must remember that the final question to ask is: Does the student require specially designed instruction in order to make progress?

Specially designed instruction is a modification not regularly provided for students in the general education program. Specially designed instruction includes modifications that affect content, delivery of instruction, methodology and/or performance criteria and are necessary to assist the student in participating and learning. Specially designed instruction is an absolute requirement for students found eligible for special education.

Related services necessary to access the general curriculum are considered special education and may be provided alone, or in combination with specially designed instruction. If the student only requires accommodations, then that student is not eligible for special education. Accommodations are typically provided by general educators within the general education environment. Preferential seating, pencil grip use, or cooperative learning strategies are some examples of these kinds of typical accommodations. Accommodations do not involve modifying the material content, but do allow students to receive information in a more effective manner.

If a student is found eligible for special education, an IEP must be developed. In most cases, development of the IEP will occur within a single meeting after the determination of eligibility has been made (see section titled "Development of the Individualized Education Program").

If the student does not have a disability, if the student does not show a lack of progress, if the student does show a lack of progress but it is not due to a disability, or if the student does not require special education, then the Team should make a finding of no eligibility. However, as a matter of good educational practice, the Team should reasonably discuss the appropriate next steps to ensure that the Dartmouth Public Schools, through regular education options, addresses any identified problem or concern. Parents also have the right to appeal any eligibility determination to the Bureau of Special Education Appeals, including a finding of no eligibility. Parents may contact the Bureau directly. Parents should be asked if they agree with the evaluation findings.

Team members should check a parent's understanding of the evaluation data and their agreement with it. If parents disagree with a particular school assessment, parents may have a right to an Independent Educational Evaluation (IEE). The Chairperson should immediately notify the Special Education Administrator of any request for an IEE. A response to the request will be generated through the Special Education Office.

Development of the Individualized Education Program

The IEP should serve to focus on the special education services. The IEP will better serve the student if it focuses on what will make the biggest difference for that student and not on every aspect of every school day. The IEP should concentrate on offsetting or reducing the problems resulting from the student's disability that interferes with learning and educational performance.

Parents and/or students need to give input into IEP development. Using the Parent Questionnaire (SPED-D-9), parents are provided an opportunity to share their concerns regarding their child. The parent perspective is unique and important to the Team's work as they have a view of the student that cannot be duplicated by even experienced evaluators.

Teams should keep a whole child perspective.

The Team must next review the student's strengths, interests, personal attributes, and personal accomplishments as well as key evaluation results to enable Team members to keep a whole child perspective when writing the IEP. Teams should avoid a segmented look at the student where individual skills or problems are identified in isolation. The Team should keep the big picture in mind and plan to use the student's strengths in planning steps for the next IEP period.

When developing an IEP for a student with an existing IEP, the Team should always review the content of the existing IEP as they begin developing a new IEP. The new IEP should be revised and updated as needed to shift goals and services and to demonstrate a progression of learning. Each year's measurable annual goals should clearly show a step-by-step increase in a student's learning outcomes. Also, if necessary, any lack of expected progress needs to be discussed and addressed.

The general curriculum must be addressed in all students' IEPs. The IEP should be considered a primary tool for enhancing a student's involvement and progress in the general curriculum. As defined by federal regulation, the general curriculum is the curriculum used with non-disabled children. All students, regardless of the nature or severity of the disability or their educational setting, must have access to and progress in the general curriculum.

Within Massachusetts, the general curriculum is defined as the Massachusetts Curriculum Frameworks in the following areas: English Language Arts, Mathematics, History and Social Sciences and Science and Technology. Other curriculum areas can and should be discussed if the student's disability affects progress in those areas.

School districts must maintain high standards for children with disabilities. These standards should be consistent with the expectations for all students in the educational system. **General educators play a critical role in the Team process as the experts on the general education curriculum and classroom environment. Their participation in the Team process is required under Federal Regulation.**

The IEP must also address areas of other educational need.

The Team must also look at the student's overall involvement within the school including participation in extracurricular and other nonacademic activities and, for preschool students, participation in appropriate activities to ascertain other areas of need. The Team may consider how students communicate with others, how the students' behavior affects their learning or the learning of others, how assistive technology could support effective progress or how the students' disabilities effect transition to post-secondary activities.

Placement Decisions

The third and final step in the IEP process is determining the appropriate placement. The type of placement should be discussed immediately after an IEP is developed. The IEP forms the basis for the placement decision. The placement decision must be based on a careful reflection of the IEP, including the services that the Team has identified as necessary, and the impact of the disability on the student's learning. Finally, the Team must be mindful of the requirement related to FAPE (free appropriate public education) in the LRE (least restrictive environment).

Only after the needs of the child and the types of services have been discussed by the Team and agreed to in an IEP can the type of placement be effectively chosen by the Team.

The first type of placement option considered for all eligible students will be the general education classroom with the use of supplemental aids and services.

A student may not be denied education in age-appropriate general education classrooms because the student's education requires modification to the general curriculum. Other options should be considered only when the nature and severity of the disability would prevent satisfactory achievement within the general education environment.

The IEP, under no circumstances, should be written "to fit" a particular placement. A Team must remember this critical fact when moving through the Team process to ensure that the IEP is written to address the unique needs of the student.

Team Meeting Protocols

Sample Review Team Meeting Agenda

Review Team Meeting: Jane Doe

September 4, 2014

AGENDA

- Statement of Purpose of Meeting & Introductions
- Review of Student's Progress
- Developing new goals/objectives
- Service Delivery/Placement

Purpose of the Review Meeting

The purpose of this meeting is to review the student's progress toward meeting the goals and objectives of the IEP. The participants in the Review Team Meeting will develop a new IEP that reflects student growth and current educational needs, as related to the general education curriculum. If the Dartmouth Public Schools suspects that the student may no longer require special education services, then a reevaluation must be initiated, since no decision to remove eligibility can occur without current and complete evaluation information.

Timelines for Annual Reviews

1. A review must be conducted within ten months of the initial Evaluation and, thereafter, every twelve months on or before the expiration of the current IEP. Other Review Meetings may be requested at any time by any Team member. When a Team Member is not satisfied with the progress of his/her child or with the child's program and requests to meet with school personnel, the Liaison will arrange for a meeting to be held within five school days. The Liaison must inform the Principal and the Pupil Support Services Administrator of this unscheduled review.

2. The Liaison will be responsible for ensuring that the annual review is held in a timely manner.

The Meeting

1. The Review Team Meeting should have a printed Agenda to facilitate effective communication and help the Team reach consensus. The Chairperson/Liaison will review the purpose of the meeting, outline the process/format, introduce Team members and present a draft of the student's new IEP to the parents.
2. The Liaison/service providers/classroom teachers will review the student's progress and determine:
 - a) The appropriate goals and objectives for the upcoming 12-month period.
 - b) The necessary modifications and specially designed instruction needed to allow the student to access the general education curriculum.
3. If the student requires an increase in services, which will require a more restrictive setting, or if the participants cannot explain why the student does not appear to be meeting the goals outlined, or if the student requires services in areas in which testing has not been completed, the review Team will recommend a reevaluation.
4. If the student is referred for a reevaluation, the Liaison will write an amendment to extend the current plan. The amendment will be sent to the parent/guardian immediately following the review meeting along with an Evaluation Consent Form (N1A) and Proposal to Conduct an Unscheduled Reevaluation (N1).
5. If the student is not referred for a reevaluation, the final copy of the new IEP for the student will be processed in the usual manner.

Rejected IEPs

1. If a parent/guardian returns an IEP or Amendment rejected partially or fully, the Special Education Team Referral Clerk or Building Principal will notify the Pupil Support Services Administrator.
2. The Pupil Support Services Administrator will discuss the rejection with the Chairperson/Liaison and, if necessary, contact the parent/guardian in an attempt to resolve the dispute within four days. Any mutually accepted elements of the IEP will be implemented immediately.
3. If the dispute cannot be resolved, a copy of the rejected IEP or Amendment will be sent to the Bureau of Special Education Appeals by the Director no later than five days from the notification from the parent/guardian of the rejection of the IEP.
4. For Initial IEPs: Until the dispute regarding the IEP is resolved, the child will remain in his/her current placement. No special education services can be provided.
5. For Review/Reevaluations: Until the dispute regarding the IEP is resolved, the goals, objectives and services of the last accepted IEP will continue to be implemented.

Educational Decision Making

When voluntary custody has been given to DSS or a CHINS petition is in effect and no specific legal action has been taken to remove decision-making rights from the parent, the parent retains educational decision making rights.

If the natural parent is unwilling or unavailable for a period of time and the student is in a foster placement, the foster parent may automatically serve as the educational decision-maker. If the student is in a placement other than a foster placement, DSS may request assignment of an Educational Surrogate Parent.

If a child is living with extended family members ("kinship" home) such persons can be considered "foster" parents for the purposes of educational decision-making.

If the student is referred for an evaluation for special education services, or already receiving special education services, it is assumed that the parent, foster parent or extended family member with whom the child lives is the educational decision-maker.

Disability Definitions

State Regulations (from 603 CMR 28.02):

(7) *Disability* shall mean one or more of the following impairments:

(a) *Autism* - A developmental disability significantly affecting verbal and nonverbal communication and social interaction. The term shall have the meaning given it in federal law at 34 CFR §300.8(c)(1).

(b) *Developmental Delay* - The learning capacity of a young child (3-9 years old) is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: receptive and/or expressive language; cognitive abilities; physical functioning; social, emotional, or adaptive functioning; and/or self-help skills.

(c) *Intellectual Impairment* - The permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired and is exhibited by more than one of the following: a slower rate of learning; disorganized patterns of learning; difficulty with adaptive behavior; and/or difficulty understanding abstract concepts. Such term shall include students with mental retardation.

(d) *Sensory Impairment* - The term shall include the following:

1. *Hearing Impairment or Deaf* - The capacity to hear, with amplification, is limited, impaired, or absent and results in one or more of the following: reduced performance in hearing acuity tasks; difficulty with oral communication; and/or difficulty in understanding auditorally-presented information in the education environment. The term includes students who are deaf and students who are hard-of-hearing.

2. *Vision Impairment or Blind* - The capacity to see, after correction, is limited, impaired, or absent and results in one or more of the following: reduced performance in visual acuity tasks; difficulty with written communication; and/or difficulty with understanding information presented visually in the education environment. The term includes students who are blind and students with limited vision.

3. *Deafblind* - Concomitant hearing and visual impairments, the combination of which causes severe communication and other developmental and educational needs.

(e) *Neurological Impairment* - The capacity of the nervous system is limited or impaired with difficulties exhibited in one or more of the following areas: the use of memory, the control and use of cognitive functioning, sensory and motor skills, speech, language, organizational skills, information processing, affect, social skills, or basic life functions. The term includes students who have received a traumatic brain injury.

(f) *Emotional Impairment* - As defined under federal law at 34 CFR §300.8(c)(4), the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The determination of disability shall not be made solely because the student's behavior violates the school's discipline code, because the student is involved with a state court or social service agency, or because the student is socially maladjusted, unless the Team determines that the student has a serious emotional disturbance.

(g) *Communication Impairment* - The capacity to use expressive and/or receptive language is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: speech, such as articulation and/or voice; conveying, understanding, or using spoken, written, or symbolic language. The term may include a student with impaired articulation, stuttering, language impairment, or voice impairment if such impairment adversely affects the student's educational performance.

(h) *Physical Impairment* - The physical capacity to move, coordinate actions, or perform physical activities is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: physical and motor tasks; independent movement; performing basic life functions. The term

shall include severe orthopedic impairments or impairments caused by congenital anomaly, cerebral palsy, amputations, and fractures, if such impairment adversely affects a student's educational performance.

(i) *Health Impairment* - A chronic or acute health problem such that the physiological capacity to function is significantly limited or impaired and results in one or more of the following: limited strength, vitality, or alertness including a heightened alertness to environmental stimuli resulting in limited alertness with respect to the educational environment. The term shall include health impairments due to asthma, attention deficit disorder or attention deficit with hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia, if such health impairment adversely affects a student's educational performance.

(j) *Specific Learning Disability* - The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think speak, read, write, spell, or to do mathematical calculations. Use of the term shall meet all federal requirements given in federal law at 34 CFR §§300.8(c)(10) and 300.309.



How do these regulations apply to my position?



General education teachers are critical members of the Team that determines eligibility. Although there are students who qualify under more than one category, each child must qualify with a primary disability category. General educators should be familiar with the basic elements of each disability category.

Transition Planning

State Regulations (from 603 CMR 28.05):

(4) Contents of the IEP. Upon determining that the student requires special education and based upon the evaluative data, the Team shall write an IEP for the student and decide the student's placement. The IEP shall describe the special education and related services that the student requires and shall include all elements required under federal and state law.

(c) For any student approaching graduation or the age of twenty-two, the Team shall determine whether the student is likely to require continuing services from adult human service agencies. In such circumstances, the Administrator of Special Education shall make a referral to the Bureau of Transitional Planning in the Executive Office of Health and Human Services in accordance with the requirements of M.G.L. c. 71B, § 12A through C (known as Chapter 688).

State Regulations (from 603 CMR 28.06):

(4) Programs for older students. The school district shall ensure that options are available for older students, particularly those eligible students of ages 18 through 21 years. Such options shall include continuing education; developing skills to access community services; developing independent living skills; developing skills for self-management of medical needs; and developing skills necessary for seeking, obtaining, and maintaining jobs. Such programs may have an educational and/or vocational focus and shall be considered in-district programs if the program is operated by the public school and offers the student ongoing opportunities to interact with students or young adults without disabilities. Participation in such options for students younger than age 18 shall not relieve the school district of its obligation to ensure that students have access to instruction in the general curriculum.



How do these regulations apply to my position?



Guidelines for Transition Planning

Transition services are a coordinated set of activities that:

1. Are designed with an outcome process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living or community participation.
2. Are based on the student's needs, taking into account the student's preferences and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-secondary adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

When are transition plans required? - Beginning at age fifteen, IDEA 2004 requires a student's IEP to include a statement of the transition service needs of the child under the applicable components of the

child's IEP. The statement should focus on the child's course of study and include a statement of interagency responsibilities or any needed linkages.

Who plans transition services? - The Team determines transition activities. IDEA 2004 requires that the District invite the student to the Team meeting, regardless of age, if one of the purposes of the meeting is to discuss the student's transitional service needs. If the student does not attend the Team meeting, the District must ensure that the student's preferences and interests are considered.

Discussion about needed transition services must take place at Team meetings for all students beginning at age 15. All necessary services will be recorded in the appropriate sections of the IEP. As a student approaches graduation, the Team must also consider the student's graduation status, the need for a Chapter 688 referral and the involvement of adult service agencies. As the student nears or reaches age seventeen, the Team must discuss the transfer of rights at age of majority.

Sample Transition Plan Form

Dartmouth Public Schools Transition Plan

STUDENT: DATE OF BIRTH: DATE: ANTICIPATED DATE OF EXIT FROM SCHOOL:

The following are the four fields identified by IDEA 2004 that the Team must discuss as part of transition planning for all students beginning not later than at the first IEP to be in effect when the child is 16, and updated annually thereafter. This form should be placed in the Student's file and revisited each year.

I. Post-Secondary Course of Study

ACTION PLAN

- College
- Adult Education
- Technical School
- Vocational Training
- Adult Day Program (community based)
- Other:

Related Services

- Counseling
- Physical Therapy
- Occupational Therapy
- Speech Language Pathology
- Audiology
- Recreational Therapy
- Orientation & Mobility Services

- School Health Services
- Social Work Services
- Other:

II. Employment

- Competitive Employment
- Supported Job Placement
- Other:
- Other:

III. Community Experiences

- Identifying Residency Options
- Recreational Experiences
- Social Relationships
- Other:
- Other:

IV. Daily Living Skills and Needs

- Self-Care
- Money Management
- Agency Linkages-688 Referral
- Guardianship
- Other:
- Other:

Completed by:

College Testing Information

The College Board has recently changed its eligibility requirements for testing accommodations. Districts and parents are reporting that the College Board is rejecting many requests for accommodation because the documentation supporting the request is not sufficient under its new eligibility standards. As a result, parents and students are asking Districts to conduct additional evaluations or eligibility assessments to support students' requests for accommodation.

- What is Dartmouth Public Schools' responsibility to provide supporting documentation to the College Board when a student has requested accommodations on College Board tests (eg., PSAT/NMSQT, SAT or AP)?

Dartmouth Public Schools provides the College Board with documentation supporting the student's request for accommodation when such documentation is available, consistent with the Massachusetts Student Records Regulations (see 603 CMR 23.00),

In some cases, the College Board is asking that the student provide documentation of specific additional assessments or updated assessment information that the District does not need in order to deliver appropriate special education services to the student.

Dartmouth Public Schools is not obligated to provide or pay for updated or additional assessments to support a student's request for accommodation on College Board examinations if such assessment information does not already exist and is not necessary for the appropriate special educational program for the student at the time of the request.

The parent is responsible for paying for additional assessments that are needed for the sole purpose of supporting the student's request for accommodation on the College Board examinations.

If the parent requests an evaluation or assessment, whether or not the request describes the reason for the request, Dartmouth Public Schools must respond in accordance with the requirements of state and federal special education law. Dartmouth Public Schools may either agree or disagree to conduct such an assessment and provide notice to the parent of the decision. Dartmouth Public Schools decision not to conduct the assessment is subject to the due process requirements of the law.

If a request for an evaluation is made for the purpose of demonstrating a need for accommodations on College Board tests, and Dartmouth Public Schools has no reason to believe the student has a disability or needs special education services, then Dartmouth Public Schools can deny the request for an eligibility evaluation. Dartmouth Public Schools must notify the parent of the decision.

Data Collection and Monitoring Progress

State Regulations (from 603 CMR 28.07):

(3) Reports to parents. Written progress reports for eligible students shall be submitted to parents at least as often as report cards or progress reports for students without disabilities.

(8) Communications with parents and students. Each district shall ensure that all communications and meetings with parents and students pursuant to 603 CMR 28.00 meet the following standards:

(a) Communications shall be in simple and commonly understood words.

(b) Communications shall be in both English and the primary language of the home, if such primary language is other than English. Any interpreter used to implement this provision shall be fluent in the primary language of the home.

(c) Where the parents or the student are unable to read in any language or are blind or deaf, communications shall be made orally in English or with the use of a foreign language interpreter, in Braille, in sign language, via TDD, or in writing, whichever is appropriate.



How do these regulations apply to my position?



Effective Progress

Teams judge whether a student is making effective progress in school. The Team must make a judgment as to whether the student is making effective progress in the general education program. To do so, the Team must determine whether the student has:

- made documented growth, with or without accommodations, in knowledge and skills acquisition including social/emotional development, the teaming standards set forth in the Massachusetts Curriculum, and the curriculum of the Dartmouth Public Schools.
- made growth according to the chronological age, the developmental expectations, and the individual educational potential of the child.

When considering if the student has made effective progress, the Team must specifically look at whether the disability is causal to an inability to make progress. Teams judge whether the lack of progress is a result of the disability. Teams must look at the evaluation results to see whether the lack of progress is a result of the disability or a result of other factors. Only if the Team determines the lack of progress is connected to a disability may the Team continue to discuss a possible finding of special education eligibility.

According to state and federal regulation, a student may not be found eligible solely because the student is unable to follow the school discipline code, has limited English proficiency, social maladjustment, or has lacked reading or math instruction. These reasons may become part of the

Team's deliberations, but the essential finding of the Team must be that the lack of progress is, at least in part, a result of the disability (ies).

Progress Reports

The Progress Report is designed to report the progress of each IEP goal individually. Multiple copies of the form should be used as required to report on each and every IEP goal. Completed progress reports are sent to the special education office and filed. Progress reports are reviewed for content and frequency by the Pupil Support Services Administrator and Team Facilitators.

Progress reports are required to be sent to parents at least as often as parents are informed of non-disabled children's progress. A Team meeting does not take the place of a written progress report.

Parent/Advocate Visitation Guidelines

Each year parents exercise their rights to visit classes. Sometimes parents solicit the assistance of an independent evaluator and/or advocate to visit our schools in order to conduct observations of students with IEPs, interview teachers, and attend Team meetings. Please notify the Pupil Support Services Administrator and Building Principal when you have a request of this nature and follow the guidelines below.

When a parent requests that an independent evaluator conduct an observation or a parent requests a visit, the classroom teacher(s), Principal, Pupil Support Services Administrator and Liaison should meet to discuss the parameters of the visit. The Liaison is responsible for scheduling this meeting in cooperation with all participants.

Observations should be scheduled at a mutually convenient time. The arrival and departure of the visitor(s) should be established in advance of the scheduled observation and ground rules should be discussed. Adhere to the predetermined observation schedule. Do not extend the visit should the independent evaluator wish to change the departure time.

A designated staff member must accompany the visitor(s) and observe concurrently. Please factually document everything that you observe so that the system has a record of what occurred.

Discipline Related to Students with Disabilities

Federal Regulations (from 34 CFR 300.523)

§300.523 Manifestation determination review.

(a) General. If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under § 300.519 for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children—

(1) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and provided the procedural safeguards notice described in § 300.504; and

(2) Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child’s disability and the behavior subject to the disciplinary action.

(b) Individuals to carry out review. A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified personnel in a meeting.

(c) Conduct of review. In carrying out a review described in paragraph (a) of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child’s disability only if the IEP team and other qualified personnel—

(1) First consider, in terms of the behavior subject to disciplinary action, all relevant information, including—

(i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;

(ii) Observations of the child; and

(iii) The child’s IEP and placement; and

(2) Then determine that—

(i) In relationship to the behavior subject to disciplinary action, the child’s IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child’s IEP and placement;

(ii) The child’s disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

(iii) The child’s disability did not impair the ability of the child to control the behavior subject to disciplinary action.

(d) Decision. If the IEP team and other qualified personnel determine that any of the standards in paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child’s disability.

(e) Meeting. The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under §300.520(b).

(f) Deficiencies in IEP or placement. If, in the review in paragraphs (b) and (c) of this section, a public agency identifies deficiencies in the child’s IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

(Authority: 20 U.S.C. 1415(k)(4))



How do these regulations apply to my position?



Discipline

Functional behavioral assessment (FBA) is a process for addressing student problem behaviors, the settings under which the problem behaviors may or may not be observed, and the function (the why)

of the problem behaviors. This information is obtained by collecting data from direct observation and is used to develop an effective plan to reduce the frequency or severity of the problem behavior. A behavior intervention plan (BIP) is developed and implemented, if appropriate. Functional behavioral assessment should be integrated, as appropriate, throughout the process of developing, reviewing, and, if necessary, revising a student's IEP.

In the case of a student with a disability a suspension of more than 10 days (or a suspension that would, with previous suspensions that year, total more than ten days) or expulsion (which is viewed as a change of placement) requires an emergency Team meeting. The purpose of this Team meeting is to make a manifestation determination. Relevant members of the Team shall review all relevant information in the student's file, including the IEP, teacher observations, and any information provided by the parents to determine if the conduct in question is caused by or had a direct or substantial relationship to the child's disability or was the direct result of the LEA's failure to implement the IEP. If any of those circumstances are found, long-term suspension or expulsion may not be imposed.

The IEP Team must determine if there is a relationship between the school discipline policy violation and the student's disability in order to make decisions about the consequence for the misconduct as well as the student's continuing educational and behavioral needs. If the behavior in question is not a manifestation of the student's disability, the student may be disciplined under the general conduct code of the school. The IEP Team considers all relevant information, including evaluation/diagnostic results, observations of the student, and the student's IEP and placement.

The Team must determine:

- Is the IEP appropriate, including the BIP?
- Is the IEP implemented as written, including appropriate behavior management procedures?

- Did the disability prevent the student from understanding the impact and consequences of the behavior in question?
- Did the disability prevent the student from controlling the behavior in question?

In summary, the behavior is not a manifestation of the disability if the Team determines that:

1. The current IEP and placement are appropriate
2. The student has the ability to understand the consequences of the behavior
3. The student has the ability to control the behavior

If a Student Violates School Discipline Code: 45 School Day Rules

School personnel may remove a student to an appropriate interim alternative educational setting for not more than 45 school days if the student:

- carries a weapon
- possesses or sells illegal drugs or controlled substance
- inflicts serious bodily injury upon another person at school, on school premises, or at a school function

The Team must conduct a Functional Behavioral Assessment and Manifestation Determination. The Hearing Officer can extend the 45-day period.

The Hearing Officer may order a 45 school day placement in an interim alternative educational placement if the District proves that the presence of the student poses a danger.

Danger is considered as:

- Likelihood, to result in injury to the student or others
- Appropriateness of the student's current placement
- Reasonable efforts made to minimize risk of harm
- The interim Alternative Education Placement meets requirements - access to curriculum and program designed to address behavior

The District uses interim alternative educational settings when students are removed from their current placement. The District has used collaborative programs and approved private schools as interim alternative educational settings.

When a student with a disability is reported to the police for an alleged crime, special education and disciplinary records must be furnished to the police.

The Individuals with Disabilities Education Act Regulations at 34 CFR § 300.529 state the following:

Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Right and Privacy Act. (Authority: 20 U.S. C. 1415(k)(9))

Manifestation Determination

Manifestation Determination Form

Student Name:

Participants:

School:

Date:

____ Number of days suspended prior to this incident

i. Background Information:

Yes No

Was a Behavioral Intervention Plan developed prior to this incident?

Were illegal drugs/controlled substances involved in this incident?

Has a Functional Behavioral Assessment been conducted?

Was a weapon involved in this incident?

Special Education enrolled student?

Evaluation pending, not yet eligible

ii. Date of Incident:

Describe the nature of the allegations against the student and related information that were considered by the Team (i.e.; discipline and other reports)

iii. Document the relevant information reviewed and considered:

Current evaluation and diagnostic results

Current IEP and/or reports, classroom assessment

Current academic performance

Disciplinary records

Current Behavioral Intervention Plan

Student Record of Attendance

Information Supplied by Parents

Observation/description of Any Other Relevant Information Considered:

IV. Team's Conclusion Regarding Relatedness

Yes OR No

_____ The student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were being provided consistent with the student's IEP and placement at the time of the incident

_____ The student is able to understand the impact and consequences of the behavior subject to disciplinary action, and his/her disability does not impair his/her understanding.

_____ The student is able to control his/her behavior subject to disciplinary action, and his or her behavior does not impair the ability of the student to control this behavior.

NOTE: All of the above must be marked "Yes" for the Team to determine that the behavior of the student was NOT a manifestation of the student's disability.

V. Determination

Based on the above review, the IEP Team members conclude that:

The student's misconduct was NOT a manifestation of the student's disability.

The student's misconduct was a manifestation of the student's disability.

VI. Additional Information

Team Meeting Scheduled

Additional behavioral data is needed

Behavior Intervention Plan to be developed/implemented/revised (Attach)

School will refer student for a 45 interim alternative setting (Drug and weapon offenses only. IEP addendum required)

Recorded by:

Name: _____

Position: _____