

**LAKE REGION SPECIAL EDUCATION UNIT
POLICIES AND PROCEDURES HANDBOOK**

August 2016

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SECTION 1: RIGHTS TO EDUCATION

I. RIGHT TO EDUCATION POLICY STATEMENT (20 U.S.C. 1412(a)(1); 34 CFR § § 300.101-300.102)

A. Policy

The Lake Region Special Education Unit assures that all children with disabilities ages 3 through 21 have the right to a free appropriate public education (FAPE) including children with disabilities who have been suspended or expelled from school. This policy includes all children with disabilities in accordance with definitions as listed in IDEA 2004 (Public Law 108-446) and North Dakota Century Code (NDCC). FAPE means that an eligible student with a disability receives special education and related services at public expense, and that services are provided in conformity with an individualized education program (IEP). Special education includes specially designed instruction to meet the unique needs of the student which, in turn, involves adapting the content, methodology or delivery of instruction in order for the student to be involved in and make progress in the general curriculum, and to participate in extracurricular and other non-academic activities. Related services means transportation and developmental, corrective, and other supportive services that are necessary for a student with a disability to benefit from special education or to access the general curriculum.

In providing a free appropriate public education to a child with a disability, the Lake Region Special Education Unit assures that:

1. if placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child (300.104);

Residential Placement

All LRSE area schools ensure that if placement in a public or private residential program is necessary to provide special education and related services to a student with a disability, the program including nonmedical care and room and board will be at no cost to the parents of the child.

2. the hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly (300.113 (a));

Proper Functioning Of Hearing Aids

It is LRSE's policy not to purchase personal appliances for individuals such as glasses or hearing aids. Additionally, LRSE does not purchase hearing aid batteries. LRSE, however, will monitor the functioning of individual students' hearing aids. If the individual has an IEP, the name of the individual monitoring the functioning of the aid should be listed under the materials and equipment section. If the individual does not have an IEP, it is suggested that the building principal appoint an individual to regularly monitor the functioning of the aid. This individual's name could be listed on the student's cumulative file annually.

3. it is taking steps to ensure that children with disabilities have available to them the variety of educational programs and services available to children who do not have disabilities,

including art, music, industrial arts, consumer and homemaking education, and vocational education (300.110);

Program Options

LRSE schools assure that all students with disabilities children have a variety of educational program options available to them including art, music, industrial arts, consumer and homemaking education, and vocational education if these options are available to the student without a disability.

4. it is taking steps including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities (300.107);

LRSE schools reaffirm their responsibility to provide nonacademic and extracurricular activities to students with disabilities to the same extent it provides these opportunities to the student without a disability. This includes counseling, athletics, transportation, health services, recreation opportunities, clubs sponsored by the schools, employment programs, and other similar options available to the student without a disability.

5. it affords each child with a disability the opportunity to participate in the regular physical education program available to children who do not have disabilities, unless the child is enrolled full time in a separate facility, or the child needs specially designed physical education (300.108);

All LRSE schools will have physical education available to every child receiving a free appropriate education. This includes specifically designed programs if necessary. Each child must be afforded the opportunity to participate in the regular physical education program unless:

- (i) *The child is enrolled full time in another facility. If this is the case, the school will still provide a program. The physical education services provided may or may not be with the student without a disability.*
- (ii) *Needs a specially designed program as prescribed on the IEP.*

If the child is being served by another program or facility, the local school district will assume the responsibility to see that the services are provided.

6. assistive technology devices or services or both are made available to a child with a disability if required as part of the child's special education, related services, or supplementary aids and services (300.105); and

Assistive Technology Policy

It is LRSE's policy to have IEP teams define, on a case by case basis, the extent to which a student with a disability requires assistive technology and/or services under 300.5 and 300.6 as defined on pages 42 and 43 in the State IEP Guidelines.

7. extended school year services are available as necessary to provide a free appropriate public education, as determined by the child's individualized education program team (300.106).

Extended School Year

To ensure a free appropriate public education, the team must consider whether extended school year services are needed for each child regardless of the child's disability.

B. Definitions; FAPE for Children Beginning at Age 3

As defined by IDEA, 34 CFR § 300.8, a *child with a disability* means a child evaluated in accordance with §§ 300.304-300.311 as having an intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (“emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

North Dakota Century Code Section 15.1-32-01(4) defines the “child with disabilities” and the age limits for providing special education programs to children with disabilities. This statute provides the basis for programming for children with disabilities ages 3 through 21. Federal regulations at 34 CFR 300.8 (b) state that the term *child with a disability* for children aged 3 through 9 or any subset of that age range, may include a child:

1. who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
2. who, for that reason, needs special education and related services.

In North Dakota, the term “child with a disability” for a child ages 3 through 9 may include a child who is experiencing developmental delays. The State has adopted the term “non-categorical delay” for children of this age range. “Non-categorical delays” are defined by State guidelines in *Guidelines: Identification and Evaluation of Students with Non-Categorical Delay* (NDDPI July 2007). The Lake Region Special Education Unit has chosen to adopt and use the term non-categorical delay for children ages 3 through 9.

The Lake Region Special Education Unit ensures that:

1. the obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and
2. an Individualized Education Program (IEP) is in effect for the child by that date, in accordance with §300.323.
3. if a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin. The LEA must provide services during the summer if the IEP team determines the child needs ESY services in order to receive a free and appropriate public education.

C. FAPE for Children Suspended or Expelled from School

1. A school district need not provide services during periods of removal under §300.530(b) to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.

2. In the case of a child with a disability who has been removed from his or her current placement for more than ten (10) school days in that school year, the school district, for the remainder of the removals, must
 - (i) provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is—
 - (a) under the school personnel's authority to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement under §300.536, 300.530(d); or
 - (b) for behavior that is not a manifestation of the child's disability, consistent with §300.530(c); and
 - (ii) provide services consistent with §300.530(d), if the removal is—
 - (a) for drug, weapons, or serious bodily injury offenses under §300.530(g); or
 - (b) based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement, pursuant to §300.531(b).
3. School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement under §300.536 (§300.530(d)(4)).
4. The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, pursuant to §300.530(d)(5).

(See also Section IV; Discipline Procedures)

D. Children Advancing from Grade to Grade (§ 300.101D)

1. The Lake Region Special Education Unit ensures that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.
2. The determination that a child residing in North Dakota between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, is eligible under this part, must be made on an individual basis by the group responsible within the school district for making those determinations.

E. Exception to FAPE for Certain Ages (§300.102)

NDCC §15.1-32-01(4) identifies age limits for provision of FAPE in North Dakota: an individual who is at least three years of age but who has not reached age twenty-one before September first of the year in which the individual turns twenty-one.

The obligation to make FAPE available to all children with disabilities does not apply to students with disabilities who have graduated from high school with a regular high school diploma. There is only one type of high school diploma in North Dakota, the "regular"

diploma. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503.

Federal regulations at §300.102(a) (2) state other exceptions to the requirement to provide FAPE that do not apply in North Dakota because North Dakota has not enacted the required foundational state statute.

II. FULL EDUCATIONAL OPPORTUNITIES GOAL AND TIMELINE

Goal Statement (20 U.S.C. 1412(a)(2); 34 CFR 300.109)

The Lake Region Special Education Unit affirms the goal of providing full educational opportunity to all children with disabilities ages 3 through 21.

The Department of Public Instruction's present special education mandate is to serve all children with disabilities ages 3 through 21. The provision of special education services to children with disabilities ages birth through two is the responsibility of the Department of Human Services (DHS) and by the appointment of DHS as lead agency by the Governor of North Dakota to carry out the provisions of IDEA Part C.

III. CHILD IDENTIFICATION (20 U.S.C. 1412(a)(3)(A) and (B); 34 CFR 300.111)

A. Policy

The Lake Region Special Education Unit assures that all children residing within its jurisdiction, including children with disabilities who are wards of the state or are attending private school, regardless of the severity of their disability, and who are in need of special education and related services will be identified, located, and evaluated. This assurance extends to highly mobile children with disabilities (such as migrant and homeless children) and children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade.

B. Identification Procedure

1. The Lake Region Special Education Unit is the central referral point for information regarding identified children with disabilities ages birth through 21. The Lake Region Special Education Unit annually reports data on identified children with disabilities ages 3-21 to the NDDPI. These data are included in the Child Information data collection system used for Child Count each December. The unit director works collaboratively with other community/regional agencies to develop a plan for location and identification of children ages birth through 5, to assure that selective screening is available and that children with disabilities identified as a result of the screening and subsequent evaluations are reported. The Lake Region Special Education Unit is responsible for unit-wide planning and implementation of child identification, location, and evaluation efforts. The Lake Region Special Education Unit utilizes the following agencies, as appropriate, to provide related, evaluative, or educational services to children with disabilities ages birth through 21, as required under IDEA:

Resource/Location	Ages Served	Nature of Services		
		Evaluation	Education	Related
College and University Clinics				
Speech and Hearing Clinic, UND, Grand Forks	0-5; 6-21	X		
Child Evaluation Clinic, MSU, Minot	0-5; 6-21	X		
Speech and Audiology Clinic & Sertoma Hearing Clinic, MSU, Minot	0-5; 6-21	X		
Private Schools				
The Anne Carlsen Center for Children, Jamestown	0-5; 6-21	X	X	X
State Agencies				
State Board for Vocational and Technical Education	14-21	X	X	
Job Service of North Dakota	14-21	X	X	
Children's Special Health Services, Department of Human Services, Bismarck	0-5; 6-21			
Vocational Rehabilitation, Lake Region Human Services,	14-21	X		
Youth Correctional Center, Mandan, Director of Institutions, Bismarck	6-21	X	X	
ND Vision Services/School for the Blind, Grand Forks, Department of Public Instruction, Bismarck	0-5; 6-21	X	X	X
School for the Deaf, Devils Lake, Department of Public Instruction, Bismarck	0-5; 6-21	X	X	X
Maternal and Child Health, State Department of Health, Bismarck	0-5; 6-21			
Community Health Nursing, State Department of Health, Bismarck	0-5; 6-21			
Bureau of Health Statistics, State Department of Health, Bismarck	0-5; 6-21			
Day Care Centers, Department of Human Services, Bismarck	0-5			
Lake Region Human Services Centers Department of Human Services, Eight Regional Locations	0-5; 6-21	X	X	X
Federal Programs				
North Dakota Head Start Program, Regional Locations, Reservation Programs	3-5	X		X
Bureau of Indian Education Special Education Programs, Spirit Lake Reservation	3-21	X	X	X
Indian Health Service, Spirit Lake	All Ages	X		X
Local Programs				
Anne Carlsen Early Intervention Center	0-3	X	X	X

Resource/Location	Ages Served	Nature of Services		
		Evaluation	Education	Related
Area Audiologists		X		
Area Psychologists and Psychiatrists	All Ages	X		

C. Child Find Activities

1. Child Find

The Lake Region Special Education Unit participates in ongoing efforts to identify, evaluate, and serve children with disabilities. The unit provides follow-up screening and evaluative services. Child Find information is disseminated throughout the year using brochures, parent-teacher meetings, and professional organizations. Newspaper announcements are made yearly. Brochures are sent to all churches and professional organizations. School news letters have information on child find in them. The special education unit as the local coordinating agency begins the program planning process for children suspected of having disabilities. Referrals of children birth through two are made to the ND Department of Human Services, Early Intervention Program.

2. Preschool Screening

Children with disabilities, ages 3 through 5, are referred to special education units through child find activities, parents, public health nurses, and other agencies. The Lake Region Special Education Unit participates in interagency screening activities for at-risk children 3 through 5 years of age. Other agencies involved in the screening activities include Head Start, Maternal and Child Health, county health programs and other local programs. This selective screening process is available to young at-risk children year round and is closely coordinated with the ND Early Intervention Program.

3. Selective Screening

Selective screening is done to determine the significance of identified risk conditions to the child's growth and development or academic performance. The result of the screening process is a systematic collection of information for every student screened which helps determine whether there is a need for referral. For school-aged children follow-up services are provided through an intervention process. This could be through Response to Intervention process (RTI), Multi-Tiered System of Support (MTSS), or a building level team process such as the Building Level Support Team (BLST) or Teacher Assistance Team (TAT). Screening referrals may come from parents, school intervention teams, teachers and administrators.

Screening will be performed by qualified personnel and may include:

- i. vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;
- ii. hearing screening to verify any hearing risk indicators;
- iii. speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;
- iv. preschool screening which typically includes vision, hearing, cognition, motor, speech-language, and health components to verify developmental delays;
- v. academic screening for school age children to determine the significance of academic delays; and

- vi. screening for secondary level students who are at-risk of dropping out, or who have dropped out, to verify that the reasons for dropping out are not related to a previously unidentified disability.

See Appendix Section 1 – Selective Screening Instructions and Forms 1.1 – 1.3

4. Identification of Students At-Risk of Dropping Out of School

The Lake Region Special Education Unit has established screening and identification procedures for secondary level students who may have dropped out or for other reasons have not received an adequate education program. Services include evaluations, programming, and referrals to other agencies when appropriate. An outcome of this activity is to identify students who may have disabilities and provide appropriate supports for them.

D. Reporting Requirements to NDDPI

The Lake Region Special Education Unit submits reports to the NDDPI in accordance with N.D. Admin. Code § 67-23-03-02.

See *Parental Rights for Public School Students Receiving Special Education Service Notice of Procedural Safeguards* which can be found on the North Dakota Department of Public Instruction at <https://www.nd.gov/dpi/uploads/60/ParentalRightsforPublicSchoolStudentsReceivingSpecialEducationServices8410.pdf>

APPENDIX SECTION 1 – RIGHTS TO EDUCATION

- 1.1 Selective Screening Instructions*
- 1.2 Selective Screening Form A – General*
- 1.3 Selective Screening Form B – Speech/Language and Hearing*

1.1 Selective Screening Instructions

- A. Purpose: To obtain written permission from parent/guardian to gather and review information on selected children who are referred to special education due to identified risk factors. (Speech, language and/or hearing needs, use Form B.)*
- B. Used by: Any staff member who requires specific information on any one student.*
- C. Prerequisite to: Anytime a child is singled out for the purpose of screening.*
- D. A written summary of the results should follow.*
- E. Copies to: Student's cumulative file, special education folder (if applicable).*

NOTE: Qualified personnel will identify risk factors which impact the student's ability to learn through:

- hearing screening to verify any hearing risk indicators;*
- speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;*
- preschool screening which typically includes vision, hearing, cognitive, motor, speech-language, and health components to verify developmental delays; and*
- screening for secondary level students who are at-risk or have dropped out of school to verify that the reasons for dropping out are not related to a previously unidentified disability.*

**LAKE REGION SPECIAL EDUCATION
SELECTIVE SCREENING PARENT PERMISSION FORM**

Date _____

_____ School requests permission to locally provide an informal
(Name of Student)

screening of _____ (Date of Birth _____, Grade _____) for the following reasons:
(Name of Student)

The screening will consist of the following activities:

The person responsible for the screening:

_____ **I give my permission for the screening**

_____ **I deny my permission for the screening**

_____ **Date**

_____ **(Parent/Guardian Signature)**

Address: _____

Phone: _____

Signatures:

School Administrator

Classroom Teacher

1.3
Form B

**LAKE REGION SPECIAL EDUCATION
SELECTIVE SCREENING PARENT PERMISSION FORM
Speech/Language/Hearing**

Date _____

_____ School requests permission to locally provide an
informal screening of _____ (Date of Birth _____, Grade _____)
(Name of Student)

for the following reasons:

_____ Speech
_____ Language
_____ Hearing

The screening will consist of the following activities:

_____ Hearing Screening
_____ Speech Screening (may include conversational speech and other screening tools)
_____ Expressive Grammar (may include conversational speech and other screening)

Person responsible for the screening:

_____ **I give my permission for the screening**
_____ **I deny my permission for the screening**

_____ **Date**

_____ **(Parent/Guardian Signature)**

Address _____

Phone: _____

Since federal guidelines prohibit any screening without parents' written permission, please return this signed form within 3 days.

Signatures:

School Administrator

Classroom Teacher

SECTION 2: EVALUATION

IV. PROCEDURES FOR EVALUATION AND DETERMINATION OF ELIGIBILITY (20 U.S.C. 1412(a)(6)(B), (1412)(a)(7); 1414(a),(b), and (c); 34 CFR 300.122; 300.300-300.311)

The school district has in effect policies and procedures consistent with federal law and state guidelines that address initial evaluation, evaluation procedures, determination of needed evaluation data, determination of eligibility, procedures for determining eligibility, placement, and reevaluation. The school district understands that a student cannot be determined to be eligible for special education solely because of limited English proficiency, because the student fails to meet the school discipline code, or because the student lacks instruction in reading or math.

A. Policy

The Lake Region Special Education Unit adheres to the policies, standards, and procedures relating to procedures for evaluation and determination of eligibility as set forth in *Guidelines: Evaluation Process* (North Dakota Department of Public Instruction May 2014) and ensures the requirements of §300.300 through 300.311 are implemented consistently. Specific evaluation procedures, including forms and instructions for their use, are found in the appendix of section 2.

See Appendix Section 2 – Child Study Team Summary Instructions and Form 2.1-2.2 and Follow Up and/or Referral to Multidisciplinary Team Instructions and Form 2.3-2.4

Many LRSE schools utilize intervention teams. A referral to the intervention team is the first step a teacher should take when there is a concern about a student. Each building has established procedures for utilizing the intervention team, and staff should follow those building procedures. The classroom teacher should complete the referral form used by the school. All questions on this form should be answered. Include the address, date of birth, North Dakota State Assessment scores, retention information, and other information that would help the team. If there are any other records (from previous school, IEPs, cumulative file) they should be available at the first intervention meeting. The team will brainstorm ideas to assist the student and teacher in the classroom. These new accommodations will then be implemented in the classroom for a period of time and then the teacher may schedule a follow-up meeting for more suggestions. If the ideas implemented are not successful, the student may be brought back to the team. The team may consider alternative or additional strategies to implement or may see if some screenings in LD, speech, emotion, or attentional areas could benefit the team in deciding whether or not to move to assessment. For example, before a child is tested in the social-emotional area an observation, checklist, and a visit with the counselor could help us to prepare for that or to see if the test is needed. A referral to Lake Region Special Education for an assessment may be considered. If a referral for assessment is a possibility at the second intervention team meeting, an LRSE social worker or coordinator should be invited to attend the meeting.

Initial Evaluations

These team meetings will also be held at the local building level. In the case where the school staff feel a referral to special education for evaluation is necessary, the appropriate special education staff should be invited to the meeting to develop an assessment plan. Recommendations made at these meetings will be brought by the social worker to LRSE for approval and scheduling.

Re-Evaluations

These team meetings will be held at the local building level with the IEP team. Recommendations made at these meetings will be brought by the social worker to LRSE for approval and scheduling.

B. Regulations

1. Parental consent for initial evaluation; and reevaluations (§ 300.300(a), (c), (d))
The Lake Region Special Education Unit states that it follows the requirements for parental consent stated in §300.300. This section addresses parent consent for initial evaluation, services, and reevaluations. Regulations addressing parental consent are discussed more fully at section VIII. Procedural Safeguards, E. Parental Consent.
2. Initial Evaluation (§ 300.301)
Each school district shall conduct a full and individual initial evaluation in accordance with §§300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under IDEA Part B. The evaluation must be conducted within 60 days of receiving parental consent for the evaluation. ND Admin Code §67-23-01-03 allows for two additional exceptions to the sixty day time frame for initial evaluations:
 - (i) An extension is necessary because of extreme weather that prevented or interfered with the evaluation and the extreme weather condition is documented, or
 - (ii) Either party establishes to the satisfaction of the department that access to a qualified evaluator is so limited that the evaluation cannot occur in the initial sixty days.
3. Assessment Plan and Summary Report
Prior to conducting evaluations, the school district will develop a student profile and if additional information is needed, an assessment plan for each child suspected of having a disability. At the conclusion of an evaluation, the school district will prepare an integrated written assessment report. The report considers all current and relevant data that has been gathered and reviewed to make disability determination decisions.
4. Evaluation Procedures (§ 300.304) notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the school district proposes to conduct.
 - (i) *Notice.* The school district must provide n
 - (ii) *Student Evaluation Policy (Approved April 13, 1988)*
Children who are having difficulty in school or showing developmental delays at home are referred to Lake Region Special Education by parents, teachers, and administrators. Our involvement may include a school visit, a home visit, a behavioral program, consultation, referral to other agencies, screening, evaluations, or direct service. Parental permission is obtained prior to a formal evaluation. The evaluation may be completed at the school by special education staff, consulting psychologists, or contracted specialists. It will depend on the nature and severity of

the child's difficulties as to which evaluation service will be utilized.

Financial Responsibility

Lake Region Special Education will pay for evaluations in all areas related to the suspected disability including: health, where appropriate; vision, hearing; social and emotional status; general intelligence; academic performance; communication and motor abilities.

However:

- (a) We may ask that you use family insurance, or similar third party payments, in whatever amount is allowed, for determining a child's medically related disability which results in the child's need for special education and related service. We will cover costs not covered by insurer or medical assistance OR if necessary, pay the total cost.*
- (b) Parents will assume such costs for a child with a disability child as they would if the child did not have a disability. Personal items, including but not limited to: hearing aids, eye glasses, routine medical expenses, physical exams, medications, and all items necessary for a nondisabled child, will be the financial responsibility of the parent.*
- (c) We may withhold payment until a report of the evaluator's findings is received in our office.*

Parent Reimbursement

Parent and staff will be reimbursed for taking children to evaluations or attending staffing requested by Lake Region Special Education at state rates. In order for reimbursement to be made, a reimbursement form must be filled out. They are available from a LRSE Social Worker. Whenever possible, staff should utilize an LRSE vehicle.

Parents/staff must keep receipts. We will reimburse for meals for one child and one adult for the actual cost or the reimbursement allotment, whichever is less. Lodging reimbursement will not exceed state rate plus tax per night with prior approval from LRSE.

To receive reimbursement money, receipts must be sent along with the reimbursement form to:

*LRSE Social Worker
Lake Region Special Education
80¹ 5th Avenue SE
Devils Lake, ND 58301-3649*

This form should be sent as soon after the evaluation as possible to insure more prompt payment. Bills are paid following the monthly meeting of the LRSE Board, which meets the second Wednesday of each month.

See Appendix Section 2 – Reimbursement Form 2.5

Should you get duplicate bills from the evaluating agency, you may forward them to our office. As we must wait for your insurance to clear the charges, it will often take several weeks before our office makes payment to the evaluation agency.

Summary

- (a) *Lake Region Special Education will pay for evaluations we request to determine your child's special education needs. Payment may be withheld until a report of evaluation findings is received in our office.*
 - (b) *We may bill your insurance, or similar third party payment such as medical assistance, prior to paying the total bill with parental consent.*
 - (c) *We will pay only for evaluations of a diagnostic nature, and not for:*
 - (1) *Treatment*
 - (2) *Medication*
 - (3) *Routine follow-up*
 - (4) *Purely medical concerns unrelated to education*
 - (d) *There should be no cost to the parent on education matters.*
- (iii) *Conduct of evaluation.* In conducting the evaluation, the school district must—
- (a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—
 - (1) Whether the child is a child with a disability under § 300.8; and
 - (2) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
 - (b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
 - (c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (iv) *Other evaluation procedures.* Each school district must ensure that—
- (a) Assessments and other evaluation materials used to assess a child under this part—
 - (1) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - (2) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - (3) Are used for the purposes for which the assessments or measures are valid and reliable;
 - (4) Are administered by trained and knowledgeable personnel; and
 - (5) Are administered in accordance with any instructions provided by the producer of the assessments.

- (b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
 - (d) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
 - (e) Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
 - (f) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
 - (g) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.
5. Multidisciplinary Team (§ 300.306(a)(1))
The determination of eligibility evaluation is made by a group of qualified professionals and the parent of the child..
6. Determination of Eligibility (§ 300.306)
- (i) *General.* Upon completion of the administration of assessments and other evaluation measures—
 - (a) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
 - (b) The school district provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.
 - (ii) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part—
 - (a) If the determinant factor for that determination is—
 - (1) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
 - (2) Lack of appropriate instruction in math; or
 - (3) Limited English proficiency; and
 - (b) If the child does not otherwise meet the eligibility criteria under § 300.8(a).
 - (iii) *Procedures for determining eligibility and educational need.*
 - (a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each school district must)

- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
- (2) Ensure that information obtained from all of these sources is documented and carefully considered.
- (b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324.
- 7. **Reevaluation (§ 300.303)**
 - (i) *General.* A school district must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
 - (a) If the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 - (b) If the child's parent or teacher requests a reevaluation.
 - (ii) *Limitation.* A reevaluation conducted under paragraph (a) of this section—
 - (a) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
 - (b) Must occur at least once every 3 years, unless the parent and the school district agree that a reevaluation is unnecessary.
 - (iii) *Guidelines for Completing Late Spring And Early Fall Assessments*
*Three year evaluations/assessments should be completed **by the date** listed on the first page of the IEP.*

*The IEP must be written within **30 calendar days** after the determination of the disability.*

The following suggestions are offered as guidelines to assist staff in managing assessment time lines.

- (a) *For those assessments scheduled in the spring:*
 - (1) *Assessments must be completed far enough in advance to allow for the Written Integrated Assessment Summary Report to be completed prior to the end of the first full week in May so that the IEP will be developed prior to the end of school.*
 - (2) *When a disability under IDEA is identified, the IEP meeting will occur prior to the end of school.*
- (b) *For those 3-year reevaluations due between May 1 and September 30:*
 - (1) *Three-year reevaluation must be completed prior to a student moving to another building/case manager when that move is anticipated.*
 - (2) *The Written Integrated Assessment Summary Report must be completed prior to the end of school.*

See Appendix Section 2 – 3-Year Evaluation Compliance Instructions & Form 2.6 – 2.7

- 8. Additional group members (§ 300.308)

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the child's parents and a team of qualified professionals, which must include—

- (i) (a) The child's regular teacher; or
- (b) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (c) For a child of less than school age, an individual qualified under ND law to teach a child of his or her age; and
- (ii) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

9. Specific learning disabilities (§ 300.307)

- (i) *General.* A State must adopt, consistent with § 300.309, criteria for determining whether a child has a specific learning disability as defined in § 300.8(c)(10). In addition, the criteria adopted by the State—
 - (a) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);
 - (b) Must permit the use of a process based on the child's response to scientific, research-based intervention; and
 - (c) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10).
- (ii) *Consistency with State criteria.* A school district must use the NDDPI criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability. A school district may adopt a response to intervention process and may choose to use the process to determine if a child has a specific learning disability consistent with 34 CFR 300.301-311. Prior to implementation of response to intervention during the evaluation of a student suspected of having a specific learning disability, a school district must demonstrate the completeness of its response to intervention as described in ND Admin. Code §67-23-01-06.

10. Determining the existence of a specific learning disability (§ 300.309)

- (i) The group described in § 300.306 may determine that a child has a specific learning disability, as defined in § 300.8(c)(10), if—
 - (a) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:
 - (1) Oral expression.
 - (2) Listening comprehension.
 - (3) Written expression.
 - (4) Basic reading skill.
 - (5) Reading fluency skills.
 - (6) Reading comprehension.
 - (7) Mathematics calculation.
 - (8) Mathematics problem solving.

- (b) (1) The child does not make sufficient progress to meet age or State approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child’s response to scientific, research-based intervention; or
 - (2) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§ 300.304 and 300.305; and
 - (c) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—
 - (1) A visual, hearing, or motor disability;
 - (2) Mental retardation;
 - (3) Emotional disturbance;
 - (4) Cultural factors;
 - (5) Environmental or economic disadvantage; or
 - (6) Limited English proficiency.
 - (ii) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—
 - (a) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.
 - (iii) The school district must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§ 300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in § 300.306(a)(1)—
 - (a) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
 - (b) Whenever a child is referred for an evaluation.
11. Observation (§ 300.310)
- (i) The school district must ensure that the child is observed in the child’s learning environment (including the regular classroom setting) to document the child’s academic performance and behavior in the areas of difficulty.
 - (ii) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—
 - (a) Use information from an observation in routine classroom instruction and monitoring of the child’s performance that was done before the child was referred for an evaluation; or
 - (b) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child’s academic performance in the regular classroom after the

child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.

- (iii) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.
12. Specific documentation for the eligibility determination (§ 300.311)
- (i) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—
 - (a) Whether the child has a specific learning disability;
 - (b) The basis for making the determination, including an assurance that the determination has been made in accordance with § 300.306(c)(1);
 - (c) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child’s academic functioning;
 - (d) The educationally relevant medical findings, if any;
 - (e) Whether—
 - (1) The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards consistent with § 300.309(a)(1); and (ii)(A) The child does not make sufficient progress to meet age or State approved grade-level standards consistent with § 300.309(a)(2)(i); or (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with § 300.309(a)(2)(ii);
 - (f) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child’s achievement level; and
 - (g) If the child has participated in a process that assesses the child’s response to scientific, research-based intervention—
 - (1) The instructional strategies used and the student-centered data collected; and
 - (2) The documentation that the child’s parents were notified about— (A) The State’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; (B) Strategies for increasing the child’s rate of learning; and (C) The parents’ right to request an evaluation.
 - (ii) Each group member must certify in writing whether the report reflects the member’s conclusion. If it does not reflect the member’s conclusion, the group member must submit a separate statement presenting the member’s conclusions.

See *Guidelines: Evaluation Process* which can be found on the North Dakota State Department of Education website at <https://www.nd.gov/dpi/uploads/60/EvaluationProcess20141.pdf>

APPENDIX SECTION 2 - EVALUATION

- 2.1 Intervention Team Summary Instructions*
- 2.2 Reimbursement Form*
- 2.3 3-Year Evaluation Compliance Instructions*

2.1 Intervention Team Summary Instructions

A. Purpose: A long term goal of the Lake Region Special Education Program is the development of intervention teams at the building level in all school districts. This form is used to document such team efforts in addressing unique needs of students and developing appropriate recommendations and must be used when developing an assessment plan.

Used by: Can be used by any group involved in the educational programming of any child (regular ed/special ed).

- B. Team members: Possible team members include building administrator, classroom teachers, special ed staff, parents, representatives from other agencies, Chapter I teacher, counselors, the child, etc.*
- C. Prerequisite to: May serve as the first step prior to a formal referral to special education.*
- D. Copies to: Student's cumulative folder, building administrator, teacher making the referral to the Child Study Team, and special education folder when placed.*

NOTE: *Schools may have their own form for this. In those cases where another form has been used, the information contained in the Team Summary will be required prior to referral to the multidisciplinary team.*

2.2

**LAKE REGION SPECIAL EDUCATION
REIMBURSEMENT FORM**

NAME AND ADDRESS: _____

CHILD EVALUATED: _____

PLACE OF EVALUATION: _____

DATE(S) OF EVALUATION: _____

TOTAL MILEAGE: _____

MEAL EXPENSES: _____
(Attach Receipts) _____

HOTEL EXPENSES: _____

Signature of Parent

Date

2.3 3-Year Evaluation Compliance

To monitor 3-year evaluation compliance, periodical TIEnet reports on upcoming 3-year evaluations will be distributed to school social workers and program coordinators. This will assist case managers in scheduling 3-year evaluations.

SECTION 3: INDIVIDUALIZED EDUCATION PROGRAM

V. INDIVIDUALIZED EDUCATION PROGRAM (20 USC sec. 1414(d)-(f); 34 CFR §§ 300.320 – 300.328)

A. Policy and Standards

The Lake Region Special Education Unit adheres to the policies, standards, and procedures relating to the individualized education program as set forth in *Guidelines: Individualized Education Program (IEP) Planning Process*, (North Dakota Department of Public Instruction 2007), and ensures that all requirements are implemented consistently. As defined at § 300.22, “individualized education program” or “IEP” means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§ 300.320 through 300.324. As defined at § 300.23, “individualized education program team” or “IEP team” means a group of individuals described in § 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. Lake Region Special Education Unit utilizes the TIEnet (Technology for Improving Education Network) web-base to create, store and manage IEP and other due process documentation in addition to maintaining physical copies of documents and files at each school.

North Dakota Century Code §15.1-32-12, provides for the development of an individualized education program:

If a school district has evidence of a student’s disability, the school district shall convene a multidisciplinary team consisting of educational professionals, medical professionals, and the student’s parent to share assessment information related to the student’s suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

B. Regulations and Procedures

1. Responsibilities to develop IEP (§300. 112, 300.124, 300.306(c)(2))

Except as provided in §§300.130-300.144 (Children with Disabilities Enrolled by Their Parents in Private Schools), the NDDPI, school districts, all special education units, state operated programs, and programs in other public agencies shall ensure that an individualized education program (IEP) is developed and implemented for each child with a disability served by that entity or for whom that entity is responsible, and will review, and if appropriate, revise its provisions periodically and at least annually.

For children participating in early intervention services through IDEA-Part C and who are referred to IDEA-Part B, will experience a smooth and effective transition into Part B services. Each school district will participate in transition planning conferences arranged by the lead agency. If a child is found eligible for Part B services, an IEP must be developed by the child’s third birthday. Procedures for this transition, including timelines, are specified in the NDDPI Guidelines: Understand Early Childhood Transition: A Guide for Families and Professionals.

2. Each school district in which the parent of an eligible child with a disability resides is responsible for a child's education whether in the local school (public, parochial, or other private) or in another school or facility through contract. The school district is responsible for initiating and conducting a planning conference before referring a child to a private school or facility and to ensure that an appropriate individualized education program will be implemented, reviewed periodically and revised at least annually.

When the IEP Must Be in Effect (§300.323)

3. If the child has been receiving special education the previous year, the school district must ensure that a planning meeting with parents and staff is held early enough in the school year to ensure that an IEP is in effect at the beginning of the school year. This meeting may have been held prior to the end of the previous school year.
4. An IEP must be in effect before placement is made in special education, and before special education and related services are provided to a child, and the IEP will be implemented as soon as possible following the IEP meeting.
5. Each school district shall ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and that each of these teachers and providers is informed of
 - (i) his or her specific responsibilities related to implementing the child's IEP; and
 - (ii) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

If a student transfers from another school district in North Dakota within the same school year, the new school district, in consultation with the parents, must provide services comparable to those described in the child's IEP from the previous school district until the new school district either adopts the child's IEP, or develops, adopts, and implements a new IEP. For a child who had an IEP in another state and transfers within the same school year, the new school district, in consultation with the parents, must provide services comparable to those described in the child's IEP from the previous school district until the new school district conducts an evaluation, if determined to be necessary by the new school district, and develops, adopts, and implements a new IEP, if appropriate.

IEP Meetings (§300.324)

6. The school district is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with 300.323(b), an IFSP). However, any member of the team, including the parent or student, may initiate a meeting to review the IEP.
7. A meeting to develop an IEP for the child must be conducted within 30 days of a determination that the child is a child with a disability and needs special education and related services.
8. Each school district shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revises the IEP as appropriate to address
 - (i) any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general curriculum, if appropriate;

- (ii) the results of any reevaluation conducted under §300. 303;
- (iii) information about the child provided to, or by, the parents as described in §300.305(a)(2);
- (iv) the child’s anticipated needs; or
- (v) other matters.

In a review of the IEP, the team must consider the special factors described in §300.324(a)(2) (behavior, language needs, blindness/visual impairment, communication needs, assistive technology).

IEP Meeting Attendance (§300.321)

9. (i) *General.* The school district (case manager) must ensure that the IEP Team for each child with a disability includes—
 - (a) The parents of the child;
 - (b) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
 - (c) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
 - (d) A representative of the public agency who—
 - (1) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (2) Is knowledgeable about the general education curriculum; and
 - (3) Is knowledgeable about the availability of resources of the public agency.
 - (e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
 - (f) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (g) Whenever appropriate, the child with a disability.
- (ii) *IEP Team attendance.* (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the school district agree, in writing, that the attendance of the member is not necessary because the member’s area of the curriculum or related services is not being modified or discussed in the meeting.
 - (a) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of the curriculum or related services, if—
 - (i) The parent, in writing, and the school district consent to the excusal; and
 - (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Transition Services Participants on IEP Team (§ 300.321(b))

10. The public agency must invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the postsecondary

goals of the student and the transition service needed to assist the student in reaching those goals under §300.320(b). If the student does not attend the IEP meeting, the school district shall take other steps to ensure that the student's preferences and interests are considered.

11. In implementing the requirements of §300.320(b), to the extent appropriate, the school district with consent of the parents or a child who has reached the age of majority, also must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school district shall take other steps to obtain participation of the other agency in the planning of any transition services.

Parent and Student Participation (§§300.321, 300.328)

12. Each school district shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

The required notice must indicate the purpose, time, and location of the meeting and who will be in attendance; and inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).

For a student with a disability beginning at age 16, or younger, if appropriate, the notice must also indicate that a purpose of the meeting will be the development of a statement of appropriate measurable postsecondary goals and transition services required in §300.320(b) indicate that the school district will invite the student; and indicate other participating agencies.

13. The parent and school district may agree to use alternative means of meeting participation, such as video conferences and telephone calls.
14. A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. *It is the LRSE policy that case managers make at least two documented attempts to notify the parent(s) before holding the IEP meeting.*

In this case the school district must have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

15. The school district shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
16. The school district shall give the parent a copy of the child's IEP at no cost to the parent.

Development, Review, and Revision of IEP (§ 300. 320 (d), 300.324)

17. The IEP team also shall consider the following special factors:

- (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
 - (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 - (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
 - (v) Consider whether the child requires assistive technology devices and services.
18. If, in considering the special factors described in items 19 and 20 above, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.
19. In developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.
20. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in items 23 and 24 above.
21. The general education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of:
- (i) appropriate positive behavioral interventions and strategies for the child; and
 - (ii) supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.320(a)(4).
22. Nothing in this section shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP, nor to require that additional information be included in a child's IEP beyond what is explicitly listed in section 614 of IDEA [20 U.S.C. §1414] (items 25 through 28 below).

Content of IEP (§ 300.320)

23. The IEP for each child with a disability must include:
- (i) a statement of the child's present levels of academic achievement and functional performance, including
 - (a) how the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or

- (b) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (ii) a statement of measurable annual goals, including academic and functional goals designed to:
 - (a) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities; and
 - (b) meet each of the child's other educational needs that result from the child's disability;
 - (c) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
- (iii) a description of:
 - (a) how the child's progress toward the annual goals described in item 25(b) will be measured; and
 - (b) how the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of
 - (1) their child's progress toward the annual goals; and
 - (2) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- (iv) a statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
 - (a) to advance appropriately toward attaining the annual goals;
 - (b) to be involved and progress in the general curriculum in accordance with item 25(a) of this section and to participate in extracurricular and other nonacademic activities; and
 - (c) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
- (v) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in item 25(d);
- (vi) (a) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments consistent with section 612(a)(16) of IDEA [20 U.S.C. § 1412(a)(16)], and
 - (b) if the IEP team determines that the child must take an alternate assessment instead of a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of
 - (1) why the child cannot participate in the regular assessment, and
 - (2) why the particular alternate assessment selected is appropriate for the child.
- (vii) the projected date for the beginning of the services and modifications described in item 25(d), and the anticipated frequency, location, and duration of those services and modifications.

24. With regard to transition services, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include-
 - (i) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - (ii) The transition services (including courses of study) needed to assist the child in reaching those goals.
25. Beginning at least one year before a student reaches the age of majority under state law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B, if any, that will transfer to the student on reaching the age of majority, consistent with §300.520. In North Dakota, the age of majority is 18.
26. Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in §300.324 (d). The following requirements do not apply to these students with disabilities:
 - (a) the requirements contained in §300.320(a)(6) (relating to participation of children with disabilities in general assessments);
 - (b) the requirements in §300.320(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release;
 - (c) subject to 28(d) below, the IEP team of a student with a disability, who is convicted as an adult under state law and incarcerated in an adult prison, may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated; and
 - (d) the requirements of §§300.320 relating to IEPs, and 300.112 relating to LRE, do not apply with respect to the modifications described in item 28(c) above.

Agency Responsibilities for Transition Services (§ 300.324(c))

27. If a participating agency, other than the school district, fails to provide transition services described in the IEP of a student with a disability, the school district responsible for the student's education shall, as soon as possible, reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

Nothing relieves any participating agency, including the state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

IEP Development for Students Placed in Private School by Public Agency (§ 300.325)

28. When a child with a disability is placed in a private school, institution, or in a public school district other than the child's district of residence, policies are established for development, maintenance, and evaluation of the individualized education program.
 - (a) Before a school district places a child with a disability in, or refers a child to a private school or facility, the school district shall initiate and conduct a meeting to develop an IEP for the child in accordance with 300.320 and 300.324.

- (b) The school district shall insure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the school district shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls.
- (c) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school, or facility in which the child is placed, at the discretion of the child's school district of residence.
- (d) If the private school or facility initiates and conducts these meetings, the school district of residence shall insure that the parents and a school district representative: (i) are involved in any decision about the child's IEP; and (ii) agree to any proposed changes in the IEP before those changes are implemented.
- (e) Even if a private school or facility implements a child's IEP, compliance responsibility remains with the child's school district of residence.

VI. LEAST RESTRICTIVE ENVIRONMENT (20 U.S.C. 1412(a)(5); 34 CFR 300. 114 through 300. 20)

A. Policy

The Lake Region Special Education Unit adheres to the policies, standards, and procedures for least restrictive environment (LRE) as set forth in *Guidelines: Individualized Education Program Planning Process* (North Dakota Department of Public Instruction 2007), and ensures that all requirements are implemented consistently. Specific procedures, including forms and instruction for their use are included below.

The Lake Region Special Education Unit ensures that to the maximum extent appropriate, children with disabilities, including students in public or private institution or other care facilities and those of preschool age, are educated with children who do not have disabilities, and that enrollment in special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily.

B. Regulations

Continuum of Alternative Placements (§ 300.115)

1. Each school district shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include the alternative placements listed in the definition of special education under §300.28. For children ages 6-21 the categories of educational environments include:
 - Inside the regular class 80 percent or more of the day.
 - Inside the regular class no more than 80 percent of the day and no less than 40 percent pf the day.
 - Inside the regular class for less than 40 percent of the day.
 - Separate School.
 - Residential Facility.

- Homebound/hospital.
 - Correctional Facilities.
 - Parentally Placed in Private Schools.
2. *For children ages 3-5, the categories of educational environments include:*
- *Attending a regular early childhood environment at least 10 hours per week and*
 - *Receiving a majority of hours of special education and related services in the regular childhood program or*
 - *Receiving a majority of hours of special education and related services in some other locations (A1)*
 - *Attending a regular early childhood environment less than 10 hours per week*
 - *Receiving a majority of hours of special education and related services in the regular early childhood program or*
 - *Receiving a majority of hours of special education and related services in some other location (A2)*
 - *Special Education Class (A3)*
 - *Separate school (B2)*
 - *Residential Facility (B3)*
 - *Home (B4)*
 - *Service provider location or some other location (B5)*

The continuum must make provision for supplementary services (such as a resource room or itinerant instruction) to be provided in conjunction with regular class placement.

The selection of a particular alternative setting or arrangement is to be made by determining the least restrictive environment in which the appropriate educational goals for the child could be achieved.

Placements (§ 300.116)

3. Educational placement decisions must be made (a) at least annually; (b) by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options, who consider carefully broad-based, documented information about the child; (c) based on the child's IEP; (d) as close as possible to the child's home; and (e) is made in conformity with the LRE provisions of §§ 300.114 through 300.118.
4. The school district must insure that the various placements included under §300.115 are available to the extent necessary to implement the IEP for each child with a disability.
5. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if he or she did not have a disability.
6. In selecting the LRE, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs.
7. The school district shall insure that a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Nonacademic Settings (§ 300.117)

8. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, and regardless of the core placement alternative selected the school district assures that a child with a disability participates with nondisabled children to the maximum extent appropriate to the needs of the child with a disability. The school district must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

To assure that providing or arranging for nonacademic and extracurricular services and activities is addressed, the student's individualized education program must respond to a specific question regarding the arrangements that will be made so that each child with a disability participates with children who do not have disabilities to the maximum extent appropriate to the needs of the child.

Children in Public or Private Institutions (§ 300.118)

9. The school district assures the NDDPI of its implementation of the LRE requirements in 300.114, as required by 300.118. By state statute, the school district is responsible to ensure that the needs identified by an IEP team for the children with disabilities who reside in the school district and who are unable to attend a public school in the school district of residence unit or any child placed out of the school district are being met. N.D.C.C. § 15.1-32-15.

C. Procedures

The NDDPI document *Guidelines: Individualized Education Program Planning Process* (North Dakota Department of Public Instruction 2007) directs IEP teams to discuss the following when considering and justifying service options:

1. sites and settings for special education services that have been previously tried, where the student now receives service, and what sites and services are presently recommended to meet the student's needs.
2. sites and settings that were considered in current or previous staffings but were not chosen, and why these placements were not chosen.
3. supports used to facilitate previous placements, what considerations resulted in discontinuing these placements, and what efforts are planned to prepare the student to return to a less restrictive environment; and the special education interventions that have been tried in previous placements and the progress the student has or has not made with these interventions.
4. student learning characteristics as they relate to the placements considered: rate of skill acquisition and overall functioning level; need for social interaction and leisure skills training; need for limited environmental distractions; and need for restricted space within a building (ability to operate without definite boundaries or within an unstructured or less structured environment).
5. programmatic components in determining regular education options for the student: content of regular classroom; structure of the regular classroom; balance of regular education

content areas with functional, social, and community skills training; and supports needed to facilitate social, physical, or academic integration/inclusion.

6. placement location chosen as it relates to the student's specific identified needs.
7. potential harmful effects and quality of services issues. A situation does not have a harmful effect if actions taken by a school official can prevent or diminish the effect (e.g., a principal disciplining peers who do not have disabilities who constantly tease or taunt a student with disabilities). Considerations may include: behavioral characteristics (effect of student behaviors on the learning of other students within his or her classroom, neighboring classrooms, and/or school building); potential damaging attitudes of nondisabled peers, staff, or others who do not have disabilities; special health or safety needs; and miscellaneous factors.

See *Guidelines: Individualized Education Program Planning Process* which can be found on the North Dakota State Department of Education website at <https://www.nd.gov/dpi/uploads/60/IEPGuide2007.pdf>

VII. PLACEMENT IN PRIVATE SCHOOLS (20 U.S.C. 1412(a)(10); 34 CFR 300.129-300.148)

A. Policy

IDEA addresses the subject of private school children with disabilities in three major categories:

1. Students with disabilities placed in private schools by public agencies (§§ 300.145 through 300.147).
2. Students with disabilities unilaterally placed in a private school by parents, due to disagreement about whether a student is receiving a free appropriate public education (FAPE) (referenced in IDEA regulations as “children with disabilities enrolled by their parents in private schools when FAPE is at issue” at § 300.148) .
3. Students with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in § 300.13 or secondary school in § 300.36 (referenced in IDEA regulations as “parentally placed private school children with disabilities” at § 300.130).

Policy for students with disabilities placed in private school by a public agency: A student with a disability who is placed in or referred to a private school or facility by a public agency will (1) be provided with special education and related services in conformance with an individualized education program which meets the requirements under 300.320-300.325; and at no cost to parents, and (2) will be provided an education that meets all applicable federal, state, and local standards.

If a student with a disability is placed in a private school or facility by the school district, the Lake Region Special Education Unit assures that the student has all the rights he/she would have if served by a public school.

Policy for parentally placed private school children with disabilities. When parents choose to enroll their child in a private school, either nonsectarian or religiously affiliated, the student has no individual right to receive the special education and related services the child would receive if enrolled in the public school. Parentally placed private school students are entitled to some special education and related services according to a proportionate share of funding based on a consultative process for allocating that proportionate share.

B. Regulations

The Lake Region Special Education Unit follows guidance provided through *Policy Paper* IDEA 04 Students with Disabilities who Attend Private Schools (North Dakota Department of Public Instruction, December 2005) (“Private School Policy Paper”), and ensures compliance with the regulations. Requirements related to state funding for special education provided to public agencies are addressed by rules in ND Admin. Code Chapter 67-23-02.

Placement of Children by Parents if Free Appropriate Public Education (FAPE) is at Issue (§ 300.148)

1. *General.* IDEA does not require a school district to pay for the cost of education, including special education and related services, of a child with a disability at a private

school or facility if the school district made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the school district must include that child in the population whose needs are addressed consistent with §§ 300.131 through 300.144.

2. If a parent contends that an appropriate program for the student does not exist and hence is forced to seek private schooling and the school district disagrees, that disagreement and the question of financial responsibility is a matter to which due process procedures under §§ 300.504 through 300.520 apply.
3. Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a school district, enroll the child in a private preschool, elementary or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the school district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district had not made FAPE available to the child in a timely manner prior to that enrollment and the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the state standards that apply to education provided by the state education agency (SEA) and the local education agencies (LEA).
4. Limitation on reimbursement. The cost of reimbursement described in item 3 may be reduced or denied if
 - (i) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the school district to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
 - (ii) at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the school district of the information described in item 4 (a).
5. The cost of reimbursement described in item 3 may be reduced or denied if, prior to the parents' removal of the child from the school district, the school district informed the parents, through the notice requirements described in §300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation, or upon a judicial finding of unreasonableness with respect to actions taken by the parents.
6. Notwithstanding the notice requirement in item 4, the cost of reimbursement may not be reduced or denied for failure to provide the notice if:
 - (i) compliance with item 4 of this section would likely result in physical or serious emotional harm to the child;
 - (ii) the school prevented the parent from providing the notice; or
 - (iii) the parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph 4 of this section.
7. Notwithstanding the notice requirement in item 4, the cost of reimbursement may, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if
 - (i) The parents are not literate or cannot write in English, or

- (ii) Compliance with item 4 would likely result in serious emotional harm to the child.

The regulations set out below in the remainder of section VII.B apply to parentally placed private school children with disabilities.

Child Find for Private School Children with Disabilities (§ 300.131)

- 8. Each school district must locate, identify, and evaluate all children with disabilities, in accordance with §300.111 and 300.201. The child find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of those children. The activities undertaken to carry out this responsibility for private school children with disabilities must be similar to activities undertaken for children with disabilities in public schools.
- 9. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if a school district has met its obligation under §300.133. The child find process must be completed in a time period comparable to that for students attending public schools in the school district consistent with §300.301. Each school district in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a state other than the State in which the private schools that they attend are located.

Provision of Services—Basic Requirement (§ 300.132)

- 10. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district, provision must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of IDEA by providing them with special education and related services including direct services determined in accordance with §300.137, unless the secretary of the United States Department of Education has arranged for services to those children under the by-pass provisions of §§300.190 through 300.198.
- 11. The Lake Region Special Education Unit ensures that, in accordance with item 10 of this section and §§300.137 through 300.139, a services plan will be developed and implemented for each private school child with a disability who has been designated by the school district in which the private school is located to receive special education and related services under Part B of IDEA. Each school district must maintain in its records, and provide to the NDDPI, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:
 - (i) The number of children evaluated;
 - (ii) The number of children determined to be children with disabilities; and
 - (iii) The number of children served.

Expenditures and Child Count (§ 300.133)

- 12. To meet the requirement of §300.132(a), each school district must spend on providing special education and related services (including direct services) to parentally-placed private school children with disabilities—

- (i) for children aged 3 through 21, an amount that is the same proportion of the school district total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district, is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and
- (ii) for children aged 3 through 5, an amount that is the same proportion of the school district total subgrant under section 619(g) of the Act as the number of parentally placed private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district.
- (iii) As described in item 13(b) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.
“Elementary school means a nonprofit institutional day or residential school...that provides elementary education, as determined under State law.” North Dakota state law sets out the minimum requirements for operation of a school at N.D.C.C. §15.1-06-06, approval of public and nonpublic schools.

If school district has not expended for equitable services all of the funds described in items 13(a) and 13(b) of this section by the end of the fiscal year for which Congress appropriated the funds, the school district must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

- (iv) *Calculating proportionate amount.* In calculating the proportionate amount of federal funds to be provided for parentally-placed private school children with disabilities, the school district, after timely and meaningful consultation with representatives of private schools under § 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the school district.

See Appendix – Section 3 Special Education Services for Children with Disabilities In Private Schools Agreement 3.3

13. Each school district must after timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with § 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the school district; and ensure that the count is conducted on December 1 of each year.
14. The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

15. State and local funds may supplement and in no case supplant the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities.

Consultation (§ 300.134)

16. To ensure timely and meaningful consultation, a school district, or, if appropriate, the NDDPI, must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:
 - (i) *Child find*. The child find process, including—
 - (1) How parentally-placed private school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers, and private school officials will be informed of the process.
 - (ii) *Proportionate share of funds*. The determination of the proportionate share of federal funds available to serve parentally-placed private school children with disabilities under § 300.133(b), including the determination of how the proportionate share of those funds was calculated.
 - (iii) *Consultation process*. The consultation process among the school district, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.
 - (iv) *Provision of special education and related services*. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of—
 - (1) The types of services, including direct services and alternate service delivery mechanisms; and
 - (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children; and
 - (3) How and when those decisions will be made;
 - (v) *Written explanation by school district regarding services*. How, if the school district disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the school district will provide to the private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

Written affirmation (§ 300.135)

17. (i) When timely and meaningful consultation, as required by § 300.134, has occurred, the school district must obtain a written affirmation signed by the representatives of participating private schools.
- (ii) If the representatives do not provide the affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the NDDPI.

Compliance (§ 300.136)

18. (i) *General.* A private school official has the right to submit a complaint to the NDDPI that the school district—
- (a) Did not engage in consultation that was meaningful and timely; or
 - (b) Did not give due consideration to the views of the private school official.
- (ii) *Procedure.*
- (a) If the private school official wishes to submit a complaint, the official must provide to the NDDPI the basis of the noncompliance by the school district with the applicable private school provisions in this part; and
 - (b) The school district must forward the appropriate documentation to the NDDPI.
 - (c)(1) If the private school official is dissatisfied with the decision of the NDDPI, the official may submit a complaint to the secretary of the United States Department of Education by providing the information on the basis of the noncompliance and
 - (2) The NDDPI must forward the appropriate documentation to the secretary.

Equitable Services Determined (§ 300.137)

19. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Decisions about the services that will be provided to private school children with disabilities under §§300.130-300.144, must be made in accordance with items 16 and 25 of this section.
20. The school district shall make the final decisions with respect to the services to be provided to eligible parentally-placed private school children.
21. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from a school district, the school district must:
- (i) initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and
 - (ii) ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

Equitable Services Provided (§ 300.138)

22. The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.
23. Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

24. No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.
25. Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the school district will provide to the child in light of the services that the school district has determined, through the process described in §§ 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.
26. The services plan must, to the extent appropriate, meet the requirements of §300.320 or for a child ages three through five, requirements of §300.323(b) with respect to the services provided; and be developed, reviewed, and revised consistent with §§ 300.321 through 300.324.

The provision of services pursuant to section §300.138 and §§300.139 through 300.143 must be provided by employees of an LEA; or through contract by the LEA with an individual, association, agency, organization, or other entity. Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

Location of Services; Transportation (§ 300.139)

27. Services provided to parentally-placed private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law.
28. If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation:
 - (i) from the child's school or the child's home to a site other than the private school; and
 - (ii) from the service site to the private school, or to the child's home, depending on the timing of the services.
29. School districts are not required to provide transportation from the child's home to the private school.
30. The cost of the transportation described in item 28 may be included in calculating whether the school district has met the requirement of §300.133.

Due Process and State Complaints (§ 300.140)

Except as provided below regarding child find requirements, the procedures in §§300.504 through 300.518 [procedural safeguards and dispute resolution] do not apply to complaints that a school district has failed to meet the requirements of §§300.132 through 300.139 [provision of services for parentally-placed private school children with disabilities] including the provision of services indicated on the child's services plan. The procedures in §§300.504 through 300.519 apply to complaints that a school district has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311 [evaluations]. Any due process complaint regarding the child find requirements (as described in item 8) must be filed with the school district in which the private school is located and a copy must be forwarded to the NDDPI.

Any complaint that NDDPI or a school district has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153 [state complaint]. A complaint file by a private school official under §300.136(a) [complaint about consultation] must be filed with the NDDPI in accordance with the procedures in §300.136(b).

Separate Classes Prohibited (§ 300.143)

31. A school district may not use funds available under section 611 or 619 of IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site, and the classes include students enrolled in public schools and students enrolled in private schools.

Requirement that Funds not Benefit A Private School (§ 300.141)

32. A school district may not use funds provided under section 611 or 619 of IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school.
33. The school district must use funds provided under Part B of IDEA to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for the needs of a private school; or the general needs of the students enrolled in the private school.

Use of Public School Personnel (§ 300.142)

34. A school district may use funds available under sections 611 and 619 of IDEA to make public school personnel available in other than public facilities to the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities, and if those services are not normally provided by the private school.

Use of Private School Personnel (§ 300.142)

35. A school district may use funds available under sections 611 or 619 of IDEA to pay for the services of an employee of a private school to provide services under §§300.130-300.144 if the employee performs the services outside of his or her regular hours of duty; and the employee performs the services under public supervision and control.

Requirements Concerning Property, Equipment, and Supplies for the Benefit of Private School Children with Disabilities (§ 300.144)

36. An LEA must control and administer the funds used to provide special education and related services under §§ 300.137 through 300.139, and keep title to and, administer materials, equipment, and property that the LEA purchases with those funds for the uses and purposes provided in IDEA.
37. The LEA may place equipment and supplies in a private school for the period of time needed for the Part B program.
38. The LEA must ensure that the equipment and supplies placed in a private school are used only for Part B purposes; and can be removed from the private school without remodeling the private school facility.

39. The LEA must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
40. No funds under Part B of IDEA may be used for repairs, minor remodeling, or construction of private school facilities.

C. Procedure

1. Whenever a student with a disability is to be placed in a private school at school district expense, the NDDPI will require the appropriate contract between the school district and the private school with approval by the NDDPI as required by state law.N.D.C.C.§15.1-32-15..
2. Each private school must make accessible for review, to the NDDPI upon request, each services plan for a student with a disability.

D. Monitoring

1. The Lake Region Special Education Unit has established an internal monitoring system that ensures compliance with requirements relating to student with disabilities who attend private schools, as well as attention to issues of quality. The description of the internal monitoring system is included *in Section 5 XI of this handbook and participation in IEP meetings.*
2. Placement is approved and attendance verified annually for each publicly-placed student attending a private school in or out-of-state by the State Director of Special Education and payment authorized by the Director of Finance, NDDPI.

E. Informational Chart For Private/Out Of Unit Programs

1. *Purpose: To determine who will insure that the following procedures will be carried out according to federal guidelines when a student is placed in a private or out-of-unit program.*
2. *Used by: Private and out-of-unit programs, program coordinators, case managers*
3. *Prerequisite: This form should be completed as soon as there is knowledge of a student placement at a private or out-of-unit program.*
4. *Guidelines:*

Private school placements (300.348)

When a child with a disability is placed in a private school, institution, or in a public school district other than the child's district of residence by the special education unit (or Department of Public Instruction under specific provision of Public Law 101-476 and 102-119) policies are established for development, maintenance, and evaluation of the individualized education program.

- (i) *Before a special education LEA/unit places a child with a disability in, or refers to a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with 300.343. The LEA/unit will also develop an IEP for each child with a disability who was placed in a private school or facility by the agency before the effective date of regulations.*
- (ii) *The agency shall insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the LEA/unit will use other methods to insure participation by the private school or facility, including individual or*

conference telephone calls.

- (iii) The student's school district of residence is responsible for development and will ensure implementation of the IEP for each child with a disability.
- (iv) After a child with a disability enters a private school or facility, meetings to review and revise the child's IEP may be initiated and conducted by the private school, nonpublic and LEA/unit in which the child is placed with consent of the child's school district of residence.

If the private school or facility initiates and conducts these meetings, the LEA/unit will insure that the parents and an agency representative: (1) are involved in any decision about the child's IEP; and (2) agree to any proposed changes in the program before those changes are implemented.

- (v) When a child with a disability enrolled in a private school and is receiving services from a special education unit, the special education unit will initiate and conduct meetings to develop, review, and revise an IEP for the child and will ensure implementation of the IEP and that the private representatives are included in the meetings.
- (vi) Even if a private school or facility implements a child's IEP, compliance responsibility remains with the child's school district of residence and the Department of Public Instruction.

Children with disabilities in parochial and other private schools (300.349)

If a child with a disability is enrolled in a parochial or other private school and receives special education or related services from a LEA/unit, the LEA/unit will: (a) initiate and conduct meetings to develop, review, and revise an IEP for the child, in accordance with 300.343; and (b) insure that a representative from the parochial or other private school attends each meeting. If the representative cannot attend, the LEA/unit will use other methods to insure participation by the private school, including individual or conference telephone calls.

IEP accountability (300.350)

Each LEA/unit must provide special education and related services to a child with a disability in accordance with an IEP.

Informational Chart For Private Out Of Unit Programs

Procedural Responsibility When Students are Placed in Private/Out of Unit Programs

The following procedures need to be negotiated between the district of residence and the private/out of unit program to determine who will insure that those procedures will be carried out according to federal regulations. The procedure already checked indicate areas of ongoing responsibility for the identified program.

Name of Student: _____

Name of Special Education Unit: _____

Name of Facility/School: _____

Current Date: _____

<i>PROCEDURE</i>	<i>LOCAL SPECIAL EDUCATION UNIT WILL TAKE RESPONSIBILITY FOR PROCEDURE</i>	<i>PRIVATE/OUT OF UNIT PROGRAM/SCHOOL WILL TAKE RESPONSIBILITY FOR PROCEDURE</i>
<i>Initiate Annual IEP Review and Send Written Prior Notice for IEP Meeting including Parent Rights</i>		
<i>Conduct Annual IEP Review</i>		
<i>Attend IEP Review</i>	X	X
<i>Periodic Monitoring of IEP</i>	X	X
<i>Written Prior Notice for 3-Year Re-evaluation including Parent Rights</i>		
<i>Meeting to Develop Assessment Plan for Re-evaluation</i>	X	
<i>Conduct Re-evaluation Assessment Procedures</i>	X	
<i>Independent Evaluations</i>	X	
<i>Amend Educational Records</i>	X	X
<i>Due Process Procedures</i>	X	

APPENDIX SECTION 3 – INDIVIDUALIZED EDUCATION PROGRAM (IEP)

3.1 Special Education Services For Children With Disabilities In Private Schools Agreement

3.1 Special Education Services for Children with Disabilities in Private Schools Agreement

- A. *Purpose: To determine how, when, and to which students our unit will provide services to in private schools and to home schooled students.*
- B. *Used by: Private school and home school programs within our unit.*
- C. *Prerequisite: This agreement should be followed whenever a student with a disability is in need of special education services in a private school or at home.*
- D. *Agreement*

Special Education Services for Children with Disabilities in Private Schools North Dakota Department of Public Instruction

The reauthorized Individuals with Disabilities Education Act (IDEA '04) contains the following new regulation:

Sec. 300.134 Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child find. The child find process, including--
 - (1) How parentally-placed private school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers, and private school officials will be informed of the process.
- (b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under Sec. 300.133(b), including the determination of how the proportionate share of those funds was calculated.
- (c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.
- (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--
 - (1) The types of services, including direct services and alternate service delivery mechanisms; and
 - (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
 - (3) How and when those decisions will be made;
- (e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract) the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

The following is a worksheet a school district may use when negotiating special education services for children with disabilities enrolled by their parents in private schools (when FAPE is not an issue).

1. For which students with disabilities enrolled in private schools will your school district/special education unit provide services? IDEA 04 and North Dakota use the following categories of disabilities:

Specific learning disability

Hearing impairment

Deafness

Visual impairment

Orthopedic impairment

Other health impairment

Traumatic brain injury

Autism

Speech or language impairment

Non-Categorical Delay (ND category for age 3 through the end of the school year in which the child turns 9)

Intellectual disability

Emotional disturbance

Deaf blindness

2. The public school is obligated to expend for the provision of special education and related services for students placed by their parents in private schools an amount equal to the proportionate amount of federal funds that were made available to the local education agency through its special-education identification process. "Proportionate" is defined as "the amount consistent with the number and location of private school children with disabilities" in the school district.

Number of children with disabilities in your school district who have been placed by their parents in private schools: _____

Total population of students with disabilities in the school district: _____

Percentage of the *total population of students with disabilities in the school district* who have been placed by their parents in private schools: _____

This percentage is the proportionate amount of federal funds that were made available to the school district through its special education identification process which is to be expended for the provision of special education and related services for students placed by their parents in private schools.

3. Which services will be offered to students with disabilities in private schools? (*specific learning disability services, speech-language therapy, occupational therapy, physical therapy, etc.*)

4. Location. Special education and related services will be provided:

- ☆ in the private school
- ☆ in the public school

5. Transportation. If it is necessary for a child to benefit or participate in services, the private school student must be provided transportation in the following instances:
- A. From the child's private school or home to a site other than the private school; and
 - B. From the site of that service back to the private school.

Transportation (clarify what will/will not be provided):

6. Child Find activities, including evaluation procedures as part of Child Find procedures, will be conducted in a manner that is comparable to that for public school children. As agreed to through this consultation, Child Find activities in private schools will be conducted in the following manner:

7. The effectiveness of special education and related services will be evaluated with the following method(s):

The persons indicated below were participants in this consultation:

_____, Representative of the _____ Public School District
(Name)

_____, Representative of the _____ School
(Name) (private/parochial school).

_____, Parent
(Name)

Date: _____

SECTION 4: PROCEDURAL SAFEGUARDS

VIII. PROCEDURAL SAFEGUARDS (20 U.S.C. 1412(a)(6), 1414(a)(1)(D), 1414(c)(3), 1414(f); 1415; 34 CFR 300.150, 300.300, 300.500 through 300.537)

The Lake Region Special Education Unit adheres to the policies, standards, and procedures as set forth in *Guidelines: Procedural Safeguards: Prior Notice and Parental Consent Procedures* (2007), and *Parental Rights for Public School Students Receiving Special Education Services*. The unit ensures that procedural safeguards requirements are consistently implemented. Specific procedures, including forms and instruction in their use, are found in *the Appendix Section 4*.

The terms "consent," "evaluation," and "personally identifiable" are defined as follows:

Consent as defined in §300.9 means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of revocation of consent.

Evaluation as defined in §300.15 means procedures used in accordance with §§300.304-300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Personally identifiable as defined in §300.32 means that information includes the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

A. Opportunity to Examine Records; Parent Participation in Meetings (§ 300.501)

1. Policy

The school district ensures that the parent of a child with a disability must be afforded, in accordance with §§300.613-300.621, an opportunity to (1) inspect and review all educational records pertaining to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education (FAPE) to such a child, and (2) participate in meetings with respect to the identification, evaluation, and educational placement of the child, and provision of FAPE to the child.

2. Regulations (§ 501(b) and (c))
 - (i) A school district must afford the parents of a child with a disability an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of free appropriate public education to the child, in accordance with the procedures of sections 300.613 through 300.621.
 - (ii) Each school district must provide notice consistent with §300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of their child, as well as the provision of FAPE to the child. A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
 - (iii) Each school district must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. In implementing these requirements, the school district must use procedures consistent with the procedures described in §300. 322(a) through (b)(1). If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
 - (iv) A placement decision may be made by a group without the involvement of the parents, if the school district is unable to obtain the parents' participation in the decision. In this case, the school district must have a record of its attempt to ensure their involvement.

See Appendix Section 4 – Record Locator Instructions and Forms 4.1 – 4.2

B. Independent Educational Evaluation (§ 300.502)

1. Policy

The parents of a child with a disability have the right to obtain an independent educational evaluation of the child at public expense if the parent disagrees with an evaluation obtained by the school district, subject to item 2 below.

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.103.

2. Regulations

- (i) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.
- (ii) The school district shall provide to parents, on request for an independent educational evaluation, information about where an independent evaluation may be obtained, and the school district criteria applicable for independent educational evaluations as set forth in the paragraph below. The following resources may provide independent educational evaluations:

Assessment & Therapy Association
Blooming Prairie Assessment and Therapy Center
Family Institute PC
Fire Audiological
Lipp, Carlson, Lommen and Witucki, LTD
Lake Region Human Service Center
Sanford Neuroscience
Trinity Medical Group Health Ctr-Riverside
Valley Vision Center
Volk Human Services

- (iii) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay, either (1) file a due process complaint to request a hearing to show that its evaluation is appropriate, or (2) ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.518 that the evaluation obtained by the parent did not meet school district criteria. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- (iv) If a parent requests an independent educational evaluation, the school district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.
- (v) If the parent obtains an independent educational evaluation at private expense, or shares with the school district an evaluation obtained at private expense, the results of the evaluation must be considered by the school district, if it meets school district criteria, in any decision made with respect to the provision of FAPE to the child; and may be presented as evidence at a hearing under this subpart regarding that child.
- (v) A hearing officer may request an independent educational evaluation as part of a hearing. If so, the evaluation must be conducted at public expense.
- (vi) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

- (vii) A parent is entitled to only one independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

C. Prior Notice by the School District; Content of Notice (§ 300.503)

1. Policy

Written prior notice which meets the requirements of § 300.503(b) and 300.504 must be given to parents a reasonable time before the school district proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. If this notice is related to an action proposed by the school district that also requires parental consent under §300.300, the school district may give notice at the same time it requests parent consent.

2. Regulations

(i) The written notice must include:

- (a) the action proposed or refused by the school district and an explanation of why the school district proposes or refuses to take action;
- (b) a description of any other options considered by the school district and the reasons for rejecting those options,
- (c) a description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action, and
- (d) a description of any other factors that are relevant to the school district's proposal or refusal;
- (e) a statement that the parents of a child with a disability have protection under the procedural safeguards of IDEA and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (f) sources for parents to contact to obtain assistance in understanding procedural safeguards.

(ii) The notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. It is not feasible to give parents written notice if the native language or other mode of communication of the parent is not a written language. In this case, the school district shall take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the above requirements have been met.

D. Procedural Safeguards Notice (§ 300.504, 300.505)

1. Policy

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents upon initial referral or parent request for evaluation; upon receipt of the first state complaint under §§300.151 through 300.153; upon receipt of the first due process complaint under §300.507 in a school year, in accordance with the discipline

procedures in §300.530(h); and upon request by a parent. A school district may place a current copy of the procedural safeguards notice on its internet website if a website exists.

2. Regulations

The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148, §§ 300.151 through 300.153, § 300.300, §§ 300.502 through 300.503, §§ 300.505 through 300.518, § 300.520, §§ 300.530 through 300.536 and §§ 300.610 through 300.625 relating to the following: independent educational evaluation; prior written notice; parental consent; access to educational records; opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including the time period in which to file a complaint; the opportunity for the school district to resolve the complaint; and the difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures; the child's placement during pendency of any due process complaint; procedures for students who are subject to placement in an interim alternative educational setting; requirements for unilateral placement by parents of children in private schools at public expense; mediation; due process hearings, including requirements for disclosure of evaluation results and recommendations; civil actions including the time period in which to file those actions; and attorneys' fees.

The notice must meet the requirements of §300.503(c) with regard to understandable language. The notice must be written in language understandable to the general public and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence of the requirements of this item have been met.

A parent of a child with a disability may elect to receive notices by an electronic mail communication, if the school district makes that option available.

E. Parental Consent (§ 300.300)

1. Policy

The Lake Region Special Education Unit ensures that written parental consent is obtained prior to conducting an initial evaluation or reevaluation; and initial provision of special education and related services to a child with a disability. Consent for initial evaluation may not be construed as consent for initial placement.

2. Regulations

(i) Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. The school district must make reasonable efforts to obtain the

informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

- (a) For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if-
 - (1) Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the child;
 - (2) The rights of the parents of the child have been terminated in accordance with North Dakota law; or
 - (3) The rights of the parents to make educational decisions have been subrogated by a judge in accordance with North Dakota law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
- (ii) If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the school district may continue to pursue those evaluations by using the due process procedures under §§300.507-300.516, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with North Dakota law relating to parental consent. The school district does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation.
- (iii) Consent to services. The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. If the parent of a child fails to respond to the request to provide consent of the initial provision of special education and related services or refuses to consent to the initial provision of special education and related services the school district:
 - (a) May not use the procedures in the procedural safeguards (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.
 - (b) Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses or fails to provide consent;
 - (c) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child.
- (iv) If at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services the school district:
 - (a) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with §300.503 before ceasing the provision of special education and related services;
 - (b) May not use the procedures in subpart E of this part (including mediation under §300.506 or the due process procedures §§300.507 through 300.516) in order to obtain agreement or a ruling that the service may be provided to the child;

- (c) Will not be considered to be in violation of the requirements to make FAPE available to the child because of the failure to provide the child with special education and related services;
- (d) Is not required to convene an IEP team meeting or develop an IEP under §300.320 and §300.324 for the child for further provisions of special education and related services.
- (v) The school district must obtain informed parental consent prior to conduct any reevaluation of a child with a disability. Informed parental consent need not be obtained for reevaluation if the school district can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. To meet the reasonable measures requirement, the school district must use procedures consistent with those in §300.322(d). If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override procedures described in item b. The school district does not violate its obligation under § 300.111 and §§ 300.301 if it declines to pursue the evaluation or reevaluation.
- (vi) A school district may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity of the public agency, except as required by 34 CFR Part 300.
- (vii) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district may not use the consent override procedures (described in item b); and the school district is not required to consider the child as eligible for services under §§ 300.132 through 300.144.

F. Mediation (20 U.S.C. 1415(e); §300.506)

1. Policy

The NDDPI has established and implemented procedures to allow parties to disputes involving any matter under IDEA Part B, including matters arising prior to the filing of a due process complaint, to resolve the disputes through a mediation process that, at a minimum is provided by NDDPI whenever a hearing is requested under §§300.507 or 300.508-300.520. Mediation is addressed by administrative rules at ND Admin. Code §§ 67-23-04-02 and 67-23-04-03.

IDEA Special Education Mediation: A Guide for Parents of Children and Youth ages 3-21, provides a description of the mediation process and procedures. The school district regularly informs school personnel of the Guide and the availability of mediation.

- (i) The procedures must ensure that the mediation process is voluntary on the part of the parties; is not used to deny or delay a parent's right to a hearing on the parent's due process hearing complaint, or to deny any other rights afforded under Part B of IDEA; and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- (ii) The NDDPI shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. If a mediator is not selected on a random (e.g., a rotation) basis

from the list, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

- (iii) An individual who serves as a mediator (1) may not be an employee of any LEA or any state agency described under §300.228; or an SEA that is providing direct services to a child who is the subject of the mediation process; and (2) must not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator is not an employee of an LEA or state agency described under §300.228 solely because he or she is paid by the agency to serve as a mediator.
- (iv) The NDDPI shall bear the cost of the mediation process, including the costs of meetings described in item h.
- (v) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- (vi) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and is signed by both the parent and a representative of the agency who has the authority to bind such agency. A written, signed mediation agreement under this paragraph is enforceable in any state court of competent jurisdiction or in a district court of the United States.
- (vii) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.
- (viii) A school district may establish procedures to offer to parents and schools who elect not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with a parent training and information center or community parent resource center in ND established under section 671 or 672 of IDEA, or an appropriate alternative dispute resolution entity; and who would explain the benefits of the mediation process, and encourage the parents to use the process. A school district may not deny or delay a parent's right to a due process hearing under §300.507 if the parent fails to participate in this meeting.

G. Complaint Procedure (20 U.S.C.1221e-3; 34 CFR § 300.151-300.153)

The NDDPI has a procedure to investigate and act on complaints made against the state, special education unit or school district relative to compliance with Part B of IDEA. The intent of this complaint procedure is to address matters of a public agency (state, unit or district) allegedly violating a requirement of Part B of IDEA. Complaint procedures are addressed by administrative rules at N.D. Admin. Code §67-23-05.

An organization or individual may file a signed, written complaint that must include a statement that a requirement of Part B of IDEA has been violated and the facts on which the statement is based. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.151. The complaint must include the signature and contact information for the complainant; and if alleging violations with

respect to a specific child, the name and address of the residence of the child; the name of the school the child is attending; in the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending; a description of the nature of the problem of the child, including facts relating to the problem; and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. The party filing the complaint must forward a copy of the complaint to the school district serving the child at the same time the party files the complaint with NDDPI. The complaint is to be addressed to the Director of Special Education, Department of Public Instruction, 600 East Boulevard Avenue, Dept. 201, Bismarck, ND 58505-0440.

A time limit of 60 calendar days after the complaint is filed is allowed to investigate and issue a written decision. An extension of the 60 day time limit may be granted only if exceptional circumstances exist with respect to a particular complaint, or the parent and the other party involved agree to extend the time to engage in mediation or in other alternative means of dispute resolution.

The investigator will interview all parties involved and make a determination of whether an on-site investigation of the complaint is necessary. The NDDPI makes an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and issues a written decision to the complainant that addresses each allegation in the complaint that meets criteria for investigation. The written decision will contain the findings of fact and conclusions and the reasons for the final decision. Procedures for effective implementation of the NDDPI final decision, if needed, may include technical assistance activities, negotiations and corrective actions to achieve compliance.

At any time during the complaint process, a request for due process hearing procedures may be initiated.

H. Due Process and Review (20 U.S.C. §1415(b)(6), §300.507 - 300.518)

Due process hearings are addressed by administrative rules at N.D. Admin. Code §§ 67-23-05-02.

A due process hearing, which is a formal legal proceeding, may be requested if the parent of a child with disabilities or a child who may have a disability, disagrees with the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child. The school district may also request a due process hearing when a parent has refused consent for evaluation or to demonstrate that the school district has conducted an appropriate evaluation, or offered a free appropriate public education to a student with a disability.

Hearing requests are made to: Director of Special Education, ND Department of Public Instruction, 600 East Boulevard Avenue, Dept 201, Bismarck, ND 58505-0440.

IDEA 04 has added the requirement of a resolution process after the school district receives a parent's due process complaint, pursuant to §300.510. The purpose of the resolution process is

to provide an opportunity for the parent and school district to discuss the issues presented in the due process complaint and resolve the dispute.

Facilitated IEP

Facilitated IEP meetings are addressed by administrative rules of N. D. Admin. Code §67-23-05-03. They are an additional service provided by the NDDPI.

A school or a parent of a student with a disability may request a facilitated IEP meeting in the form and manner prescribed by the department. The brochure, IEP Facilitation, provides a description of the facilitation process and procedures.

A facilitated IEP meeting may be requested after an IEP meeting has occurred in which a facilitator did not participate. If both the school and a parent of a student with a disability agree to participate in a facilitated IEP, the department shall select and compensate a facilitator for the meeting.

I. Surrogate Parents (§ 300.519)

1. Policy

The Lake Region Special Education Unit ensures that the child's rights are protected whenever no parent can be identified; the school district, after reasonable efforts, cannot locate a parent; the child is an unaccompanied youth, or the child is a ward of the state, through the assignment of an individual to act as a surrogate for the parent or guardian. *Ward* is defined as "a person for whom a guardian or limited guardian has been appointed." A "minor ward" is a minor for whom a guardian has been appointed solely because of minority. NDCC § 30.1-26-01.

The Lake Region Special Education Unit adheres to policies and procedures set forth in *NDDPI Guidelines: Educational Surrogate Parent*.

The Lake Region Special Education Unit has established specific procedures for determining whether a child needs a surrogate parent and for assigning such a surrogate parent for the purpose of special education and related services. The surrogate parent may be selected in any way permitted under North Dakota law.

2. Regulations (§ 300.519)

- (i) The following criteria apply to the selection of surrogate parents.
 - (a) The surrogate parent may have no personal or professional interest that would conflict with the interest of to the child he/she represents.
 - (b) The surrogate parent must have knowledge and skills to ensure adequate representation of the child. The school district must provide training to assure these skills and knowledge. If appropriate, training may be provided to foster parents.
 - (c) The surrogate parent may not be an employee of any state or local governmental agency that is involved in the education or care of the child. A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he

or she is paid by the agency to serve as a surrogate parent. If deemed appropriate, a surrogate parent may receive some remuneration for serving in this role.

- (ii) The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.
 - (iii) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to requirements of non-employment by the NDDPI, LEA, or other agency, until a surrogate parent can be appointed that meets all of the requirements of this section.
3. *Surrogate Parents (300.514)*

(i) *Policy*

The Lake Region Special Education Unit (LRSE) assures that the learner's rights are protected whenever the parents or guardians of the learner are not known, are unavailable, or the learner is a ward of the state through the assignment of an individual to act as a guardian. "Ward of the state" is defined as "a person for whom a guardian has been appointed."

The Lake Region Special Education Unit (LRSE) assures that a surrogate has no other vested interest that would conflict with his/her primary allegiance to the learner she/he represents; that the surrogate has the knowledge and skills to represent the learner; that the surrogate is not an employee of any state or local governmental agency involved with the care or education of the learner; that the surrogate will represent the learner in all matters relating to identification, evaluation, and education placement and the provision of a free appropriate public education is available to the learner at no cost to the learner, parent, or surrogate parent.

(ii) *Procedure*

The Lake Region Special Education Unit utilizes the ND Department of Public Instruction Surrogate Parent Manual.

The need for a surrogate may be lessened if the person with whom the learner lives acts as the parent. Given the regulatory definition of "parent" as "a parent or guardian, a person acting as a parent of a learner" (such as a grandparent, step-parent with whom a learner lives, as well as persons who are legally responsible for a learner's welfare), there may be no need to appoint a surrogate. However, when such individuals have no desire or are unable to become involved in the education decision making process, a qualified surrogate will be appointed through LRSE. The guidelines for surrogate parent are:

- (a) *If there is a reason to suspect that the learner is in need of a surrogate parent, the local school district must make a written inquiry to the adult in charge of the learner's place of residence, as well as to the parents at their last known address.*
- (b) *If efforts indicate that the parents are not available, a request for the appointment of a surrogate is filed by the local school district administrator or designee or other interested parties with LRSE.*

- (c) *Once the assignment is made, a surrogate will be responsible for representing the learner just as the parents would through the complete educational decision making process.*

Termination of assignment of surrogate parent may be made by the learner, the surrogate, or the local school district involved. Such as request should be made in writing and submitted to LRSE. Supportive documentation or other relevant evidence for such action should be included in cases where a party, other than the surrogate parent, has requested a change or termination of the assignment. The Director of LRSE or his/her designee should determine whether or not a change in or termination of assignment is warranted.

The assigned surrogate parent enjoys the same rights throughout the educational decision making process including access to records, as do natural parents. The rights include but are not limited to:

- (a) *Prior notice whenever a local school district proposes to initiate or change the educational program of the learner.*
- (b) *To challenge the accuracy of information in the learner's record.*
- (c) *To participate fully in the planning of the learner's individualized education program.*
- (d) *To question the appropriateness of the learner's educational programming and placement.*
- (e) *To all procedural safeguards, including the right to present evidence, confront, cross-examine, and compel the attendance of a witness during a due process hearing.*
- (f) *To full knowledge about special education programs for the learner.*

The selection and qualification of a surrogate parent will include but are not limited to the following:

- (a) *Shall be an adult and legal citizen of the United States.*
- (b) *Shall not be an employee of the State Education Agency, Local Education Agency, Institution, or Private School involved in the education of the learner.*
- (c) *Shall have no vested interest that conflicts with the learner's educational interest.*
- (d) *Shall be committed to the learner's educational interest.*

J. Transfer of Parental Rights at Age of Majority (§ 300.520)

1. Policy

When a student with a disability reaches the age of 18 years (N.D.C.C. § 14-10-01) (except for a student with a disability who has been determined to be incompetent under North Dakota law), the school district shall provide any notice required by IDEA Part B to both the individual and the parents; and all other rights accorded to parents under Part B of IDEA transfer to the student; and all rights accorded to parents under Part B of IDEA transfer to students who are incarcerated in an adult or juvenile North Dakota or local correctional institution.

Procedures regarding transfer of rights are included in *Guidelines: Procedural Safeguards: Prior Written Notice and Parental Consent Procedures* (2007), which is disseminated to all special education personnel. Specific procedures on transfer of parental rights are included in the *Appendix Section 5*.

2. Regulations

Whenever rights are transferred under this part, the school district shall notify the individual and the parents of the transfer of rights.

IX. DISCIPLINE PROCEDURES (20 U.S.C. 20 1415 (k); 34 CFR 300.530-300.536)

The school district adheres to policies and all requirements related to discipline as set forth in *Guidelines: Individualized Education Program Planning Process* (2007), and Policy Paper No. 2, *Discipline Regulations for Students with Disabilities* (2007) which was disseminated to all special education personnel and school administrators.

Suspension and Expulsion

Students are expected to conduct themselves in a manner suitable to their age and grade. Students disobedient or disruptive of the educational process are subject to corrective discipline.

The School Board hereby delegates to the Superintendent and each principal the authority to deal with disciplinary problems in his/her school.

A principal or the Superintendent may suspend a student for up to ten (10) consecutive days or recommend expulsion of a student and shall allow the student's parent or representative an opportunity to be heard prior to the commencement of the suspension. The Superintendent [or a principal] may expel a student for the remainder of the current school year after providing notice and a hearing as set forth in FHDA-R. Conduct, including but not limited to the following, exhibited while on school grounds, during a school-sponsored activity, or during a school-related activity is subject to suspension or expulsion:

- 1. Causing or attempting to cause damage to school property or stealing or attempting to steal school property of value.*
- 2. Causing or attempting to cause damage to private property or stealing or attempting to steal private property.*
- 3. Causing or attempting to cause physical injury to another person except in self-defense.*
- 4. Possessing or transmitting any firearms, knives, explosives, or other dangerous objects.*
- 5. Possessing, using, transmitting, or being under the influence of any narcotic drugs, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind.*
- 6. Disobedience or defiance of proper authority.*
- 7. Behavior which is detrimental to the welfare, safety, or morals of other students.*
- 8. Truancy.*
- 9. Offensive and vulgar language, whether or not it is obscene, defamatory, or inciteful to violence, where it is disruptive of the educational process.*

10. Any student behavior which is detrimental or disruptive to the educational process, as determined by the principal.

Enrollment of Suspended Students

[Any student who has been suspended from a school of this District is not eligible to attend any other school within the District until eligible to return to his or her regular school.]

Any student who has been suspended from another District will not be permitted to enroll in the District until eligible to re-enroll in his or her former district or until the Board or the Superintendent has reviewed the prior suspension and determines that the suspension was illegal or improperly given.

Suspension or Expulsion of Students with Disabilities

Suspension or expulsion of students with disabilities must comply with the provisions of the Individuals with Disabilities Education Act.

The District is not required to refer for special education assessment and evaluation a regular education student who has been suspended for violation of school rules and district policy to determine if such a student might have a disability. A suspended regular education student is not entitled to reinstatement to classroom and campus privileges pending any assessment and evaluation which is to be made during the term of the student's suspension.

Copies of these rules shall be posted in a prominent place in each school, and may be distributed to each student.

Legal Ref: 20 U.S.C. 1400 et seq Individual with Disabilities Education Act
NDCC 15.1-09-33(17) School Board - Powers
NDCC 15.1-19-09 Students - Suspension and Expulsion - Rules
NDCC 15.1-19-10 Possession of a Weapon - Policy - Expulsion from School

Change of Placement for Disciplinary Removals (§ 300.536)

For purposes of removals of a child with a disability from the child's current educational placement under §§300.530-300.535, a change of placement occurs

- if the removal is for more than 10 consecutive school days; or
- the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. The school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

Authority of School Personnel (§ 300.530)

1. *Case-by-case determination.* School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with

- the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.
2. School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536). After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under item 4.
 3. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to item 7, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in item 4.
 4.
 - (i) A child with a disability who is removed from the child's current placement pursuant to items 3 or 9 must continue to receive educational services, as provided in § 300.101(a) [free appropriate public education], so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.
 - (ii) The services required by this item may be provided in an interim alternative educational setting.
 - (iii) A school district is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.
 - (iv) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in § 300.101(a) [free appropriate public education], so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.
 - (v) If the removal is a change of placement under § 300.536, the child's IEP team determines appropriate services under item 4(a).
 5. For purposes of this section (IX Discipline Procedures), the following definitions apply.
 - (i) *Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

- (ii) *Illegal drug* means a controlled substance; but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.
- (iii) *Serious bodily injury* has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- (iv) *Weapon* has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Determination of Setting (§ 300.531)

- 6. The child’s IEP team determines the interim alternative education setting for services under items 3, 4, and 9.

Manifestation Determination Review (§ 300.530 (e))

- 7. (i) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the child’s IEP team (as determined by the parent and the school district) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine—
 - (a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
 - (b) If the conduct in question was the direct result of the school district’s failure to implement the IEP.
- (ii) The conduct must be determined to be a manifestation of the child’s disability if the school district, the parent, and relevant members of the child’s IEP team determine that a condition in either item 7(a)(i) or item 7(a)(ii) was met.
- (iii) If the school district, the parent, and relevant members of the child’s IEP team determine the conduct was a direct result of the school district failure to implement the IEP, the school district must take immediate steps to remedy those deficiencies.
- 8. If the school district, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child’s disability, the IEP team must either
 - (i) conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
 - (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
 - (iii) Except as provided in item 9, return the child to the placement from which the child was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.
- 9. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child—

- (i) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a state education agency or an L school district
 - (ii) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state education agency or an school district; or
 - (iii) As inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state education agency or an school district
10. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

Parent Appeal (§ 300.532)

11. The parent of a child with a disability who disagrees with any decision regarding placement under items 3 and 9 or the manifestation determination under item 7 or an school district that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).
12. (i) A hearing officer under § 300.511 hears, and makes a determination regarding an appeal under item 11. In making the determination, the hearing officer may—
- (ii) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of § 300.530 or that the child’s behavior was a manifestation of the child’s disability; or
 - (iii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.
13. The appeal procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.
14. Whenever a hearing is requested under item 11, the parents or the school district involved in the dispute must have an opportunity for an impartial due process hearing. The SEA or school district is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing. Unless the parents and school district agree in writing to waive the resolution meeting or agree to use the mediation process described in § 300.506, a resolution meeting must occur within seven days of receiving notice of the due process complaint; and the due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint. The decisions on expedited due process hearings are appealable consistent with § 300.514.

Placement During Appeals (§ 300.533)

When an appeal has been made by either the parent or the school district, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period of the removal, whichever occurs first, unless the parent and the state education agency or school district agree otherwise.

Protections for Children Not Yet Eligible for Special Education and Related Services (§ 300.534)

15. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct may assert any of the protections provided for in this part if the school district had knowledge (as determined in accordance with item 17) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.
16. A school district must be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred,
 - (i) the parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services;
 - (ii) the parent of the child has requested an evaluation of the child pursuant to §§300.300-300.311; or
 - (iii) the teacher of the child, or other personnel of the local educational agency, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.
17. A school district would not be deemed to have knowledge under item 16 if the parent of the child has not allowed an evaluation of the child, or has refused services to the child, or if the child has been evaluated in accordance with §§ 300.300 through 300.311 and determined not to be a child with a disability.
18. If a school district does not have knowledge that a child is a child with a disability (in accordance with items 16 and 17) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with items 19, 20, and 21 of this section.
19. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.530, the evaluation must be conducted in an expedited manner.
20. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
21. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by the parents, the school district must provide special education and related services in accordance with §§300.530 through 300.536 and section 612(a)(1)(A) of IDEA.

Referral to and Action by Law Enforcement and Judicial Authorities (§ 300.535)

22. Nothing in this part prohibits a school district 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.
23. A school district 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. A school district 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 Rights and Privacy Act.

X. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION (20 U.S.C. 1412(a)(8), 1417(c); §300.500, 300.610-300.627)

A. Policy

The school district affirms the policy of confidentiality of any personally identifiable information collected, used, or maintained under IDEA Part B. The school district further affirms its adherence to the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) which protects students' and parents' rights to privacy in and access to educational records.

See Appendix Section 4 – Record Locator Instructions and Forms 4.1 – 4.2

B. Regulations

Notice to Parents (§ 300.612)

1. The school district ensures that notice as required below in item 1(e) is adequate to fully inform parents about the requirements of confidentiality of personally identifiable information, including
 - (i) a description of the extent that the notice is given in the native languages of the various population groups in the unit;
 - (ii) a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the school intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
 - (iii) a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
 - (iv) a description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in 34 CFR part 99.
 - (v) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the unit of the activity.

See Appendix Section 4 – Release of Information Instructions and Forms 4.3-4.5

Access Rights (§ 300.613)

2. Each school district must permit parents (or young adults with disabilities for whom transfer of rights has occurred at age 18) to inspect and review any education records relating to their children that are collected, maintained, or used by the school district under this part. The school district must comply with a request without unnecessary delay and before any meeting regarding an individualized education program, or any hearing pursuant to §300.507 and §§300.530-300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.
3. The parents' right to inspect and review education records related to the identification, evaluation and placement of a child and the provision of FAPE under this section includes:
 - (i) the right to a response from the school district to reasonable requests for explanations and interpretations of the records;
 - (ii) the right to request that the school district provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (iii) the right to have a representative of the parent inspect and review the records.
4. A school district may presume that the parent has authority to inspect and review records relating to his or her child unless the school district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

Records of Parties Obtaining Access (Record of Inspection) (§ 300.614)

5. Each school district must keep a record of parties obtaining access to education records collected, maintained, or used under IDEA Part B (except access by parents and authorized employees of the school district), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

See Appendix Section 4 – Record of Inspection of Student Records Instructions and Forms 4.6-4.7

Records on More than One Child (§ 300.615)

6. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of Types and Location of Information (Record Locator) (§ 300.616)

7. Each school district must provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

See Appendix Section 4 – Special Education Student File Label and Instructions 4.8-4.9

Fees (§ 300.617)

8. A school district may charge a fee for copies of records that are made for parents under this section if the fee does not effectively prevent the parents from exercising their right to

inspect and review those records. A school district may not charge a fee to search for or to retrieve information under this section.

Amendment of Records at Parent’s Request (§ 300.618)

9. A parent who believes that information in education records collected, maintained or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child may request the school district that maintains the information to amend the records.
10. If the school district receives a request to amend records, the agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the school district decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.

Opportunity for a Hearing (§ 300. 619)

11. The school district must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

Result of Hearing (§ 300. 620)

12. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.
13. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district.
14. Any explanation placed in the records of the child under this section must:
 - (i) be maintained by the school district as part of the records of the child as long as the record or contested portion is maintained by the school district; and
 - (ii) if the records of the child or the contested portion is disclosed by the school district to any party, the explanation must also be disclosed to the party.

Hearing Procedures (§ 300. 621)

15. A hearing held under § 300.619 must be conducted according to the procedures under section 34 CFR 99.22 of the Family Educational Rights and Privacy Act (FERPA).

Consent (§ 300.622)

16. Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies as described below, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. Except as provided in items 17 and 18, consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of IDEA Part B.

17. Parental consent, or the consent of an eligible child who has reached age 18, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with § 300.321(b)(3).
18. If a child is enrolled, or is going to enroll in a private school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

See Appendix Section 4 – Parent Contact Sheet Instructions and Form 4.10-4.11

Safeguards (§ 300.623)

19. Each school district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
20. One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable information. Within the Lake Region Special Education Unit, the following person(s) is/are assigned this responsibility; the principal of each building in the district.
21. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under 300.123 and 34 CFR Part 99 (FERPA). Each school district must provide training to new staff members.
22. Each school district shall maintain, for public inspection, a current listing of the names and positions of those employees within the school district who may have access to personally identifiable information.

See Appendix Section 4 – Access Label 4.12

Destruction of Information (§ 300.624)

23. The school district must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
24. The information which is no longer needed must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

See Appendix Section 4 – Student Special Education Records Data Removal Instructions and Forms 4.13-4.14

Children's Rights (Transfer of Rights) (300.625)

25. Children for whom personally identifiable information is collected, maintained, or used under this policy are afforded rights of privacy similar to those afforded to parents previous to the child's 18th birthday, taking into consideration the age of the child and the type or severity of disability. Under the regulations for the Family Educational Rights and Privacy Act of 1974 in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18. In North Dakota, the rights of parents regarding

educational records are transferred to their child at age 18 unless the parents have sought and obtained legal guardianship for that child.

(See *Procedural Safeguards: Prior Written Notice and Parental Consent Procedures* which can be found on the North Dakota State Department of Education website at <https://www.nd.gov/dpi/uploads/60/ProceduralSafeguardsPriorWrittenNotice2007.pdf>)

(See *Parental Rights for Public School Students Receiving Special Education Services – Notice of Procedural Safeguard* which can be found on the North Dakota State Department of Education website at <https://www.nd.gov/dpi/uploads/60/ParentalRightsforPublicSchoolStudentsReceivingSpecialEducationServices8410.pdf>)

(See *Parent Guide to Special Education* which can be found on the North Dakota State Department of Education website at <https://www.nd.gov/dpi/uploads/60/ParentGuidetoSpecialEducation2007.pdf>)

APPENDIX SECTION 4 – PROCEDURAL SAFEGUARDS

- 4.1 *Record Locator Instructions*
- 4.2 *Record Locator Form*
- 4.3 *Release of Information Instructions*
- 4.4 *Release of Information Form – General*
- 4.5 *Release of Information Form - Listed*
- 4.6 *Record of Inspection of Student Records Instructions*
- 4.7 *Record of Inspection of Student Records Form*
- 4.8 *Special Education Student File Label Instructions*
- 4.9 *Special Education Student File Label Forms*
- 4.10 *Parent Contact Sheet Instructions*
- 4.11 *Parent Contact Sheet Form*
- 4.12 *Access Label*
- 4.13 *Student Special Education Records Data Removal Instructions*
- 4.14 *Student Special Education Records Data Removal Form*

4.1 Record Locator

- A. *Purpose: To indicate when the student's records, or a portion of these records, are stored in more than one location.*
- B. *Used by: Case managers and school social workers.*
- C. *Copies to: There should be one copy in the front of every folder (cumulative or permanent and special education) wherever records are located, when records are kept in more than one site. Staff's working files are exempt from this process.*

4.2

**LAKE REGION SPECIAL EDUCATION
RECORD LOCATOR**

Student's Name: _____

All records regarding this student can be found:

<u>TYPE OF RECORD</u>	<u>LOCATION OF RECORD</u>
Complete Special Education Record	_____
	Building or Site

	Address

	City, State, Zip

Cumulative Record	_____
	Building or Site

	Address

	City, State, Zip

Special Education Records	Electronic File

4.3 Release of Information

NOTE: Some individual school districts have their own Release of Information policy and forms. In such cases, that policy should be followed in lieu of LRSE policy and form.

- A. Purpose: To document parental/guardian permission to release information pertaining to their child to another agency, school district, etc.*
- B. Used by: All special education personnel.*
- C. Prerequisite to: Forwarding any information regarding a student to another agency, school district, etc.*
- D. Copies to: The original should be sent to the district or agency from whom information is being requested. Additional copies to: Student's cumulative/special education folder, parent/guardian.*

4.4

LAKE REGION SPECIAL EDUCATION
Release of Information

PRIVACY STATEMENT: Disclosure of the social security number is voluntary and is requested for the purpose of accurate identification. Failure to disclose a social security number will not affect the disclosure of other information. LRSE will not condition treatment on your agreement to authorize disclosure of your health information. LRSE may, however, require that you authorize disclosure of your health information if needed to make a determination about your eligibility for benefits or enrollment in a health plan.

Instructions: Provide information as it exists when the service was provided.

Name of Student: (Last, First, Middle Initial)		Date of Birth:	
Street Address:	City:	State:	Zip Code:

Release and Signature:

1. I hereby Authorize:

Name of Person/Agency:

Street Address:	City:	State:	Zip Code:
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2. To Release and Exchange Information With:

Name of Person/Agency to Receive Information:

Lake Region Special Education/	School District
--------------------------------	-----------------

Street Address: 801 5 th Avenue SE	City: Devils Lake	State: ND	Zip Code: 58301-3649
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3. The following Information is Requested: (Be Specific)

4. The Information Identified Above Will Be Used For: (List Each Purpose)

**5. This Authorization to Disclose Information Remains in Effect Until: (Date) OR:
(Specific Event Terminating Operation of the Release)**

Consent:

This authorization is voluntary and remains in effect until the above date or event, unless specifically revoked by written notice to the agency or person. Refer to the Notice of Privacy Practices for further description of revocation rights. Any information disclosed prior to written revocation of this authorization shall not be a breach of confidentiality. A photocopy of this authorization is as effective as the original. Unless otherwise agreed in writing, information may be disclosed under this authorization in any form or medium, including oral, written or electronic transmission.

Signature of Student if 18 years of age or older:	Date:
---	-------

Signature of Parent/Guardian (if needed and Relationship):	Date:
--	-------

Notice: Except for information subject to 42 CFR Part 2, information disclosed to another entity may potentially be redisclosed, in which case it may be protected by State or Federal Law.

4.5

**LAKE REGION SPECIAL EDUCATION
Release of Information**

PRIVACY STATEMENT: Disclosure of the social security number is voluntary and is requested for the purpose of accurate identification. Failure to disclose a social security number will not affect the disclosure of other information. LRSE will not condition treatment on your agreement to authorize disclosure of your health information. LRSE may, however, require that you authorize disclosure of your health information if needed to make a determination about your eligibility for benefits or enrollment in a health plan.

Instructions: Provide information as it exists when the service was provided.

Name of Student: (Last, First, Middle Initial)		Date of Birth:	
Street Address:	City:	State:	Zip Code:

Release and Signature:

1. I hereby Authorize:

Name of Person/Agency:			
Street Address:	City:	State:	Zip Code:

2. To Release and Exchange Information With:

Name of Person/Agency to Receive Information: Lake Region Special Education/ School District			
Street Address: 801 5 th Avenue SE	City: Devils Lake	State: ND	Zip Code: 58301-3649

3. The following Information is Requested: (Be Specific)

- | | |
|---|---|
| <input type="checkbox"/> Verification of Treatment | <input type="checkbox"/> Assessment Results |
| <input type="checkbox"/> Educational/Vocational Information | <input type="checkbox"/> Psychological Eval/Recommendations |
| <input type="checkbox"/> Legal Status/Court Order | <input type="checkbox"/> Psychiatric Eval/Recommendations |
| <input type="checkbox"/> Medical Information | <input type="checkbox"/> Educational Eval/Recommendations |
| <input type="checkbox"/> Progress Reports | <input type="checkbox"/> Addiction Eval/Recommendations |
| <input type="checkbox"/> Child Abuse/Neglect Assessment/Results | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> School Performance | |

4. The Information Identified Above Will Be Used For: (List Each Purpose)

5. This Authorization to Disclose Information Remains in Effect Until: (Date)	OR: (Specific Event Terminating Operation of the Release)
--	--

Consent:

This authorization is voluntary and remains in effect until the above date or event, unless specifically revoked by written notice to the agency or person. Refer to the Notice of Privacy Practices for further description of revocation rights. Any information disclosed prior to written revocation of this authorization shall not be a breach of confidentiality. A photocopy of this authorization is as effective as the original. Unless otherwise agreed in writing, information may be disclosed under this authorization in any form or medium, including oral, written or electronic transmission.	
Signature of Student if 18 years of age or older:	Date:
Signature of Parent/Guardian (if needed and Relationship):	Date:
Notice: Except for information subject to 42 CFR Part 2, information disclosed to another entity may potentially be redisclosed, in which case it may be protected by State or Federal Law.	

4.6 Record of Inspection of Student Records

- A. Purpose: To identify when and why authorized individuals have reviewed the contents of the student's special education folder.*
- B. Used by: All authorized personnel. (See limited access sticker on file cabinet.)*
- C. Prerequisite to: Review of the special education folder.*
- D. Copies to: There are no copies. The original is placed in the front of each special education folder.*

4.8 Special Education Student File Label

- A. Purpose: To annually identify the special education services received by the student and the staff member(s) providing those services.*
- B. Used by: All special education personnel*
- C. Prerequisite to: Does not apply*
- D. Copies to: Apply the sticker to outside front of the student's special education folder.*

4.9

LAKE REGION SPECIAL EDUCATION

Student: _____ Birth Date: _____

SERVICES RECEIVED	Note staff and year(s) services were received									
Preschool Special Needs Services										
EMH Services										
TMH Services										
LD Services										
SED Services										
Speech/Language Services										
Hearing Amplification (Auditory Trainer)										
Physical Therapy										
Occupational Therapy										
Adaptive P.E.										
Boarding/Foster Care										
Other										
Other										

4.10 Parent Contact Sheet

NOTE: *For those meetings or correspondence documented by existing due process forms, an entry on the contact sheet is not required; for example, meetings on evaluations, placement, IEP development, and reviews.*

- A. Purpose: To document all forms of parental contacts (written, in person, telephone) or attempts to contact parents. This should be filled out on an ongoing basis.*
- B. Used by: All special education personnel*
- C. Prerequisite to: Does not apply*
- D. Copies to: There should be one copy in the front of each special education folder.*

4.12 Access Label

- A. *Purpose: To identify files that contain special education records as limited access files, to specify who has access to the records, and to identify a record custodian.*
- B. *Used by: All special education personnel, building principals, record custodians.*
- C. *Location: The access label must be placed in clear view on any file cabinet that contains special education records.*

NOTE: *Specific names should not be entered. The name of the building/school district should be entered in the first three lines. The position held by the Record Custodian should be entered.*

THIS IS A LIMITED ACCESS FILE	
Some cumulative files contain special education records. Special education records are limited access records. The following individuals have access to special education records:	
Lake Region Special Education Staff (including teacher, physical therapist, occupational therapist, speech therapist, psychologist, program coordinator, director, social worker)	
Regular Education Instructors _____ (includes school social worker)	_____ building
School District Administrators _____	_____ school district
School Secretary _____	_____ Building
Parent/Eligible Student over the Age of 18	
State/Federal Education Agency Personnel	
Permission to access this file by persons not listed above must be obtained from:	
_____, Record Custodian	

4.13 Student Special Education Records Data Removal Instructions

- A. *Purpose: To provide the parent/guardian with sufficient prior notice that specific contents of their child's special education folder will be removed and destroyed. This gives the parent/guardian an opportunity to receive a copy of this information before it is destroyed. It is suggested that parent/ guardian be given a 30-day timeline in which to respond to this notice.*

NOTE: 1) Inactive Records: *The contents of a student's special education record MAY be destroyed after three years from the date any services were last provided, and the contents SHALL be destroyed after five years from the date any special education services were last provided. However, in order to have some record that these students did receive special education services, maintain a copy of: a) the student's last special education "Review Form or Parent Prior Notice," and b) the latest "Student Special Education Records Data Removal Form." These two pieces of data should then be placed with the student's other cumulative data that are kept in perpetuity.*

NOTE: 2) Active Records: *There are occasions when this form will be used for active records. Such an occasion may be when the accumulation of special education records within the folder becomes excessive. However, the following data should be kept: The first and last IEP, all initial due process forms and most recent "Review Form," the first and last "Evaluation Summary Report" and other pertinent evaluations, all records of inspection forms, all contact sheets. All other data may be destroyed (using the Student Special Education Data Removal Form) at the discretion of the staff person in consultation with their program coordinator.*

- B. *Used by: Building administrator in conjunction with special education personnel.*
C. *Prerequisite to: Removal and destruction of data in a student's special education folder.*
D. *Copies to: The original should be sent to the parent/guardian. Additional copies for student's cumulative/special education folder and the building administrator.*
E. *Date recorded is the date of the form that will be removed.*

NOTE: *For students age 19 and older, see LRSE policy on Family Rights and Privacy Act.*

4.14

DATE: _____

Student Name: _____

Street Address: _____

City, State, Zip: _____

DOB: _____

Student Phone: _____

Parent(s) First and Last Name: _____

Parent(s) Address: _____

City, State, Zip: _____

Parent(s) Phone: _____

RE: STUDENT SPECIAL EDUCATION RECORDS DATA REMOVAL

Dear _____,

_____ plans to destroy the following special education records pertaining to _____.

You may wish to retain these records to show _____'s eligibility for future services, for example, SSI. If you wish to retain these materials, please contact me at _____ within thirty (30) days of the date of this letter.

Sincerely,

Administrator

SECTION 5: MONITORING PROCEDURES

XI. LAKE REGION SPECIAL EDUCATION UNIT INTERNAL MONITORING PROCEDURES (34 CFR §§ 300.200, 300.201, 300.600, 300.601)

A. Policy

The Lake Region Special Education Unit is responsible for internally monitoring the implementation of its procedures to ensure consistent compliance with applicable law, address issues of quality of services, and develop and carry out strategies that will result in improved outcomes for students with disabilities.

B. Procedures

Both federal and state law contemplate that a school district will conduct internal monitoring of its provision of special education and related services. Internal monitoring may also be conducted at the special education unit level; however, all data submitted must be at the school district level. North Dakota law at N.D.C.C. § 15.1-32-02 requires the setting of standards that will apply to school districts receiving state special education funding. IDEA requires adherence to specific federal regulations to assure that free and appropriate services are made available to all children with disabilities. Monitoring procedures have evolved toward an emphasis on broader accountability issues aligned with the total educational accountability system.

Additional information on requirements for administering programs supported by federal funds is available in the document, *General Requirements for Federal Programs* (NDDPI April 2013), accessible at the NDDPI website at www.dpi.state.nd.us/grants/require.pdf.

This document covers areas such as records retention, allowable costs, property management, and other aspects of program administration.

The obligation to conduct internal monitoring for proper administration of a program supported by federal funds extends to parentally-placed private school students with disabilities who receive special education and related services from the school district and students who are placed by the school district in a private school or facility.

The Lake Region Special Education Unit assures that it monitors compliance with the requirements of IDEA Part B. Lake Region Special Education Unit will monitor eighty files of students with IEPs. Forty of the files will be from Devils Lake District. Forty of the files will be from the other 13 school districts. A minimum of three files of students with IEPs will be monitored per school district. The following chart will be used to determine how many transition files will be monitored in each district.

District child count for students 16-21	Percent of files to review
1-5	100%
6-25	20%
26-100	15%
101-250	10%

The ND Department of Public Instruction *Individual Student File Review Form* and the *Indicator 13 Checklist* will be used. (See Appendix Section 5 – Monitoring Procedures 5.1 and Indicator 13 Checklist 5.2) Additional files will be monitored for schools with larger child counts to assure that each staff member has at least one file monitored. Assigned files will be monitored by LRSE coordinators by March 15 of each year. The unit secretary sends monthly reminders to case managers regarding upcoming IEP reviews and three-year reevaluations. Case managers provide current IEPs to the unit secretary by November 15 of each year.

The results of internal monitoring are the basis for professional development provided to LRSE staff. This assures improvement of educational results and functional outcomes for all children with disabilities.

The Lake Region Special Education Unit further assures that it complies with federal and state policy as stated in *General Requirements for Federal Programs* (NDDPI February 2004) and any successor to that document. The Lake Region Special Education Unit makes internal monitoring records available to the NDDPI for review at the agency or institution site.

C. File Compliance

File monitoring will be completed each year by the Director or Representative in alignment with LRSE evaluation programs and North Dakota Department of Public Instruction monitoring regulations.

LRSE Coordinators will use a compliance checklist to monitor due process forms including IEP's.

(Revised 12/13/06)

XI. PERFORMANCE GOALS AND INDICATORS (20 U.S.C. 1412(a)(15); 34 CFR §§ 300.157; 300.211)

IDEA 2004 established a requirement that all states develop and submit to the U.S. Department of Education, Office of Special Education Programs (OSEP) a performance plan designed to improve the educational and functional outcomes for children with disabilities. Pursuant to §300.157, the state performance plan (SPP) establishes goals for the performance of children with disabilities, establishes performance indicators that are used to assess progress toward achieving the goals, and provides for performance reporting. The state performance plan must encompass baseline data (where available), projected targets, and activities to achieve those targets. The state is required to submit an annual performance report (APR) in the years following the submission of the performance plan to inform OSEP and the public on the progress toward meeting those goals. The SPP contains 20 performance indicators. The NDDPI collects data on the performance of local school districts on these indicators:

Indicator 1: Graduation Rate: Percent of youth with IEPs graduating from high school compared to percent of youth graduating in ND.

Indicator 2: Dropout Rate: Percent of youth with IEPs dropping out of high school compared to the percent of all youth in ND dropping out of high school.

Indicator 3: Participation and Performance on ND Statewide Assessments and the ND Alternate Assessment: Percent of districts meeting state's AYP [adequate yearly progress] objectives for progress for disability subgroup.

Indicator 4: Rates of Suspension and Expulsion: Percent of districts identified as having a significant discrepancy in the rates of suspension and expulsion for children with disabilities.

Indicator 5: School Age LRE: Percent of children with IEPs placed in regular classrooms, separate classrooms, or separate facilities.

Indicator 6: Preschool LRE: Percent of preschool children who receive services in settings with typically developing peers.

Indicator 7: Preschool Outcomes: Social/emotional skills, use of knowledge and skills, and use of appropriate behaviors.

Indicator 8: Parent Involvement: As a means of improving results for children with disabilities.

Indicator 9: Racial/Ethnic Disproportionality: Percent of districts with disproportionate representation of racial and ethnic groups in special education.

Indicator 10: Racial/Ethnic Disproportionality by Disability: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories.

Indicator 11: Evaluation Timelines: Evaluation completed and eligibility determined within 60 days.

Indicator 12: Preschool Transition: Percent of children eligible for services who have an IEP developed and implemented by their third birthday.

Indicator 13: Secondary Transition: IEPs that include coordinated, measurable, annual IEP goals that reasonably enable the student to meet post-secondary goals.

Indicator 14: Secondary Outcomes: Percent of youth who had IEPs who are employed, enrolled in postsecondary school, or both, within one year of leaving high school.

Consistent with the requirements of §300.211, the Lake Region Special Education Unit assures that its member school districts will comply with NDDPI information requests and will conduct required data collection and submission activities related to performance goals and indicators in a timely and accurate manner.

XIII. PARTICIPATION IN ASSESSMENTS (20 U.S.C. 1412(a)(16); §300.320(a)(6)) §300.160

Participation in Assessments (300.320(a)(6))

A. Policy

Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations in administration and alternate assessments, if necessary as indicated by a child's IEP. If a child's IEP team determines that a child must take an alternate assessment of student achievement, the child's IEP must ensure that the parents of the student is informed that their child will be assessed based on an alternative or modified academic standard.

B. Procedures

- A. The school district utilizes guidance documents developed or disseminated by the NDDPI to ensure compliance with regulations relating to participation in state and alternate assessments. This guidance provides assistance for school personnel on identifying and selecting appropriate assessment accommodations for children with disabilities. In addition guidelines are provided for the participation of children with disabilities in alternate assessments as indicated on their IEPs.

The NDDPI is a member of the Smarter Balance Assessment Consortium and participated in the development of the guide, *The Smarter Balanced Assessment Consortium: Usability, Accessibility and Accommodations Guidelines*. This guidebook describes the universal tools, designated supports, and accommodations available for the Smarter Balanced assessment's and are intended for school-level personnel and decision-making teams, particularly Individualized Education Program (IEP) teams, as they prepare for and implement the Smarter Balanced Assessment.

The North Dakota Alternate Assessment for ELA and Math is for students with significant cognitive disabilities and was developed with the Dynamic Learning Maps Consortium, DLM. The DLM assessment is a computer-delivered alternate assessment for students with significant disabilities in grades 3-12. To determine students eligible for the alternate assessment, IEP Teams should use the *ND Alternate Assessment Participation Guidelines*.

The school district assures that it conducts all assessments, general and alternate, in compliance with federal and state standards, and that it will implement ongoing NDDPI guidance on assessment accommodations as it is provided by the NDDPI.

XIV. METHODS OF ENSURING SERVICES - INTERAGENCY AGREEMENTS (20 U.S.C. 1412(a)(12)(A), (B) and (C); 1401 (8); 34 CFR 300.154)

A. Policy

The Lake Region Special Education Unit collaborates with appropriate state and local agencies to ensure services that are needed to provide FAPE are delivered to individuals with disabilities.

B. Interagency Agreements and Memorandum of Agreements

The Lake Region Special Education Unit has in place Interagency Agreements (IAAs) with the following public agencies:

Early Explores Head Start
North Dakota School for the Deaf
Spirit Lake Head Start

C. Other Working Relationships with Community Agencies §300.154(e)

In addition to Interagency Agreements, the Lake Region Special Education Unit has informal working relationships (i.e., no written formal relationship) with the following agencies:

Area preschools
County social services

Development Disabilities
Division of Juvenile Court
North Dakota Job Service
Northeast Education Service Cooperative
P & A – advocacy for students
PATH
Region III and IV Transition councils- develop transition programs for students 16 and above
Vocational Rehabilitation

D. Use of Private Insurance (§ 300.154(e) through (h))

1. With regard to children with disabilities who are covered by public insurance:
 - a. a school district may use the Medicaid or other public insurance or benefits programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph b(ii) of this section.
 - b. with regard to services required to provide FAPE to an eligible child under this part, the school district
 - (i) may not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of IDEA;
 - (ii) may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph 3 of this section, may pay the cost that the parent otherwise would be required to pay; and
 - (iii) may not use a child's benefits under a public benefits or insurance program if that use would
 - (A) Decrease available lifetime coverage or any other insured benefit;
 - (B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
 - (C) Increase premiums or lead to the discontinuation of benefits or insurance; or
 - (D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
 - (iv) Prior to accessing a child's or parent's public benefits of insurance for the first time, and after providing notification to the child's parents consistent with paragraph (V) must obtain written, parental consent that
 - (A) Meets the requirements of § 99.30 and § 300.622, which consent must specify the personally identifiable information that may be disclosed, the purpose of the disclosure, and the agency to which the disclosure may be made. And
 - (B) Specifies that the parent understands and agrees that the public agency may access the parent's or child's public or benefits or insurance to pay for services under part 300.
 - (v) Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, must provide written notification consistent with 300.503(c) to the child's parents, that includes
 - (A) A statement of the parental consent provisions in paragraph (iv)

- (B) A statement of the “no cost” provisions in paragraphs (d) (2) (i) through (iii) of this section
 - (C) A statement that the parents have the right under 34 CFR part 99 and part 300 to withdraw their consent to disclosure of their child’s personally identifiable information to the agency responsible for the administration of the State’s public benefits or insurance program at any time;
 - (D) A statement of withdrawal of consent or refusal to provide consent under 34 CFR part 99 and part 300 to disclose personally identifiable information to the agency responsible for the administration of the State’s public benefits and insurance program does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.
2. With regard to services required to provide FAPE to an eligible child with a disability who is covered by private insurance, a school district may access a parent's private insurance proceeds only if the parent provides informed consent consistent with §300.309. Each time the school district proposes to access the parent's private insurance proceeds, it must obtain parent consent, and inform the parents that their refusal to permit the school district to access their private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.
 3. If a school district is unable to obtain parental consent to use the parent's private insurance, or public benefits or insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the school district may use its Part B funds to pay for the service. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parent would incur a cost, the school district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's benefits or insurance (e.g., the deductible or co-pay amounts).
 4. Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25. If a school district spends reimbursements from federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in §§300.163 and 300.203.
 5. Nothing in this part should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj or any other public insurance program.

XV. SUSPENSION AND EXPULSION RATES (20 U.S.C.1412(a)(22); 34 CFR § 300.170)

A. Policy

The school district assures that it regularly reviews suspension and expulsion rates of children with disabilities.

B. Procedures § 300.170

1. The school district examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions

and expulsions of children with disabilities compared to the rates for nondisabled children in the school district.

2. If the discrepancies described in item 1 are occurring, the school district reviews and, if appropriate, revises its policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the act.

XVI. ACCESS TO INSTRUCTIONAL MATERIALS (20 U.S.C. § 1412(a)(23); 34 CFR § 300.172)

A. Policy

IDEA 04 requires states to address the critical difficulty in obtaining accessible textbooks for students with disabilities by adopting a new file format, the National Instructional Materials Accessibility Standard (NIMAS). North Dakota has chosen to adopt the new file format, for the purpose of providing instructional materials to blind persons or other persons with print disabilities in a timely manner.

The school district assures that it takes all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

B. Procedures

The NDDPI has published guidance for the implementation of the NIMAS and coordination with the National Instructional Materials Access Center (NIMAC) in the document, National Instructional Materials Accessibility Standard (NIMAS) and the National Instructional Materials Accessibility Center (NIMAXC) April 2009. The document is based on federal regulations and reflects changes in the IDEA 2004. The document provides guidance to individuals who are responsible for the provision of accessible instructional materials to students with disabilities. The school district assures that it will implement the requirement to provide instructional materials in accessible formats in timely fashion consistent with federal and North Dakota requirements.

XVII. PROHIBITION ON MANDATORY MEDICATION (20 U.S.C. § 1412(a)(25), 34 CFR § 300.174)

The Lake Region Special Education Unit assures that it complies with federal requirements prohibiting unit and school district personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under § 300.300 through 300.311, or receiving services under IDEA Part B. The Lake Region Special Education Unit recognizes that the prohibition may not be construed as prohibiting teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under § 300.111

(related to child find).

APPENDIX SECTION 5 – MONITORING PROCEDURES

- 5.1 Individual Student File Review Form*
- 5.2 Indicator Thirteen Checklist*

5.1

Individual Student File Review Form

Student Name: _____ Case Manager: _____ School District _____

DOB/Age: ____/____ Grade: _____ File Review Date: _____ Building/Grades _____

File Reviewer: _____ Disability Category: ____/____ Sp Ed Unit _____

Key: Yes = compliance No = noncompliance NF=not found NA= not applicable

Quality Indicators					Comments/Examples
NON-DISCRIMINATORY ASSESSMENT					
EVALUATION 300.301-300.311					
Multi-disciplinary team includes: (check all that apply) 300.305 (a)					
• Parent(s) of the child					
• Regular education teacher					
• Special education teacher					
• Administrator					
• An individual who can interpret the instructional implications of the evaluation results (may be a member of the team described above)					
• At the discretion of the parent or LEA, other individuals who have knowledge/special expertise regarding the child.					
• The child (if appropriate)					
Evaluation done prior to initial placement					
Re-evaluation occurred within 3 years 300.300 (b)(2)					Last 2 dates: _____
Most current evaluation in file					Date: _____
Student profile includes: 300.304 (c)(6)					
• Cognitive characteristics					
• Physical characteristics					

Quality Indicators					Comments/Examples
<ul style="list-style-type: none"> Adaptive characteristics – functional 300.305 					
<ul style="list-style-type: none"> Classroom characteristics and environmental influences 					
<ul style="list-style-type: none"> Behavior 					
Indication that no additional information was needed: 300.305 (d)					
<ul style="list-style-type: none"> Parents notified that no additional information was needed (box was checked) 					
Assessment plan developed prior to evaluation 300.305					
For reevaluation , team reviewed existing evaluation data; including: 300.305					
<ul style="list-style-type: none"> Information provided by parents 					
<ul style="list-style-type: none"> Current classroom based assessments & observations 					
<ul style="list-style-type: none"> Teacher & related service provider observation 					
<ul style="list-style-type: none"> Student participates in local or state assessments (a)(1) 					
Independent evaluation was considered & included in report 300.502					
Evaluation is nondiscriminatory – (300.304 (c)(1)(i))					
Evaluations tailored to educational needs and not a single intelligence quotient – 300.304 (c) (2)					
Assessment administration considered impaired sensory, manual or special skills - 300.304(c)(3)					
Assessment in all areas related to suspected disability 300.304 (c)(4)					
Evaluation administered in native language 300.304 (c)(1)(ii)					

Quality Indicators					Comments/Examples
Test instruments administered by trained personnel and are valid and reliable 300.304 (c)(1)(iii)(iv)					
Evaluation includes info related to enabling child to be involved in & progress in general curriculum (or for preschool, appropriate activities) [300.532 (b)] 300.304 (b)(1)(ii)					
Multiple measures were used [300.304 (b)(1)(2)(C)(2)]					
SUMMARY OF PERFORMANCE- SOP 300-305 (e)(2)(3)					
SOP developed for student in final year of HS					
<ul style="list-style-type: none"> Summary of academic & functional performance 					
<ul style="list-style-type: none"> Recommendations on how to assist the student in meeting post secondary goals. 					
INTEGRATED WRITTEN ASSESSMENT REPORT (IWAR)					
IWAR was prepared 300.306					
IWAR includes the following:					
<ul style="list-style-type: none"> Findings from all sources 					
<ul style="list-style-type: none"> Integrated assessment data 					
<ul style="list-style-type: none"> Input from all team members, including parent(s) & all other current and relevant data 					
<ul style="list-style-type: none"> Written in an understandable manner for parents and others 					
<ul style="list-style-type: none"> Determination of the child's disability 					
Evidence that the following were not factors in disability: 300.306(b)(1)					
<ul style="list-style-type: none"> Lack of reading/math instruction 					
<ul style="list-style-type: none"> Limited English Proficiency (LEP) 					
EVALUATION – SLD					

Quality Indicators					Comments/Examples
MDT includes a diagnostician qualified to conduct individual diagnostic exam (School psychologists, speech/language pathologist, remedial reading teacher) 300.308(b)					
Data based documentation that disability not due to lack of instruction 300.309 (a)(1)(b)(1)					
INTEGRATED WRITTEN ASSESSMENT REPORT – SLD					
Identified as SLD in one of eight areas 300.309 Check chosen area(s):					
• Oral expression					
• Listening comprehension					
• Written expression					
• Basic reading skill					
• Reading comprehension					
• Reading Fluency					
• Mathematics calculation; or					
• Mathematic problem solving					
Discrepancy not attributable to any other cause (severe discrepancy between ability & achievement that is not correctable without special education) 300.309 (a)(3)					
The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards.					
The child does not make sufficient progress to meet age or State-approved grade-level standards.					
Classroom observation - 300.310					
Statement that the team found that the discrepancy was not due to the following: 300.311					

Quality Indicators					Comments/Examples
<ul style="list-style-type: none"> Visual, hearing, motor disability 					
<ul style="list-style-type: none"> Intellectual Disability 					
<ul style="list-style-type: none"> Emotional disturbance, or 					
<ul style="list-style-type: none"> Environmental, cultural, economic disadvantage 					
<ul style="list-style-type: none"> Limited English Proficiency 					
Documentation of educationally relevant medical findings 300.311(4)					
If RTI process then document the following:					
The instructional strategies used and the student-centered data collected; and					
The child's parents were notified about—					
<ul style="list-style-type: none"> The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; 					
<ul style="list-style-type: none"> Strategies for increasing the child's rate of learning 					
<ul style="list-style-type: none"> The parents' right to request an evaluation. 					
Signature of each team member for approval – 300.311 (b)					
FAPE					
<i>INDIVIDUALIZED EDUCATION PROGRAM (IEP) 300.320 – 300.328</i>					
Current IEP in file					
IEP reviewed within 12 months					
If initial IEP: Meeting was held within 30 days of eligibility					
IEP in effect prior to services					
IEP meeting participants include: [300.321] <i>(if not found see Attendance Not Necessary or Excusal sections below before marking NF)</i>					
<ul style="list-style-type: none"> LEA representative 					

Quality Indicators					Comments/Examples
<ul style="list-style-type: none"> Child's General Education teacher (not less than one if the child is or may be participating in the reg. ed. environment) 					
<ul style="list-style-type: none"> Special Education teacher (not less than one) 					
<ul style="list-style-type: none"> An individual who can interpret instructional implications of the eval. results – could be one of the persons above 					
<ul style="list-style-type: none"> Parent participated in IEP meeting 					
<ul style="list-style-type: none"> If parent not present, file documents, attempts to obtain participation –(input) 					
<ul style="list-style-type: none"> Child (If 16+) 					
<ul style="list-style-type: none"> If child not present, file documents, attempts to obtain participation – (input) 					
<ul style="list-style-type: none"> Agency personnel as appropriate 					
<ul style="list-style-type: none"> Related services as appropriate 					
<ul style="list-style-type: none"> Age 3 child previously served under Part C – invitation to attend initial IEP sent to Part C representative 300.321 (f) 					
<ul style="list-style-type: none"> If child attending private school: Representative of school 					
Attendance Not Necessary					
<ul style="list-style-type: none"> Member's area of curriculum is not being modified or discussed – written agreement of parent and LEA 300.321 (e)(1) 					
Excusal					
<ul style="list-style-type: none"> Member's area of curriculum is being modified or discussed – written consent of parent and LEA 300.321 (e) (2) 					
<ul style="list-style-type: none"> IEP member submitted, in writing, input for the IEP 					
PRESENT LEVEL OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE					

Quality Indicators					Comments/Examples
IEP addresses all areas of functioning including:					
<ul style="list-style-type: none"> Reflects parent input 					
<ul style="list-style-type: none"> Significant strengths & deficits 					
<ul style="list-style-type: none"> Is understandable by parents & general educators 					
Gives clear picture of present level of functioning :					
<ul style="list-style-type: none"> Cognitive functioning 					
<ul style="list-style-type: none"> Academic performance 					
<ul style="list-style-type: none"> Communication status 					
<ul style="list-style-type: none"> Motor ability 					
<ul style="list-style-type: none"> Sensory status 					
<ul style="list-style-type: none"> Health/physical status 					
<ul style="list-style-type: none"> Social, emotional, behavioral, ecological 					
<ul style="list-style-type: none"> Functional skills 					
PLAAFP describes patterns of functioning					
PLAAFP describes needs for special education					
PLAAFP describes how disability affects child's involvement & progress in general ed curriculum 300.320 (a)(1)(i)					
For preschool , how disability affects participation in appropriate activities 300.320 (a)(1)(iii)					
ANNUAL GOALS					
Annual goals contain all required components including: 300.320 (a)(2)(i)					
<ul style="list-style-type: none"> Behavior or skill 					
<ul style="list-style-type: none"> Desired ending level of achieve 					
<ul style="list-style-type: none"> Intent or purpose 					

Quality Indicators					Comments/Examples
<ul style="list-style-type: none"> Have basis in PLAAFP 					
<ul style="list-style-type: none"> Reasonably attainable within 1 year 					
OBJECTIVES (required if taking the alternate assessment)					
Objectives contain all required components including: 300.320 (a)(2)(ii)					
<ul style="list-style-type: none"> Conditions/circumstances under which behavior is to be performed 					
<ul style="list-style-type: none"> Specific behaviors 					
<ul style="list-style-type: none"> Criteria for attainment 					
<ul style="list-style-type: none"> Evaluation procedures 					
<ul style="list-style-type: none"> Schedules for determining if objectives are met 					
<ul style="list-style-type: none"> Are sequential (if appropriate) 					
STO's are individualized					
Reporting Progress to Parents Parents are informed of student progress 300.320 (a)(3)					
<ul style="list-style-type: none"> Each goal/objective is addressed in progress report 					
Adaptations section is complete <u>and</u> relates to PLAAFP 300.320 (a)(4)					
Special Factors 300.324 (a)(2) (i) <i>behavior</i> , if it impedes learning of child or others, & includes + behavior interventions, strategies, supports to address behavior					
(ii) for <u>LEP</u> , the language needs as they relate to the child's IEP					
(iii) for <u>blind/VI</u> , instruction in Braille & its use unless not appropriate					

Quality Indicators					Comments/Examples
(iv)for <u>deaf/HOH</u> , communication & language needs, opportunities for direct communications with peers & prof personnel, child's mode, academic level & full range of needs					
(v) whether <u>AT devices</u> & services are needed					
Participation in statewide and district-wide assessment 300.320 (a)(6)					
<ul style="list-style-type: none"> States which assessment child will participate in (Check one): 					
1. State assessment with no accommodations					
2. State assessment <i>with</i> accommodations					
3. Alternate Assessment					
<ul style="list-style-type: none"> States individual modifications needed in the administration of the assessment 					
<ul style="list-style-type: none"> Contains a statement of team rationale for participation in the ND Alternate Assessment 					
Type of physical ed. (may be NA in HS if requirements for PE are completed) 300.108					
Documentation of Nonacademic and Extracurricular activities 300.320 (a)(4)(ii)					
Sp Ed Services (Section J of IEP) includes: 300.320 (a)(7)					
<ul style="list-style-type: none"> Services 					
<ul style="list-style-type: none"> Projected date for beginning of services 					
<ul style="list-style-type: none"> Anticipated frequency of services 					
<ul style="list-style-type: none"> Location of services 					
<ul style="list-style-type: none"> Duration of services 					
Extended School Year (ESY): sufficient documentation in justification section 300.106					

Quality Indicators					Comments/Examples
SECONDARY TRANSITION IEP					
IEP will be in effect when student turns 16 Transition services deemed appropriate by team for student younger than 16 300.320 (b)					
Student invited to IEP 300.321 (b)(1)					
If student didn't attend IEP meeting does file include info that student's preferences/interests were considered & documented 300.321 (b)(2)					
For ages 16+ , the following are described in the PLAAP:					
• Jobs/job training					
• Recreation & leisure					
• Independent living					
• Community participation					
• Post-sec training & learning opportunities					
• Related services					
Additional secondary transition requirements are found on the ND Internal Monitoring Secondary Transition Requirements checklist.					
LEAST RESTRICTIVE ENVIRONMENT (LRE) 300.114-300.116					
Supplementary services provided in conjunction with general ed 300.115 (b)(2)					
Evidence child is educated in neighborhood school unless other arrangement identified by IEP team 300.116 (c)					
Child's placement is based on IEP 300.116 (b)(2)					
Educated with children who are non-disabled [300.550.1] 300.114 (a)(2)(i)					

Quality Indicators					Comments/Examples
Removal from general ed environment is appropriate by team determination 300.116 (a)(1)					
Evidence that school/class attended is age appropriate 300.116 (e)					
LRE sufficient documentation in justification section: 300.115 <ul style="list-style-type: none"> • Reason LRE options were chosen, and other options rejected 					
<ul style="list-style-type: none"> • Potential harmful effects 300.116 (d) 					
PROCEDURAL SAFEGUARDS					
Parent Consent:					
<ul style="list-style-type: none"> • Initial evaluation 300.300 (a) 					
<ul style="list-style-type: none"> • Reevaluation 300.300 (c) 					
<ul style="list-style-type: none"> • Initial Placement 300.300 (b) 					
Limited access notice posted on cabinet and has acceptable content 300.623 (d)					
File contained information only about this student 300.615					
Record locator completed correctly 300.616					
Record of Inspection completed properly 300.614					
Record locator located in the cumulative file					
Parent Prior Notice for: 300.503					
<ul style="list-style-type: none"> • Assessment Planning – 300.304 (a) 					
<ul style="list-style-type: none"> • Most recent IEP meeting 					
<ul style="list-style-type: none"> • Initial referral for evaluation 					
<ul style="list-style-type: none"> • IWAR meeting 					
<ul style="list-style-type: none"> • Transition noted as purpose of IEP meeting (300.322) 					
Parent Prior Notice form includes: 300.503 (b)					

Quality Indicators					Comments/Examples
• Action proposed					
• Why proposed/rejected					
• Options considered					
• Why action rejected					
• Each evaluation procedure					
• Any other relevant factors					
• Understandable to parents					
• Parents Rights Information was given to parents if appropriate					
Transfer of rights documents in file:					
• Student & parent <i>informed</i> at 17					
300.320 (c)					
• Student & parent transfer of rights (documented) at 18					

5.2

**North Dakota Internal Monitoring Transition Requirement Checklist:
Indicator 13 (Revised August 2009)**

Percent of youth aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age

1. Are there appropriate measurable postsecondary goal(s) that cover education or training, employment, and, as needed, independent living?	Y N
Can the goal(s) be counted? Will the goal(s) occur <i>after</i> the student graduates from school? Based on the information available about this student, does (do) the postsecondary goal(s) seem appropriate for this student? • If <i>yes</i> to all three, then circle Y OR if a postsecondary goal(s) is <i>not</i> stated, circle N	
2. Are the postsecondary goals updated annually?	Y N
Were the postsecondary goals addressed/updated in conjunction with the development of the current IEP? • If <i>yes</i> , then circle Y OR If the postsecondary goals were <i>not</i> updated with the current IEP, circle N	
3. Is there evidence that the measurable postsecondary goals were based on age appropriate transition assessment?	Y N
Is the use of transition assessments for the postsecondary goals mentioned in the IEP or evident in the student's file? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
4. Are there transition services in the IEP that will reasonably enable the student to meet his or her postsecondary goals?	Y N
Is a type of <i>instruction, related service, community experience, or 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</i> listed in association with meeting the post-secondary goals? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
5. Do the transition services include courses of study that will reasonably enable the student to meet his or her postsecondary goals?	Y N
Do the transition services include courses of study that align with the student's postsecondary goals? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
6. Are there annual IEP goal(s) related to the student's transition services needs?	Y N
Are annual goals included in the IEP that are related to the student's transition services needs? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
7. Is there evidence that the student was invited to the IEP Team meeting where transition services were discussed?	Y N
For the current year, is there documented evidence in the IEP or cumulative folder that the student was invited to attend the IEP Team meeting? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
8. If appropriate, is there evidence that a representative of any participating agency was invited to the IEP Team meeting with the prior written consent of the parent or student who has reached the age of majority?	Y N NA
For the current year, is there evidence in the IEP that representatives of any of the following agencies/services were invited to participate in the IEP development including but not limited to: <i>postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation</i> for this post-secondary goal? Was consent obtained from the parent (or student, for a student the age of majority)? • If <i>yes</i> to both, then circle Y • If <i>no</i> invitation is evident and a participating agency is likely to be responsible for providing or paying for transition services and there was consent to invite them to the IEP meeting, then circle N • If it is too early to determine if the student will need outside agency involvement, or no agency is likely to provide or pay for transition services, circle NA • If parent or individual student consent (when appropriate) was <i>not</i> provided, circle NA	
Does the IEP meet the requirements of Indicator 13? (Circle one) Yes (all Ys or NAs for each item (1-8) on the checklist or No (one or more Ns circled)	

SECTION 6: FINANCIAL RECORDS

XVIII. PROHIBITION AGAINST COMMINGLING (20 U.S.C. 1412(a)(17)(B) 34 CFR 300.162(b))

The Lake Region Special Education Unit assures that the funds under Part B of IDEA are not commingled with funds from other sources.

XIX. EXCESS COST AND NONSUPPLANTING (34 CFR §162(c); 20 U.S.C. 1401(8), 1413(a)(2)(A); 34 CFR §300.16, 300.202, Appendix A to Part 300- Excess Costs Calculation)

The Lake Region Special Education Unit assures that funds received under IDEA Part B will be used solely for excess costs for special education and related services for students with disabilities and in no way will be used to supplant any special education costs from other sources including state and local funds.

A. Use of Amounts. (20 U.S.C. 1401(8), 1413(a)(2)(A); 34 CFR §300.16, 300.202, Appendix A to Part 300- Excess Costs Calculation; ND Admin. Code § 67-23-03-04)

1. **General.** Amounts provided to a school district under Part B of IDEA--
 - (i) Must be expended in accordance with the applicable provisions of IDEA Part B and federal and state rules implementing IDEA Part B;
 - (ii) Must be used only to pay the excess costs of providing special education and related services to children with disabilities; and
 - (iii) Must be used to supplement state, local, and other federal funds and not to supplant those funds.
2. **Definition.** The term “excess costs” means those costs that are in excess of the average annual per-student expenditure in a school district during the preceding school year for an elementary or secondary school student, as may be appropriate. Excess costs must be computed after deducting—
 - (i) Amounts received—
 - (a) Under IDEA Part B;
 - (b) Under Part A of title I of the Elementary and Secondary Education Act of 1965 (“ESEA”); or
 - (c) Under Parts A and B of title III, of the ESEA; and
 - (ii) Any state or local funds expended for programs that would qualify for assistance under any of those parts, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be calculated.)
3. **Limitation on use of Part B funds.** (1) The excess cost requirement prevents a school district from using funds provided under Part B of IDEA to pay for all of the costs directly attributable to the education of a child with a disability; however, the excess cost requirement does not prevent a school district from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or state funds are available for

nondisabled children in that age range. However, the school district must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.

B. Meeting the Excess Cost Requirement (34 CFR §§ 300.202 (b)(2), 300.202(b)(3), 300.223; ND Admin. Code § 67-23-03-05)

1. **General.** A school district meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of IDEA are used. This amount is determined in accordance with the definition of excess costs. This amount may not include capital outlay or debt service.

Joint establishment of eligibility. If two or more school districts jointly establish eligibility in accordance with §300.223 Joint establishment of eligibility, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in those agencies for elementary or secondary school students, as the case may be.

Computation for excess cost requirement. To meet the excess cost requirement, a unit must have spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of IDEA are used. The amount may not include capital outlay or debt service.

The average amount spent in each member school district within the Lake Region Special Education Unit *for 2006-2007 is presented below as an example.*

School District/Unit	Average Annual per Student Expenditure			
	KG	GR 1-6	GR 7-8	GR 9-12
Adams	\$ 5,470.93	\$ 8,077.20		
Bisbee-Egeland	17,549.01	10,095.91	\$ 11,045.57	\$ 12,481.10
Cando (Southern)	6,861.61	4,518.28	3,773.94	5,218.69
Dakota Prairie	7,265.41	7,280.69	5,762.10	6,981.93
Devils Lake	3,511.48	4,019.66	4,454.51	4,261.08
Edmore			5,984.58	11,720.49
Lakota	4,290.45	3,678.57	3,768.70	4,586.48
Langdon	6,861.46	6,071.31	3,535.68	4,730.35
Leeds	7,418.13	6,203.52	6,681.43	5,603.71
Minnewaukan	4,641.12	7,186.47	6,442.11	6,502.75
Munich	6,227.75	6,497.47	8,669.76	5,883.20
Rock Lake (North Central)	10,787.24	9,893.06	11,746.80	12,558.40
Starkweather	16,402.02	7,045.01	5,474.77	6,629.78
Warwick	8,360.53	7,682.25	4,062.60	10,117.39

XX. MAINTENANCE OF EFFORT (34 CFR§ 300.203, 300.204, Appendix D to Part 300 – Maintenance of Effort and Early Intervening Services)

The Lake Region Special Education Unit assures that, except for the conditions stated in § 300.203 and as excepted under § 300.204 and 300.205, IDEA Part B funds will not be

used to reduce the level of expenditures for the education of children with disabilities made by the school district from local funds below the level of those expenditures for the preceding fiscal year.

If the NDDPI determines that a school district is not meeting the requirements of IDEA Part B, including the targets in the North Dakota State Performance Plan (provision of FAPE in the least restrictive environment; state exercise of general supervision including child find, effective monitoring, use of resolution meetings, mediation, and a system of transition services; and disproportionate representation of racial and ethnic groups in special education and related services as the result of inappropriate identification), the school district may not reduce its maintenance of effort under § 300.203 for any fiscal year.

XXI. PERMISSIVE USE OF FUNDS (20 U.S.C. 1413(a)(4) 34 CFR 300.208)

IDEA Part B funds may be used for the following activities:

- A. Services and aids that also benefit nondisabled children. For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services.
- B. Early intervening services. To develop and implement a coordinated early intervening educational services system in accordance with 300.226.
- C. *Administrative case management.* A school district may use funds received under Part B of IDEA to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities that is needed for the implementation of those case management activities.

XXII. EARLY INTERVENING SERVICES (20 U.S.C. §1413 (f), 34 CFR § 300.226)

- A. A school district may not use more than 15 percent of the amount the school district receives under Part B of IDEA for any fiscal year, less any amount reduced by the school district pursuant to § 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. (Appendix D to Part 300 contains examples of how § 300.205(d), regarding local maintenance of effort, and § 300.226(a) affect one another.)
- B. *Activities.* In implementing coordinated, early intervening services under this section, a school district may carry out activities that include-
 - (1) Professional development (which may be provided by entities other than school district's) for teachers and other school staff to enable such personnel to deliver

- scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- (2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.
- C. *Reporting*. Each school district that develops and maintains coordinated, early intervening services under this section must annually report to the NDDPI on
- (1) The number of children served under this section who received early intervening services; and
- (2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two year period.
- D. *Coordination with ESEA [No Child Left Behind Act of 2001]*: Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.

XXIII. OVERIDENTIFICATION AND DISPROPORTIONALITY (20 U.S.C. § 1412(a)(24), 34 CFR §§ 300.173, 300.600(a), 300.646)

A. Policy

IDEA prohibits the inappropriate overidentification or disproportionate representation by race or ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in § 300.8, definition of child with a disability. The NDDPI has developed guidance for school district use to accomplish the identification of children with disabilities and to find and correct inappropriate overidentification or disproportionality. This guidance consists of a disproportionality state plan, a local policy review template, a student file review template, and guidance on local investigation and best practice.

IDEA requires the NDDPI to monitor for and report on the existence of disproportionate representation as a result of inappropriate identification. The Lake Region Special Education Unit participates in this monitoring and reporting process as *set out in Section 5 XI Internal Monitoring Procedures in this handbook*.

B. Consequence of determination of overidentification or disproportionality:

If the NDDPI determines that significant disproportionality exists in a school district that is a member of Lake Region Special Education Unit with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, the Lake Region Special Education Unit assures that the school district will review and revise, if appropriate, its policies, procedures, and practices used in the identification or placement to ensure that its policies, procedures, and practices comply with the requirements of IDEA. The Lake Region Special Education Unit further assures that the school district will publicly report on the revision of policies, practices, and

procedures reviewed or revised. The Lake Region Special Education Unit further assures that if significant disproportionality is determined to exist, the school district will reserve the maximum amount of funds under section 613(f) of IDEA to provide comprehensive coordinated early intervening services to serve children in the school district, particularly but not exclusively, children in those groups that were significantly overidentified under § 300.646(a).

XXIV. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILD (20 U.S.C. 1234(a))

A. Policy

The North Dakota Department of Public Instruction will seek to recover any funds made available under Public Law 108-446 for services to any child who has been determined erroneously classified as eligible to be counted through the annual child count by the Lake Region Special Education Unit.

B. Procedures for Implementing and Monitoring Child Count

Recovery of funds for misclassified children is addressed by ND Admin. Code § 67-23-03-03.

1. The NDDPI will review annually the regulations for conducting a statewide child count.
2. The NDDPI will send letters annually explaining child count procedures to all special education units.
3. Each special education unit will respond to the request by submitting required data in a format prescribed by the NDDPI.
4. Each individual responsible for collecting child count information will verify to the best of his/her knowledge that the count is a true, accurate count by submitting a sworn affidavit.
5. Data are edited through computer checks as well as visual scanning to identify errors. Each apparent error and data element is checked with the special education unit from which it was submitted, and changes are entered into the unduplicated child count database.
6. The NDDPI compiles all child count information in required report forms.
7. Child count information submitted by special education units will be analyzed, comparing data to other records containing numbers of served students with disabilities collected by the NDDPI.
8. The NDDPI monitoring procedure to verify accuracy of the special education unit child count is as follows:
 - (i) A sample of students from the current child count is selected. An attempt is made to include all categories of disability.
 - (ii) The files for these students are reviewed on site for timeliness and completeness.
 - (iii) Student eligibility will be determined based on the following criteria:
 - (a) IEP was in effect and child was receiving special education and related services on IEP at the time of the count (December 1);
 - (b) evidence that child has been evaluated and determined to be a child with a disability eligible to receive special education and related services; and
 - (c) evidence of enrollment in school at the time of the count.

C. Procedures to Recover Funds Made Available for Children Erroneously Classified as Eligible to be Counted

1. The NDDPI will request the special education unit to return federal funds for all misclassified children who were included in the child count. These funds must be returned to the NDDPI within 30 days of notification.
2. It is the policy of the NDDPI to request return of federal per pupil allocations in a direct ratio to the percentage of error found during monitoring.
Example: If 20 files are reviewed and it is found that two of the students should not have been counted, the NDDPI will assume the special education units count has a 10% error; if the child count for that year is 500 students, the NDDPI will request the return of $.10 \times 500 \times$ per pupil allocation.

A request for return of funds will not be made without first affording the unit a review after reasonable notice has been given and the unit has had an opportunity to present information and data relating to the error calculation.

If the error is substantiated, the funds in question must be returned within 30 days of request.

3. If the special education unit does not return the funds, the NDDPI will suspend federal financial assistance immediately until the situation is clarified.
4. The NDDPI will return all funds to the Department of Education, Office of Special Education Programs for misclassified children who were included in the child count.

SECTION 7: OTHER PROCEDURAL POLICIES

XXV. HEARINGS RELATED TO LEA ELIGIBILITY (20 U.S.C. 1412(a)(13); 1413(c) and (d); 34 CFR § 76.401, 300.155)

A. Policy

Before taking any final action regarding any application submitted by a local education agency, the NDDPI provides reasonable notice and opportunity for a hearing.

B. Procedure

Disapproval of an Application, Opportunity for a Hearing (34 CFR 76.401)

School district or organization opportunity for a hearing under Part B of IDEA is addressed in N.D. Admin. Code section 67-23-03-07.

1. Final disapproval action will not be taken by the NDDPI on any application submitted by a special education unit without first affording the applicant reasonable notice and opportunity for a hearing.
2. The following procedures will be followed as set forth under 34 CFR §76.401 of the Education Department General Administrative Regulations (EDGAR).
 - (i) The applicant shall request the hearing within 30 days of the action of the NDDPI.
 - (ii) Within 30 days after it receives a request, the NDDPI shall request the assignment of an administrative law judge from the North Dakota Office of Administrative Hearings, who shall hold a hearing on the record and shall review the NDDPI action.
 - (iii) No later than 10 days after the hearing the administrative law judge shall issue a written ruling, including findings of fact and reasons for the ruling.
 - (iv) If the administrative law judge determines that the NDDPI action was contrary to state or federal statutes or regulations that govern the applicable program, NDDPI shall rescind its action.
 - (v) If the NDDPI does not rescind its final action after a review, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary, U.S. Department of Education, within 20 days after the applicant has been notified by the NDDPI of the results of the NDDPI review. If supported by substantial evidence, findings of fact of the NDDPI are final.
 - (vi) The NDDPI shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section including records of other applicants.

XXVI. PERSONNEL STANDARDS (20 U.S.C. 1412(a)(14); 34 CFR 300.156)

It is the policy of the Lake Region Special Education Unit to adhere to North Dakota personnel standards as stated by the Educational Standards and Practices Board and the NDDPI. The Lake Region Special Education Unit and the school district assure that each person employed as a public school special education teacher in North Dakota who teaches

in an elementary school, middle school, or secondary school is highly qualified as a special education teacher under Sec. 1119(a)(2) of the ESEA [No Child Left Behind Act of 2001].

Teacher licensure in North Dakota is based upon transcribed majors and minors from approved colleges of teacher education. The North Dakota Professional Educator's License is issued by the ND Education Standards and Practices Board (ESPB). ESPB has the responsibility of teacher licensure, teacher education program approval, professional development and professional practices in ND.

The NDDPI Office of Special Education offers the Special Education Director's Credential, N.D. Admin. Code § 67-11-08; Certificate of Completion Speech-Language Pathology Paraprofessionals, N.D. Admin. Code § 67-11-20; and a Certificate of Completion for Paraprofessionals, ND. Admin. Code § 67-11-14.

The Lake Region Special Education Unit assures that member school districts take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities.

The Lake Region Special Education Unit adheres to § 300.156(e) *Rule of construction*. "Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part."

XXVII. PUBLIC PARTICIPATION (U.S.C. 1412(a)(19), 1413(a)(8); 34 CFR §§ 300.165, 300.212)

The Lake Region Special Education Unit assures that, prior to the adoption of any policies and procedures needed to comply with IDEA Part B, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. The Lake Region Special Education Unit further assures that all documents relating to the eligibility of the Lake Region Special Education Unit under IDEA Part B are available to parents of children with disabilities and to the general public.

XXVIII. LAKE REGION SPECIAL EDUCATION UNIT POLICIES AND PROCEDURES

The Lake Region Special Education Unit will keep on file with the NDDPI its Policies and Procedures that establish eligibility under IDEA Part B. The Policies and Procedures remain in effect until the unit submits modifications that the NDDPI or the Lake Region Special Education Unit decide are necessary. The NDDPI may requirement modifications if the provisions of the IDEA or state statute are amended; if federal or state regulations implementing IDEA are amended; if there is a new interpretation of the IDEA by federal or state courts; or there is an official finding of

noncompliance with federal or state law or regulations.

XXIX. STORM AND DISASTER POLICY

Policy on LRSE Bus Route Students

A. *The Lake Region Special Education Program operates bus routes as needed:*

1. *A weekend/holiday route - Friday after school and Sunday afternoon and prior to/ returning from school holidays.*

B. *Close School - Send Buses Home*

Upon notification from the Transportation Director of Devils Lake Public Schools that schools have been closed and buses are running, the Transportation Coordinator and the Director of Special Education will make the decision whether LRSE buses will be sent home. The Transportation Coordinator will then contact the LRSE bus drivers. Should buses be sent home early, parents will be contacted as to the circumstances and approximate time of arrival. Should buses be held - procedure III will be followed.

C. *Close School - Hold Buses*

Upon notification of school closings due to a storm or disaster, the following procedures will be followed:

Those students that cannot be transported home will be assigned to their storm home. Students will be transported to their designated storm homes or residential facilities by DL/LRSE bus drivers, and be accompanied to the door of their home. Bus drivers will be responsible for ensuring that someone is at the home to care for the child.

Parents will be contacted by the transportation coordinator as to the temporary placement of their son or daughter.

It will be the responsibility of the classroom instructor to see that medication, seizure records and other pertinent information follows the student to his designated storm home.

Special education staff members (classroom instructors or aides) must see that all students are safely sent home/designated storm home before they may leave their assigned building.

XXX. CHILD ABUSE AND NEGLECT

All employees of the Lake Region Special Education Board are required by North Dakota law to report cases of suspected child abuse and neglect. Section 50-25.1-09 of North

Dakota Century Code states that any employee making a good faith report is immune from liability.

Report

Reports may be made in two ways:

- A. Written*
- B. Verbal - in case of a verbal report, a written report must follow the verbal report within 48 hours.*

Verbal and/or written reports should be made to the following agencies:

*Benson County Social Services
108 4th Street East
PO Box 186
Minnewaukan, ND 58351-0186
473-5302*

*Cavalier County Social Services
324 7th Avenue
PO Box 630
Langdon, ND 58249-0630
256-2175*

*Nelson County Social Services
210 B Avenue West Suite 301
Lakota, ND 58344-7410
247-2945*

*Ramsey County Social Services
524 4th Avenue NE Unit 19
Devils Lake, ND 58301-2400
662-7050*

*Towner County Social Services
315 2nd Street
PO Box 604
Cando, ND 58324--0604
968-4355*

*Walsh County Social Services
516 Cooper Avenue
Grafton 58237-1399
352-4526*

Individuals in LRSE area schools may also file child abuse and neglect reports to:

Protective Service Supervisor

*Lake Region Human Service Center
200 Highway 2 West
PO Box 650
Devils Lake, ND 58301-0650
665-2200*

The LRSE Board will not impose any form of employee disciplinary action on employees who file a good faith abuse and/or neglect report.

XXXI. GENERAL APPROVAL STATEMENT

The Lake Region Special Education Unit provides assurance to the NDDPI that requirements of Part B of Public Law 108-446 [20 U.S.C. § 1400 et. seq.], the Individuals with Disabilities Education Act and its implementing regulations at 34 CFR Part 300, as described in the Eligibility Requirements document, will be met by the Lake Region Special Education Unit and by member school districts, and that the document has been approved by the board. Persons signing this document assure that they are authorized to make assurances on behalf of the Lake Region Special Education Unit and their respective member school districts. The Lake Region Special Education Unit further assures that consideration and approval of this Eligibility Requirements document are noted in official minutes of the Lake Region Special Education Unit board. If a school district changes its membership in a special education unit, or if a special education unit otherwise changes composition, a revised Eligibility Document will be submitted to the NDDPI by each affected unit within 45 calendar days of the effective date of the change.

Board President's Signature

Special Education Director's Signature

Date

TOOLS

- T1.0 Audiological Evaluation Referral*
- T2.0 Classroom Observation*
- T3.0 Extended School Year*
- T4.0 Functional Behavior Assessment*
- T5.0 Health Plan*
- T6.0 Inservice Request*
- T7.0 Picture Release Instructions*
- T8.0 Picture Release Form*
- T9.0 Requisition Form*

TI.0

Audiological Evaluation Referral

Student Name: _____

School: _____

Grade: _____

Parent(s) Name(s): _____

Address: _____

Phone Number: _____

LRSE Staff Making Referral: _____

Complete all of the above information and forward to Bette Nelson (bette.nelson@k12.nd.us) at Lake Region Special Education, 801 5th Avenue SE, Devils Lake, ND 58301-3649. A referral will be made to Brady Ness, Audiologist.

T2.0

**LAKE REGION SPECIAL EDUCATION
Classroom Observation**

Student: _____

Class: _____

Instructor: _____

Date: _____

Grade: _____ **Time:** _____

Area of Concern: _____

Medical: _____

Observation by: _____

(Not the classroom teacher.)

Classroom Environment/Setting (seating, distractions, lighting, overall activity, etc.)

Activity (What is happening today?)

Student Preparedness (materials, completed assignment, open the book, etc.)

Participation (volunteers answers, asks questions, works independently, initiation/completion, etc.)

Behavior (Different than others'?)

Classroom Observation - (continued)

On-Task (% of time on-task, pays attention, works independently, etc.)

Modifications Offered by Teacher

Assignment Given (written on board, verbal, repeated more than once, given before the end of the period)

Work Sample (If appropriate, get it after class and attach it to this form.)

“Teacher Pleasing” Behaviors (congenial, polite, pay attention, sit up/slouch, stay awake, appear interested, etc.)

Strengths

Area(s) of Concern

How is the (suspected) disability affecting classroom performance?

T3.0

**LAKE REGION SPECIAL EDUCATION
Extended School Determination Form**

Determining Extended School Year (ESY) Programming

- 1. Does the student have a current IEP? Yes No
- 2. Will the learning that occurred during the school year be significantly jeopardized if ESY services are not provided? Yes No

If the answer to either 1 or 2 is no, stop here – the student would not be appropriate for ESY. If the answer to both is yes, proceed to further determination either appropriateness of ESY services and/or focus of those services.

- 3. Identify progress toward the current goals and objectives that are being considered for ESY programming for reinforcement of skills (attach graphs, charts, data, progress reports, etc.): _____

- 4. Identify specific instances of regression and lack of recoupment or recent behavioral/medical problems that impact performance: _____

If either of these cannot be documented stop here – ESY is not appropriate for this student.

If these areas are appropriately documented, complete both parts of item #5 before May 1 and turn it in to the LRSE central office.

- 5. Identify which goals and objectives require ESY programming: _____

(Need to be based on documented regressive/recoupment data).

How many minutes per week were targeted to each objective: _____

T4.0**FUNCTIONAL BEHAVIOR ASSESSMENT**

Student _____	DOB _____	Grade _____
Teacher _____	School _____	
Plan case manager _____	Phone _____	
IEP: Y N	Plan start date _____	
Team will reconvene every _____	Days to monitor plan.	

1. What behaviors does the student exhibit that are different from those of the same-age peers?
2. When is the student most likely to engage in the problem or inappropriate behavior?
3. What specific events appear to be contributing to the student's problem behavior?
4. What function(s) does the problem behavior serve for the student?
5. What might the student be communicating through problem behavior?
6. When is the student less likely to engage in the problem behavior?

Does the student's behavior problem persist despite consistently implemented behavioral management strategies?

7. Does the student's behavior place him/her or others at risk of harm or injury?

8. Have the student's cultural norms been considered relative to the behavior(s) in question?

9. Do medication or other interventions affect the behavior?

10. Does the student's disability affect his/her ability to control the behavior?

11. Does the student's disability affect his/her understanding of the consequences of the behavior?

12. What accommodations are necessary for instruction and testing?

Team members and their responsibilities for implementation

Member	Responsibilities
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

T5.0

**LAKE REGION SPECIAL EDUCATION
Health Plan**

Health Plans are to be used when a student's condition does NOT qualify him/her for Section 504 of the Rehabilitation Act of 1973. The Act defines a person with a disability as anyone who:

1. Has a mental or physical impairment which subsequently limits one or more major life activity (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working);
2. Has a record of such impairment; or
3. Is regarded as having such impairment.

Student: _____ Effective Date: _____

Birth Date: _____ School: _____ Grade Level: _____

Transition Principal: _____

Parents: _____

Address: _____ City: _____ Zip: _____

Work Phone: _____ Home Phone: _____

Physician: _____ Phone: _____

Health Plan Case Manager: _____

Health Care Concern: _____

Health Care Plan: _____

Interventions and Procedures: _____

Necessary Training: _____

I have read and approve the above health care plan for _____
(Student Name)

We (I) will notify the school immediately if the health status of _____
(Student Name)

changes, we change physicians, or there is a change of cancellaton of the procedures.

Parent/Guardian Signature: _____

Review Date: _____

cc: All staff involved with said child:

T6.0

**LAKE REGION SPECIAL EDUCATION
801 5th Avenue SE
Devils Lake ND 58301-3649**

INSERVICE REQUEST

NAME: _____

_HOME ADDRESS: _____

INSERVICE TITLE: _____

INSERVICE LOCATION: _____

DATE OF INSERVICE: _____

Requested Reimbursement		Amount Requested	Approved by Director
1.	Registration		
2.	Mileage		
3.	Room		
4.	Meals (Reimbursement is for overnight travel only)		

SPECIAL NOTATIONS: _____

GRADUATE CREDITS OFFERED: _____

CEU'S OFFERED: _____

Staff Signature

Administrator Signature

Administrator Signature

Reimbursement	
Meal:	
6:00 a.m. to 12:00 noon	\$ ***
12:00 noon to 6:00 p.m.	\$ ***
6:00 pm. to 12:00 midnight	\$ ***
Room:	
12:00 Midnight to 6:00 a.m.	
Actual Expense NOT to exceed	
\$***** + tax	
(Effective ***)	

T7.0 *Picture Release Form*

- A. *Purpose: To document parental/guardian permission to photograph or video tape their child for purposes relative to education.*
- B. *Used by: All special education personnel*
- C. *Prerequisite to: Taking pictures or videotaping a student*
- D. *Copies to: The original copy goes in the student's cumulative/special education folder. Additional copy to parent/guardian.*
- E. *It is the practice of the LRSE central office to occasionally use video equipment to tape individual students. The following are examples of some of the uses:*
 - 1. *Initial evaluations of new students*
 - 2. *Monitoring individual student progress*
 - 3. *Staff study of individual student behavior*
 - 4. *The collection of data to accompany referral information to a specialist(s)*
 - 5. *Other (specify: _____*

When videotaping is used with an individual child, other than for student instructional purposes, written permission will be obtained in advance. Tape obtained in this manner will be treated in the same manner as an individual student record. (NOTE: If the actual tape is not in the file, its location should be noted on the student's Document Locator.)

T8.0

**LAKE REGION SPECIAL EDUCATION
PICTURE RELEASE FORM**

DATE: _____

STUDENT: _____

ADDRESS: _____

DOB: _____

GRADE: _____

SCHOOL: _____

PHONE: _____

PARENTS: _____

PARENTS' ADDRESS: _____

PARENTS' PHONE: _____

I _____ hereby authorize Lake Region Special
(Please Print)
Education to photograph _____ for the following purposes:
(Please Print)

CHECK ALL THAT APPLY:

- _____ Brochures
- _____ Slide/Tape Presentations
- _____ Other _____
- _____ Video Tape – These may be used for:
 1. Initial evaluations of new students
 2. Monitoring individual student progress
 3. Staff study of individual student behaviors
 4. The collection of data to accompany referral information to a specialist(s)
 5. Other (specify): _____

I understand that the photographs taken will be utilized only for the purposes indicated relative to Lake Region Special Education.

Please sign and return this form as soon as possible.

Signature of Parent/Guardian

Date

This release is in effect for one year from the date of signature

T9.0

LAKE REGION SPECIAL EDUCATION REQUISITION FORM

801 5th Ave SE

Devils Lake, ND 58301-3649

Phone: (701) 662-7690

Fax: (701) 662-7684

Staff _____

Date _____

Use a separate form for each company you order from. Please print or copy this form as needed

Name and Address of Company				
Phone Number of Company				
Fax Number of Company				
Web Site of Company				
Catalog Order #	Qty.	Item Name	Unit Cost	Total
For office use: Purchase Order Number _____		Sub Total		
		Estimated Shipping Cost		
		Total Cost		