State Public Charter School Authority

SPECIAL EDUCATION

GUIDANCE MANUAL

MODEL POLICIES & PROCEDURES

ADOPTED BY THE
NEVADA STATE HIGH SCHOOL
GOVERNING BODY

POLICY UPDATE

MISSION STATEMENT

The SPCSA improves and influences public education in Nevada by sponsoring public charter schools that prepare all students for college and career success and by modeling best practices in charter school sponsorship.

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CHAPTER 1 INTRODUCTION

Nevada State High School (NSHS) Note to Special Education Policy: NSHS's charter operates as a dual enrollment charter in which its students take college classes and high school credit is earned when students obtain credit from these college classes. NSHS does not provide core high school classes due to the charter's model. NSHS students who qualify for IEP services obtain supports and specially designed instruction that provides access to this curriculum model and transitions skills for post high school outcomes. The colleges provide accommodations to support students in the college setting through the college disabilities resource center to support students to earn credit for these classes. NSHS has no authority over these colleges and can only facilitate the students setting up these services with the colleges and ensuring they advocate for themselves. Students and parents are made award of this and provided steps, support and information upon registration with NSHS.

INTRODUCTION
This chapter serves as the introduction to the charter school Special Education Procedures Manual.

1.1 Purpose of this Manual
1.2 Applicable Laws and Regulations
1.3 Free Appropriate Public Education
1.4 Overview of Manual

1.1 PURPOSE OF THIS MANUAL

This manual is designed for use by teachers, administrators, parents, service providers, professionals, and others involved in the identification, evaluation, and education of students with disabilities at the charter school. The manual is intended to guide the user in complying with federal and state legal requirements as they apply to the charter school interaction with students with disabilities and their parents/guardians.

This manual frequently refers to the charter school personnel who are responsible for carrying out certain activities, as well as the appropriate contacts if issues arise. If the charter school personnel have any questions regarding the use or interpretation of this manual or any legal or other issues affecting students with disabilities, they should contact their Site Administrator or the State Public Charter School Authority (SPCSA).

1.2 APPLICABLE LAWS AND REGULATIONS

1.2.1 Individuals with Disabilities Education Improvement Act (IDEA)

a. The Individuals with Disabilities Education Improvement Act of 2004, often referred to as "IDEA," provides federal funds to state and local agencies for the education of eligible students with disabilities. In order to be eligible to receive services under IDEA, a student must be determined to be a child with a disability ***and*** to need special education and related services (each as defined under IDEA).
b. The charter school receives IDEA funds for the education of students with disabilities only if it complies with specific requirements of IDEA. They include, among other things, the requirement to identify and evaluate students who may have disabilities, to determine the eligibility of such students, to develop individualized education programs, to place students in appropriate settings, to follow certain procedural safeguards (including in connection with disciplinary actions), and to protect the confidentiality of student records. These requirements are discussed in more detail throughout this manual.
c. Congress made changes to IDEA in 2004, and the U.S. Department of Education revised the regulations on August 14, 2006 and December 1, 2008. This manual incorporates those changes.

1.2.2 State of Nevada Requirements

a. The State of Nevada has adopted its own laws and regulations covering the education of students with disabilities. These largely emulate the requirements of the federal laws and regulations discussed above but in some instances, expand on the federal requirements. The Nevada requirements are incorporated throughout this manual.

1.2.3 Settlement Agreements and Similar Requirements

a. From time to time, the charter school may enter into mediation, resolution, and/or settlement agreements or compliance plans in connection with administrative or court actions against the charter school involving the education of students with disabilities. The terms of such agreements must be carried out by the charter school in addition to the federal and state requirements discussed above.

1.3 FREE APPROPRIATE PUBLIC EDUCATION

IDEA requires that a student who meets eligibility criteria for special education services is entitled to receive a free appropriate public education, often referred to as "FAPE". Due to the meaning of FAPE being important to all the topics covered in this manual, this section discusses its meaning in detail.

1.3.1. Definition

The regulations implementing IDEA define free appropriate public education (FAPE) to mean special education and related services that:

a. Are provided at public expense, under public supervision and direction, and without charge;
b. Meet the standards of the Nevada Department of Education, including the requirements of IDEA;
c. Include preschool, elementary school, or secondary school education for students 3-21 in the State of Nevada; and
d. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements described in Chapter 7.0- Individualized Education Programs of this manual. The meaning of special education and related services is discussed in Chapter 7.0 – Individualized Education Programs. Other components of FAPE are discussed in greater detail below.

- **Free**: For purposes of FAPE, the term free means that required services are provided without cost to the student's parents/guardians. There may be other governmental agencies, insurers, or third parties (e.g. Medicaid) that have an obligation to provide or pay for services required under IDEA, Section 504 of the Rehabilitation Act of 1973 (Section 504); or the American with Disabilities Act (ADA). That said, the IDEA regulations specify that the charter school may access a parent's private insurance proceeds only if the parent provides informed consent as described in Chapter 2.0 – Procedural Safeguards. Informed parental consent must be obtained each time the parent's private insurance is accessed, and the parent must be informed that his or her refusal to consent does not relieve the charter school of its responsibility to ensure that all required IDEA services are provided at no cost to the parents. The IDEA regulations also provide that the charter school may not:
  - require of a student with a disability to sign up for or enroll in public insurance programs in order for their child to receive FAPE under IDEA;
  - require parents to incur an out-of-pocket expense such as payment of a deductible or co-pay amount incurred in filing a claim for services provided under IDEA;
  - use a student's benefits under a public insurance program if that use would
    A. decrease available lifetime coverage or any other insured benefit;
    B. result in the family paying for service that would otherwise be covered by the public insurance program and that are required for the student outside of the time the student is in school;
    C. increase premiums or lead to the discontinuation of insurance; or

D. risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

For assistance in locating potential sources of services or funding for services to meet FAPE, requirements, the charter school personnel should contact the charter school Site Administrator. The requirement that services be provided without cost to the student's parents applies only to the costs of special education and related services. The charter school may charge the parents/guardians of students with disabilities any incidental fees that are normally charged to students without disabilities or their parents as part of the general education program. For example, fees may be charged for classroom supplies, art supplies, etc., if parents of students without disabilities are charged for the same supplies and the supplies are not part of the student's special education and related services.

- **Appropriate:** The meaning of the term appropriate will depend on the unique needs of the individual student. Under IDEA, an appropriate education to a student with a disability is provided when:
  - Charter school personnel will comply with Nevada Administrative Code (NAC), applicable federal law, and procedural requirements described in this manual; and
  - the individualized education program developed for the student (as described in Chapter 7.0 – Individualized Education Program) is reasonably calculated to enable the student to receive educational benefit. The charter school is not required to provide the best possible education for a student with disability. However, the charter school must provide a program that is designed to provide some educational benefit to the student. These educational benefits must be more than minimal, meaning that the program must be designed to result in some tangible gain in the student's abilities.
  - **Public:** The term public education means one that meets the standards establish by the Nevada Department of Education, including standards that relate to compliance with IDEA. This requirement does not mean that a student cannot be placed in a private school or facility if the Multidisciplinary Team determines that such a placement is needed to provide FAPE.

1.3.2. Students Who are Entitled to FAPE

a. Generally the charter school is required to ensure FAPE is available to all students with disabilities, age 3 through 21, residing in Nevada and attending the charter school, including students with disabilities who have been suspended or expelled from school. FAPE includes the requirement that the charter school engage in appropriate child identification activities while enrolled in the charter school. These requirements are discussed in Chapter 4.0 --- IDENTIFICATION.

b. Suspensions and Expulsions

The FAPE requirements specifically apply to students who have been suspended or expelled. For a discussion of the requirements for disciplinary action against a student with a disability, please refer to Chapter 9.0 – Discipline.

c. When the FAPE Requirement Terminates

The charter school's obligation to provide FAPE to a student ends when:

- The student is found not eligible through reevaluation;
- The student graduates with an Option One/Standard diploma;
- The student ages out at 22 years old;
- The parent provides the charter school with a written revocation of consent and the charter school issues a prior notice of revocation of services; or
- A hearing officer orders the termination.

NOTE: See Chapter 7 for Option 2 information.

d. Students in Private Schools

- If the charter school has made FAPE available to a student in a timely manner, and the student's parent(s) nevertheless unilaterally place(s) the student in a private school or facility, the charter school is not obligated to pay the costs of the private school placement. These provisions, as well as certain other limitations on the FAPE requirement for students in private schools, are described in Chapter 8.0—Placement.

e. Students in Adult Prisons

Under IDEA regulations and Nevada requirements, a student aged 18 through 21 may not be eligible to receive FAPE if:

- He or she is incarcerated in an adult correctional facility;
- Was not identified as a student with a disability before the incarceration; and
- Did not have an IEP.

These provisions are discussed in Chapter 6.0 – Eligibility.

1.3.3. Other Terms Defined in This Manual

Many other important terms are used routinely in connection with students with disabilities. These terms are defined and discussed in context, in the chapters covering the related areas.

1.4 OVERVIEW OF THE MANUAL

1.4.1 Introduction

This manual is organized in ten chapters, each covering a particular stage in the process of ensuring that students with disabilities receive a free appropriate public education.

1.4.2 Procedural Safeguards

Chapter 2.0 addresses the procedural safeguards afforded to parents and students under federal and state law. These safeguards include provisions regarding notice, consent, and participation in certain decisions, as well as requirements for mediation, due process hearing, state complaints, and civil actions.

1.4.3 Prior Notice

Chapter 3.0 addresses prior notices which are required to be given to parents under federal and state law. The notices include Parental Prior Notice of the charter school Proposal, Parental Prior Notice- Proposed Meeting Arrangements, Parental Notice of the charter school Refusal, and Notice of Intent to Implement IEP.

1.4.4 Identification

Chapter 4.0 addresses requirements for identification of students who may be covered by federal or state protections relating to persons with disabilities. These requirements include child identification obligations and the process for referring a student for an evaluation. This chapter also discussed intervention measures that may be appropriate for a student who has not yet been identified as having a disability.

1.4.5 Evaluation

Chapter 5.0 addresses the process for evaluating a student to determine whether he or she may have or continues to have a disability. The chapter also discusses the requirements for persons who are involved in an evaluation, as well as certain procedural requirements designed to keep parents informed of and involved in their child's evaluation.

1.4.6 Eligibility

Chapter 6.0 addresses the requirements for determining whether a student has a disability and is entitled to receive services under IDEA or the protections of Section 504 and ADA. These requirements include provisions governing the Multidisciplinary Team and its eligibility determinations.

1.4.7 Individualized Education Programs (IEPs)

Chapter 7.0 addresses the development and revision of a student's IEP. The chapter discusses the procedural and substantive requirements for an IEP.

1.4.8 Placement

Chapter 8.0 addresses the process for ensuring that a student is placed in an appropriate setting in accordance with state and federal special education law. The chapter discusses the options available for placement in the least restrictive environment (LRE) and specific requirements for certain types of placements.

1.4.9 Discipline

Chapter 9.0 addresses the special provisions applicable to governing disciplinary actions involving students with disabilities. It discusses the procedural safeguards that are provided during the student disciplinary process, as well as parents' rights to challenge disciplinary actions.

1.4.10 Student Records and Confidentiality

Chapter 10.0 addresses the requirements for the charter school handling of the records of students with disabilities.

CHAPTER 2 PROCEDURAL SAFEGUARDS

INTRODUCTION

The charter school is required to establish, maintain, and implement procedural safeguards as described in this Chapter. This chapter describes:

2.1 Parents and Communications with Parents
2.2 Notices and Opportunities to Participate
2.3 Consent
2.4 Student Records
2.5 Independent Educational Evaluations
2.6 Disciplinary Placements
2.7 Mediation
2.8 Due Process
2.9 Civil Actions
2.10 State Complaints
2.11 Attorney's Fees

2.1 PARENTS AND COMMUNICATIONS WITH PARENTS

2.1.1. Definition of Parent

The use of the term "parent" includes:

a. Child's biological or adoptive parent;

b. Foster parent when:
   - The biological parent's authority to make educational decisions on the student's behalf has been terminated under State law,
   - The foster parent has an ongoing, long-term parental relationship with the student,
   - The foster parent is willing to make the educational decisions required of the parent under IDEA, and
   - The foster parent has no interest that would conflict with the interests of the student.

c. Guardian authorized to act as a child's parent or authorized to make educational decisions by a court of law;

d. Individual acting in place of a biological or adoptive parent (grandparent, stepparent or other relative) with whom the child lives, or who is legally responsible;

e. Surrogate parent;
   - Surrogate must be appointed whenever:
     - parents cannot be identified
     - parents cannot be located after reasonable efforts
     - the child is a ward of the State (surrogate may be appointed by judge)
     - the child is an unaccompanied homeless youth; or

   The Surrogate parent represents the child in all matters concerning the identification, evaluation, and educational placement of the child, and the provision of FAPE.

   When more than one party is qualified to act as a parent, it must be presumed the biological or adoptive parent is the parent unless they do not have legal authority to make educational decisions for the student.

   In the cases described above, the Site Administrator (or designee) should request an appointment with the surrogate parent.

2.1.2. Transfer of Parental Rights to the Student

In certain circumstances, the parent's rights will transfer to the student, and after rights have transferred, references to "parent" in this manual should be read to mean the student.

2.1.3. The parent's rights under IDEA generally transfer to the student:

a. when the student reaches age 18; or
b. if the student is incarcerated in an adult or juvenile, state or local, correctional institution.

2.1.4. The parent's rights under IDEA do not transfer to the student if:

a. the student is adjudged incompetent and a court appoints a guardian for the student; or
b. the student's parent submits an application (Notice of Application to Represent the Educational Interests of the Special Education Student at the Age of Majority)to the court system to continue to represent their child's special education interests and whose child participates in the state's alternate assessment.

2.1.5. Even after the parent's rights transfer to the student, any notices which ordinarily are required to go to the parent must be provided to both the parent and the student. All other rights accorded to parent under IDEA will transfer to the student. However, at the discretion of the student or the charter school, the parent could be invited to attend the IEP meetings as "individuals who have knowledge or special expertise" regarding the student. The student and or their parent are to be notified of the transfer of IDEA rights to the student though the IEP process, beginning when the student reaches age 17, as described in Chapter 7 – Individualized Education Programs, and when the parent's rights transfer to the student.

2.1.6. Native Language or Mode of Communication

The native language of a parent with limited English proficiency means the language normally used by the parent. The native language of a student with limited English proficiency means the language normally used by the parent of the student. However, for purposes of all direct contact with the student (including evaluation of the student), the student's native language is the language normally used by the student in the home or learning environment. If a person has deafness or blindness or does not have a written language, the mode of communication would be the type of communication which is normally used by that person (e.g., sign language, Braille, or oral communication).

2.1.7. If a parent has limited English proficiency based on the Home Language Survey:

a. Special Education service provider will contact a translation or interpreting service to contract for their services unless the parent/guardian waives translation services and they sign a translation waiver form.
(Form in Appendix) Note: Certified interpreters must be used. (i.e. ALS Global is an example of a vendor who can provide translation services in 240 languages.)

2.2 NOTICES AND OPPORTUNITIES TO PARTICIPATE

2.2.1. Notices of Meetings and Other Actions

Written prior notice that meets the requirements described in this Section must be given to the parent of a student in a reasonable time. Reasonable time is defined as no less than 5 schools days (the charter school best practice is 10 days) unless both parties agree otherwise. The prior notice must be provided before the charter school proposes or refused to initiate or change the student's:

a. Identification as a child with a disability;
b. Evaluation;
c. Educational placement; or
d. Provision of a free appropriate public education (FAPE).

2.2.2. The required notice must include:

a. a description of the action proposed or refused by the charter school;
b. an explanation of why the charter school proposes or refuses to take action;

c. a description of any options that the charter school considered and the reasons why those options were rejected;
d. a description of each evaluation procedure, assessment, record, or report the charter school relied upon when the action was proposed or refused;
e. a description of any other factors that are relevant to the charter school's proposal or refusal;
f. a statement that the parents of a student with a disability have protection under the procedural safeguards described in this Chapter; and
g. sources for parent to contact to obtain assistance in understanding the provisions of the IDEA.

2.2.3. Notice to parent must be written in a language understandable to the general public, and provided in the native language of the parent, or other mode of communication used by the parent. The charter school will take the following steps to ensure the parent/guardian's language needs are addressed:
a. The special education service provider will translate the notice information. The special education service provider will use the Infinite Campus IEP Management system to translate the notices for the parent/guardian in their native language.
b. If the charter school and the Infinite Campus IEP Management system are unable to translate the notice information into the parent/guardian's native language, the special education service provider will contact an appropriate public entity for technical support.
c. In addition to written notice, the notice should be translated orally to the parent/guardian in his or her native language or other mode of communication;
d. Confirmation will be received that the parent/guardian understands the content of the notice; and
e. That there is written evidence in the student's confidential folder that these requirements have been met.

2.2.4. Copies of the notice forms sent to parent must be filed in the student's confidential folder, or if the student does not have a confidential folder, the student's cumulative folder. Copies of the notice forms for an IEP meeting should be filed with the student's IEP in the confidential folder.

2.2.5. Procedural Safeguards Notice
The charter school personnel must give parent a copy of the procedural safeguards notice, at minimum:
a. Upon initial referral or parent request for evaluation;
b. At least once per year;
c. When parent requests a copy;
d. Upon first request for due process hearing;
e. First filing of a state complaint during the school year; and
f. When the charter school proposes a suspension that will result in a disciplinary change of placement.

2.2.6. Opportunity to Participate in Meetings and Decisions
Parent must be given an opportunity to participate in meetings with respect to:
a. Identification;
b. Evaluation; and
c. Educational placement of the student; and
d. The provision of FAPE to the student.

2.2.7. "Meeting"
The term meeting does not include informal or unscheduled conversations involving the charter school personnel and conversations on issues as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the student's IEP. The term also does not include preparatory activities that the charter school personnel engage in to develop a proposal or to prepare a response to a parent proposal that will be discussed at a later meeting. For example, if a member of an IEP Team contacted an Occupational Therapist for ideas about possible fine motor intervention strategies to discuss at an IEP meeting, the conversation between the IEP Team member and the Occupational Therapist would not be a "meeting" requiring an opportunity for parent participation.

2.2.8. The Site Administrator (or designee) also must take steps to ensure that the meeting is scheduled at a mutually convenient time and place. If neither parent can physically attend the meeting, the Site Administrator (or designee) must use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing. A decision may be made by a group without the involvement of the student's parent if the charter school personnel are unable to obtain the parent's participation in the decision. In such cases, all efforts to ensure the parent's participation must be documented in the student's confidential folder, including at a minimum:

a. Detailed records of telephone calls made or attempted and the results of those calls (it is the charter school Best Practice that at least two phone calls be made to confirm with parents that meeting arrangements have been sent home and that follow-up calls be made if the charter school staff are unable to speak with the parent directly over the phone.);
b. Copies of correspondence sent to the parent and any responses received (it is the charter school Best Practice that at least one notice be sent by regular mail); and
c. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

2.2.9. The charter school personnel must make reasonable efforts to ensure that the parent understands, and is able to participate in any group discussions relating to the educational decision for the student. The efforts should include arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is other than English.

For additional information regarding Parent Participation in Meetings, see Chapter 3 Prior Notice.

2.3 CONSENT

2.3.1. Definition

Certain actions with respect to a student with a disability require parental consent, as described below in this Section. Consent means that:

a. The parent has been fully informed of all the information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;
b. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
c. The parent understands that the granting of consent is voluntary and may be revoked at any time.

2.3.2. If a parent revokes consent for evaluation, the revocation is not retroactive. That is, the revocation does not invalidate actions that were taken between the time consent was granted and the time it was revoked. For example, if a parent consents to an evaluation of a student but later revokes that consent, the revocation does not invalidate steps to conduct evaluation components taken by the charter school personnel between the time consent was given and the time it was revoked.

2.3.3. When Consent is required?

Parental consent must be obtained before:

a. Conducting an initial evaluation.
b. Conducting a re-evaluation with or without additional assessments.

Parental consent to an initial evaluation does not constitute consent to the initial placement in Special Education.

- If the parent refuses to consent or does not respond to the charter school's request for consent for initial evaluation, the charter school may, but is not required to, request mediation or request a due process hearing to the Nevada Department of Education to override the parent's refusal
- If the parent refuses to consent or does not respond to the charter school's request for consent to provide special education through specially designed instruction and related services to the student ***for the first time***, the charter school cannot use mediation or due process to override the parent's lack of consent. If the parent does not provide consent for initial provision of special education and related

services, the charter school will not be required to develop an IEP and will not be in violation of the obligation to make a free appropriate public education available to the student.

- If the parent refused to consent or does not respond to the charter school's request for consent for a re-evaluation, the charter school may, but is not required to, request mediation or request a due process hearing to override the parent's refusal.

NOTE: See Chapter 5 for further information.

2.3.4. Parental consent is not required before:

a. reviewing existing data as part of an evaluation or reevaluation under the IDEA and Nevada regulations, (informed parental consent need not be obtained for a reevaluation of a student **if** the charter school personnel can demonstrate that they have taken reasonable measures to obtain parental consent, and the student's parent has failed to respond); or

b. administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all children.

2.3.5. To demonstrate that they have taken reasonable measures to obtain consent, the charter school personnel must have record in the student's confidential folder of all attempts to obtain consent, including:

a. detailed records of telephone calls made or attempted and the results of those calls (it is the charter school Best Practice that at least two telephone calls be made and that follow-up calls be made if the charter school staff are unable to speak with the parent directly over the phone);

b. copies of correspondence sent to the parent and any responses received (it is the charter school Best Practice that at least one notice be sent by regular mail); and

c. detailed records of visits made to the parent's home or place of employment and the results of those visits.

2.3.6. Revocation of Consent

a. The parent has the right to revoke consent for the continued provision of special education and related services by submitting a written request for the revocation to the Site Administrator of the charter school.

- The SPCSA may not initiate a due process hearing or mediation procedures to continue special education and related services for a student when the parent has revoked consent.
- If, at a later date, the parent requests that special education services be reinstated, the request would be treated as an initial referral and offered an evaluation in the same manner as any other student suspected of having a disability.
- If the parent requests that special education records are expunged, Family Educational Rights and Privacy Act (FERPA) procedures under IDEA should be followed. The charter school is deemed not to have knowledge of a suspicion of a disability and the student will be disciplined as a general education student.
- A parent cannot revoke one service. 1) The parent consent is for initial provision of ALL special education and related services, not for a particular service. 2) For example: a parent cannot revoke resource services but keep the speech and language services. 3) If a parent disagrees with the provision of any particular service, they can pursue their due process rights by requesting a hearing.

2.4 STUDENT RECORDS

2.4.1. Under the Family Education Rights and Privacy Act (FERPA), a parent has the right to:

a. inspect and review all student's educational records; and

- the charter school personnel will explain and interpret the records.
- the charter school may charge a fee for copies of records that are made.

b. give written permission before the charter school can release any personal identifying information to any person not otherwise entitled by law to see this information.

The charter school must keep a record of parties obtaining access to educational records collected or maintained including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

For more detailed description of matters relating to student records, see Chapter 10 --- Student Records and Confidentiality.

2.5 INDEPENDENT EDUCATIONAL EVALUATIONS

2.5.1. General Procedures

The parent has the right to obtain an independent educational evaluation (IEE) of the student. An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the charter school. Information regarding where an IEE may be obtained will be provided to the parent upon request for an IEE, along with the school's criteria for conducting such an evaluation.

Whenever an IEE is conducted at the school's expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, will be the same as the criteria the school uses when it initiates an evaluation. Whether or not the school pays for an IEE, the IEE must be considered in decisions regarding the student's special education program.

2.5.2. If a parent disagrees with an evaluation obtained by the charter school, the parent has the right to an independent educational evaluation (IEE). If the parent requests an independent educational evaluation at the expense of the charter school, the charter school personnel must respond to the request within 10 school days. The charter school pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. The charter school personnel must, without unnecessary delay, either:

a. ensure that an IEE is provided at the charter school expense; or
b. refuse and initiate an impartial due process hearing, as described below, to demonstrate that the charter school's evaluation is appropriate.

2.5.3. The charter school personnel may inquire with the parent as to why they are requesting an IEE. The charter school personnel may not require the parent to give an explanation nor require them to notify the school of their intentions to obtain an IEE (IDEA). The charter school may not unreasonably delay either providing the IEE at the charter school's expense or initiating a due process hearing to defend the charter school evaluation.

NOTE: Each school should maintain a list of NV school licensed psychologists that can be offered as possible IEE evaluators. Parents have the option to choose from this list or choose their own. If the parent chooses a non-school licensed psychologist, it is acceptable.

2.5.4. If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at public expense. If a due process hearing results in a final decision that the charter school's evaluation is appropriate, the student's parent still has the right to an IEE, but not at the charter school's expense.

2.5.5. The charter school's personnel must consider an IEE that meets the charter school criteria, whether paid for by the charter school or not, in any decision regarding the provision of a free appropriate public education to the student. The results of an IEE may be presented as evidence in a due process hearing regarding the student, as described in Section 2.8 (Civil Action).

2.5.6. Notice of the Right to an Independent Educational Evaluation

Upon request, the charter school personnel must provide the parent an IEE, information about how and where IEE may be obtained, and the charter school criteria for an IEE. This information should be made available in a manner that is readily understandable to the general public, including parents whose native language is not English. The

information should be made available so that if a parent disagrees with an evaluation, he or she will have access to the charter school's criteria for an independent educational evaluation, as described below. For more information regarding IEE's, see Chapter 5 – Evaluations.

2.5.7. Criteria for an Independent Educational Evaluation

Should the parent obtain an IEE at the charter school's 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 the charter school uses in initiating evaluations. For further information about the charter school criteria for an independent educational evaluation, please contact the charter school Site Administrator. A parent is entitled to only 1 IEE at public expense each time the public agency conducts an evaluation which the parent disagrees.

2.5.8. Disagreements between the charter school and a parent regarding the availability of a program appropriate to the student, and the question of financial responsibility, are subject to the due process procedures described in Section 2.9.

2.6 MEDIATION

2.6.1. The NV Department of Education, SPCSA, and Charter School are required to ensure that formal mediation procedures are established and implemented to allow resolution of disputes resulting from the charter school's proposal (or refusal), to identify, evaluate, place, or provide the student with a free appropriate public education.
The parent may request mediation of a dispute by contacting in writing, the charter school, the SPCSA, or the Nevada Department of Education.

a. The State, NV Dept. of Ed., bears the cost of the mediation process.
b. Mediators are qualified and impartial individuals who may not be an employee of the charter school, another school district, the Nevada Department of Education or other state agency which receives IDEA funding or which provides direct services to a student who is the subject of the mediation process.
c. If the charter school personnel are aware of any need that the parent may have for an interpreter that information should be provided to the Nevada Department of Education and the SPCSA at the time the mediation is initiated, or as soon as possible.
d. Mediation is a voluntary process that brings both parties together with a mediator in an attempt to resolve the disagreement through a structured, yet informal meeting.
e. Mediation is an alternative but not a prerequisite to the due process hearing.
f. Mediation sessions are held in a timely manner and scheduled at times and in places convenient to the parties.
g. Discussions that occur during mediation are confidential and may not be used as evidence in due process hearings or court proceedings.
h. Any agreement reached will be a written agreement that is legally binding and enforceable in court.
i. The agreement is signed by the parent and a representative from the charter school.
j. The charter school personnel may initiate mediation of a dispute by contacting the parents, the SPCSA, or the Nevada Department of Education.

2.7 DUE PROCESS

2.7.1. Request for a Due Process Hearing

The parent or the charter school may initiate an impartial due process hearing if they disagree with identification, evaluation, education placement or the provision of FAPE to the student.

a. A parent may request a due process hearing if
   (1) the charter school:
      - refuses to identify,
      - evaluate, or
      - appropriately serve the student,
      - fails to consider the results of an IEE,

(2) the parent:

- disagrees with a proposed IEP, or
- objects to termination of the student's special education programs.

b. The parent request for a due process must be in writing to the Site Administrator of the charter school and must include:

- Student's name;
- Student's address;
- Name of the school the student is attending;
- A description of the nature of the problem and the facts relating to the problem; and
- A resolution to the problem.

c. If the request does not include the information above, the charter school may ask the hearing officer within 15 days of the request to find the due process insufficient.

d. A due process hearing must be requested within two calendar years from the date the parent or the charter school knew or should have known about the act or omission that gave rise to the hearing request unless the parent was prevented from requesting a hearing because the charter school:

- Specifically misrepresented to the parent that it had resolved the problem; or
- Withheld required information.

e. When a request for a due process has been received, the charter school Site Administrator must inform the parent of the availability of mediation as described in Section 2.7, as well as any free or low-cost legal and other relevant services available in the area. Apart from due process, the charter school Site Administrator must also provide the parent information on such legal and other services at any time upon request by the parent.

f. A model form of parent notice requesting a due process hearing is available on the Nevada Department of Education's website.

g. If the charter school personnel believe that it may be appropriate for the charter school to initiate a due process proceeding, they should follow NDE's due process procedures on their website.

2.7.2. Resolution

a. After the charter school receives a request for due process they must:

- Give the parent written notice of the special education action related to the issues in the hearing request within 10 days of receiving the request unless the charter school has already given the parent written notice prior to the request;
- Convene a resolution session within 15 days (7 days if expedited) of the hearing request unless, the parent and the charter school agree in writing to waive the meeting or agree to mediation;
- Try to solve the issues stated in the due process requested during the resolution time period; and
- Include the parent, relevant IEP members, and a representative of the charter school with decision making authority in the resolution session.

b. The charter school may not have an attorney present at the resolution session unless the parent brings an attorney, then the charter school may also have an attorney present. The charter school must provide the parent PWN of the school's attorney participating in the resolution meeting.

c. If an agreement is reached, it will be written in a legally binding document and signed by the charter school representative and the parent. The resolution agreement can be canceled in writing within 3 business days if either party changes their mind.

d. If an agreement is not reached to the parents' satisfaction within 30 days (15 days if expedited) of receiving the hearing request, the time line for due process begins.

2.7.3. Conducting a Due Process Hearing

a. Impartial Hearing Officer

- Within 5 calendar days after receiving a parent request for a due process hearing, or upon the charter school's initiation of a due process hearing, the charter school must forward the request to the Nevada Department of Education and the State Public Charter School Authority (SPCSA).

- The Nevada Department of Education is responsible for appointing an impartial hearing officer to conduct the hearing.
- When expedited, the hearing officer must conduct a hearing within 20 school days after the date the hearing was requested.

b. Stay-Put Requirements

Once a due process hearing has been initiated:

- the charter school cannot change the student's educational placement during a due process until the legal proceedings are completed (stay-put) unless:
  - unless the student is placed in an alternative educational setting for behavior that is not a manifestation of the disability, or
  - if the student is removed by the charter school to an interim alternative educational setting for weapons, drugs, controlled substance or causing serious bodily injury.
  - a hearing officer removes the student to an interim alternative educational setting for up to 45 school days because it is likely the student may injure him/herself or others.

c.. Disclosure Prior to the Hearing

- At least 5 business days prior to the hearing, each party must ensure that any evidence that the party wishes to use at the hearing has been disclosed to the other party and the hearing officer.
- If required disclosure is not made, the hearing officer may exclude the admission of undisclosed evidence from being introduced at the hearing.

d. Due Process Hearing

- Due Process hearings must be conducted at a time and place that is reasonably convenient to the parent and the student involved.
- the charter school is responsible for:
  - notifying the parent (by certified mail) and the hearing officer of the time and place set for the hearing; and
  - notifying the parent of their rights in a due process hearing and of any free or inexpensive legal services and other relevant services available in the area.
- Any party to a due process hearing has the right to:
  - be represented;
  - be accompanied by and advised by persons who have special knowledge of or training regarding students with disabilities;
  - present evidence, object to the admissibility of evidence, and evaluation or a recommendation based on an evaluation that was not disclosed to that party;
  - confront, cross-examine, and compel the attendance of witnesses;
  - obtain a written, or, at the option of the parent, electronic, verbatim record of the hearing; and
  - obtain written, or, at the option of the parent, electronic findings of fact and decisions.
- In addition, the parent involved in a hearing must have the right to:
  - have the student who is the subject of the hearing present;
  - a hearing open to the general public; and
  - a record of the due process hearing and the findings of fact and decisions at no cost.

The charter school must take whatever action is necessary to ensure that the parent understands the written notice and the proceedings at the hearing. These steps include arranging for an interpreter for a parent who is deaf or hard of hearing or whose native language is not English.

e. Findings of a Due Process Hearing

- The hearing officer is required:
  - to reach a decision in the due process proceeding no later than 45 days after the resolution period ends;
  - if expedited, a determination must be made within 10 school days after the hearing,
  - to base the decision solely on the evidence presented at the hearing; and,

- to mail a copy of the decision to each of the parties within the 45-day period.
- The hearing officer may grant specific extensions of time beyond the 45- day period at the request of either party.
- The Nevada Department of Education must, after deleting all personally identifiable information from a copy of the findings and decision, transmit the redacted version to the Nevada State Special Education Advisory Council and make the redacted version available to the public. The hearing officer's decision in a due process hearing is considered final, but may be appealed by either the parent or the charter school as described below.

2.7.4. Appeals

a. Any party aggrieved by the findings and decision in the hearing has the right to appeal the decision of the impartial due process Hearing Officer.
   - The request for an appeal must be made (to the Nevada Department of Education) within 30 calendar days after receiving the decision of the hearing officer.
   - A party to the hearing may file a cross-appeal within 10 calendar days after receiving notice of the initial appeal.

b. The State Review Officer who is appointed by the Nevada Department of Education:
   - examines the entire hearing record to make sure required procedures were followed consistent with the requirements of due process and makes an independent decision;
   - may give parties an opportunity for oral or written arguments, or both, at the discretion of the review officer;
   - seek additional evidence necessary and, if a hearing is held to receive additional evidence, afford the parties the same right under due process hearings;
   - must reach a decision and mail a copy or electronic findings of fact and the decision to each party within 30 days after the request for review is made; and
   - may grant an extension if one of the parties requests.

   State Review Officer's decision is final unless a party brings a civil action as described in Section 2.8.

c. After deleting any personally identifiable information, the Nevada Department of Education is to transmit the redacted version of the findings and decisions to the Nevada State Special Education Advisory Council, and is to make the redacted findings and decisions available to the public.

2.8 CIVIL ACTIONS

2.8.1. A civil action may be brought by any party disagreeing with the findings and decision of a State Review Officer in an appeal.

a. A civil action may be brought in a state court with jurisdiction or in federal district court.

b. The request for an appeal must be made within 90 calendar days after receiving the decision of the review officer.

2.8.2. Before a civil action may be filed, the party must exhaust his or her remedies under the due process and appeal proceedings described above in Section 2.9.

2.9 STATE COMPLAINTS

2.9.1. An organization or individual may file a complaint with the Nevada Department of Education (NDE).

a. The complaint must be in writing, signed and include:
   - a statement that the charter school has violated state or federal special education law;
   - the facts related to the issue(s);
   - signature and contact information of the complainant;
   - a description of the nature of the problem; and
   - a proposed resolution of the problem.

b. If a specific school or student is referenced in the complaint, the complaint must also include:
   - the name and residence of the student;
   - the name of the school the student is attending.

c. The parent must submit a copy of the complaint to the charter school and the Nevada Department of Education.

d. The complaint must allege a violation that occurred within one year of filing.

e. The charter school has the right to respond and try to resolve the complaint or mediate if both parties agree.

f. The NDE must complete its review and give its decision within 60 calendar days.

g. If the complaint includes issues which are also the subject of a due process hearing, the NDE is required to set aside those issues until the due process hearing is resolved.

h. Any issues which are not the subject of a due process hearing must proceed and be resolved within the 60 calendar-day timeframe.

i. If any issues raised in a complaint have previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding, and the NDE must inform the complaining party to that effect.

j. If a complaint alleges that the charter school has failed to implement a due process decision, the NDE must resolve that complaint.

2.9.2. After reviewing all relevant information, the NDE will make an independent determination as to whether the charter school violated a requirement of IDEA. The NDE will issue a written decision to the complainant that:

a. addresses each allegation in the complaint;

b. contains findings of fact and conclusions; and

c. states the reasons for the NDE's final decision.

2.9.3. If the NDE finds that the charter school has failed to provide appropriate services to a student, it must address:

a. how to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the student; and

b. appropriate future provision of services for all students with disabilities.

2.10 ATTORNEY'S FEES

2.10.1. Under IDEA, the charter school may be liable for the reasonable attorney's fees of a parent who prevails in a due process hearing, appeal, or civil action. A parent may be considered to have prevailed in a proceeding if the parent succeeded on any significant issue and obtained some of the benefits sought.

2.10.2. However, in a number of circumstances, the student's parent may not recover their legal fees when they prevail or the award of attorney's fees may be reduced. It is important for the charter school personnel to bear in mind that compliance with IDEA and State Public Charter School Authority policy requirements, including requirements relating to time lines, notices, consent, parent contact, and documentation, may directly affect whether and to what extent the charter school may avoid liability for attorney's fees.

2.10.3. If the charter school prevails, parent's attorneys may be liable for the reasonable attorney's fees of the charter school for bringing actions that are or become frivolous, unreasonable, or without foundation. In addition, the charter school may recover reasonable attorney's fees from the parent or the parent's attorney if the request for due process was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

CHAPTER 3 PRIOR NOTICE

INTRODUCTION

The parent has the right to receive prior written notice in a reasonable time in their native language or other mode of communication, when the charter school proposes, or refuses to initiate or change the student's identification, evaluation/re-evaluation, and eligibility, provision of a free appropriate public education (FAPE) through an Individualized Education Program (IEP) and change of placement.

This chapter describes the prior notice requirements for:

3.1 Identification, evaluation/re-evaluation
3.2 Eligibility
3.3 Provision of FAPE, through an IEP and change of placement
3.4 Parent Revocation of Consent for Special Education Services

3.1 IDENTIFICATION, EVALUATIONS & RE-EVALUATIONS

3.1.1. Parental Prior Notice of the charter school Proposal

Site-based special education staff must provide the parent prior written notice of the initiation of an evaluation within a reasonable time before the evaluation begins.

a. Notice of the initiation of the evaluation must be completed in full.
b. The purpose of this meeting must be marked on the Parental Prior Written Notice as:
    - Evaluate and identify student's special education needs for initial evaluations; or
        - The Parental Prior Notice must be given to the parent prior to or in conjunction with the Consent for Evaluation.
    - Re-evaluate student's special education needs and continued eligibility for special education services.
        - The Parental Prior Notice must be given to the parent prior to or in conjunction with the Consent for Evaluation or Parent Notification of No Additional Assessment Information Needed and Status of Reevaluation; Warranted/Unwarranted.

3.1.2. Parental Prior Notice – Proposed Meeting Arrangements

At the time site-based special education staff notifies parent of the initiation of any evaluation, staff may also provide prior notice of any meeting of the Multidisciplinary Team (MDT) that may be scheduled to consider whether additional data are needed as part of the evaluation.

a. The term meeting does not include informal or unscheduled conversations involving the charter school personnel. The term also does not include preparatory activities that the charter school personnel engage in to develop a proposal or to prepare a response to a parent proposal that will be discussed at a later meeting.
b. The Multi-disciplinary Team (MDT) is not required to hold a meeting solely to determine whether additional data are needed, and parent consent is not required in order to review existing data as part of any evaluation.
c. If a meeting is determined to be necessary to discuss the components of any evaluation, a Parental Prior Written Notice must be completed in full.
d. The charter school must maintain detailed records of:
    - telephone calls made or attempted and the results of those calls;
    - copies of correspondence sent to the parent and any response received; and
    - any visits made to the parent's home or place of employment and the results of those visits.

3.1.3. Parental Notice of School Refusal

If the student's parent requests an evaluation, and the MDT, during a meeting, determines that an evaluation is not required or otherwise warranted, the MDT must provide the parent written notice of the charter school's determination to refuse the evaluation. Written Notice of Refusal must state:

a. a description of the action refused by the charter school;
b. an explanation of why the charter school refuses to take the action;
c. a description of any other options that the charter school considered and the reasons why those options were rejected;
d. a description of each evaluation procedure, assessment, record, or report the charter school relied upon when the action was refused;
e. a description of any other factors that are relevant to the charter school's refusal;
f. a statement that the parents of a student with a disability have protection under the procedural safeguards described in Chapter 2.0 (Procedural Safeguards).

3.2 ELIGIBILITY

3.2.1. Parental Prior Notice of School Proposal

Site-based special education staff must provide the parent prior written notice of determination of eligibility within a reasonable time before the eligibility meeting is held.

a. Notice of the determination must be completed in full.
b. The purpose of this meeting must be marked on the Parental Prior Notice of School Proposal as: "Determine student eligibility for special education programming"

3.2.2. Parental Prior Notice – Proposed Meeting Arrangements

At the same time the site-based special education staff notifies the parent of the determination of eligibility, they must also provide the parent prior written notice of the eligibility meeting.

3.3 PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION (FAPE), THROUGH AN INDIVDUALIZED EDUCATION PROGRAM (IEP)

Parental Prior Written Notice of the charter school Proposal and Parental Prior Notice – Proposed Meeting Arrangements must be given to the parent for all IEP meetings.

3.3.1. Parental Prior Notice of School Proposal

Site-based special education staff is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. Within a reasonable time, before a proposed IEP meeting, the site-based special education staff must provide prior notice of the meeting to the student's parent. The Parental Prior Written Notice of the charter school Proposal must be completed in full.

Note: If parent is not contacted to schedule an IEP meeting via phone, email, etc. before sending home the prior written notice document, then a reasonable time period is 10 business days before the scheduled IEP meeting.

The purpose of the meeting must always be marked on the Parental Prior Notice of School Proposal as either Develop an Initial/Annual IEP and Educational Placement or Review/Revise IEP. There may be other purposes which also must be marked such as:

a. Change in Placement:
   If the IEP team is considering a change in placement, such as moving to a more (or less) restrictive setting, or the discontinuation of educational services upon a student's graduation, prior written notice to the parent is required. When completing the Parental Prior Notice of School Proposal the purpose of the meeting would be:
   - Change in special education placement; AND
   - Develop an Initial/Annual IEP and Educational Placement; or

- Review/revise IEP.

b. Change in Special Education Related Services:
If the IEP team is considering a change or addition of special education related services, prior written notice to the parent is required. When completing the Parental Prior Notice of School Proposal the purpose of the meeting would be:
- Change in Special Education related services, AND
- Develop an Initial/Annual IEP and Educational Placement, or
- Review/revise IEP.

c. Transition:
Beginning when a student reaches age 14, or earlier if appropriate, the Prior Written Notice must also indicate that one of the purposes of the meeting will be to develop transition services and/or postsecondary goals. When completing the Prior Written Notice the purpose of the meeting will be to:
- Develop transition services and/or postsecondary goals beginning at age 14; AND
- Develop an Initial/Annual IEP and Educational Placement; or
- Review/revise IEP.

d. Manifestation Determination:
If the IEP team is going to conduct a manifestation determination, the prior written notice must state that the purpose of the meeting is to:
- Conduct a manifestation determination and propose a disciplinary change of placement; AND
- Develop an Initial/Annual IEP and Educational Placement; or
- Review/revise IEP.

3.3.2. Parental Prior Notice – Proposed Meeting Arrangements

Site-based special education staff is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. Within a reasonable time, but at least five school days (the charter school Best Practice is 10 days) or mutual agreement before a proposed IEP meeting, the site-based special education staff must provide prior notice of the meeting to the student's parent. The Parental Prior Notice – Proposed Meeting Arrangements must be completed in full. The Notice of Meeting Arrangement must indicate:

a. the purpose, time, and location of the meeting;
b. who will be in attendance at the meeting (not positions);
c. the student if the student is 14 years old or older prior to the next annual IEP;
d. the parent may bring to the meeting other people who have knowledge or special expertise regarding the student;
e. if the parent gives consent to the charter school to invite person(s) from outside agencies who can contribute to the development of the IEP.

3.3.3. Parental Notice of School Refusal

If the student's parent requests to revise the IEP, but the site-based special education staff determines that an IEP is not required or otherwise warranted; then the site based staff must provide the parent written notice of the charter school's determination to refuse the IEP revision. Written Notice of Refusal must state:

a. a description of the action refused by the charter school;
b. an explanation of why the charter school refuses to take the action;
c. a description of any other options that the charter school considered and the reasons why those options were rejected;
d. a description of each evaluation procedure, assessment, record, or report that the charter school relied upon when the action was refused;
e. a description of any other factors that are relevant to the charter school's refusal;
f. a statement that the parent of a student with a disability has protection under the procedural safeguards described in Chapter 2.0; and
g. sources for the parent to contact to obtain assistance in understanding the provisions of IDEA.

3.3.4. Notice of Intent to Implement IEP

The Notice of Intent to Implement is required to provide prior written notice of the charter school's intent to implement a student's IEP. The Notice of Intent to Implement is required for ALL IEPs.

a. This includes instances where:
   - the parent disagrees with all or part of the IEP (disagree checked on IEP); or
   - the parent does not agree or disagree (no box checked on IEP); or
   - the parent is not in attendance (either by telephone or in person). The IEP and notice of Implementation should be sent to parents immediately following the IEP.

b. The Notice of Intent to Implement must be provided to the parent within 10 days after the IEP meeting, along with a copy of the IEP and Procedural Safeguards. If the parent did not attend the IEP meeting, either by telephone or in person, then the Notice of Intent to Implement should specify implementation will begin 10 calendar days from the date of the original meeting.

c. The Notice of Intent to Implement must state:
   - a description of the action proposed or refused by the charter school;
   - an explanation of why the charter school proposes or refuses to take the action;
   - a description of any other options that the charter school considered and the reasons why those options were rejected;
   - a description of each evaluation procedure, assessment, record, or report the charter school relied upon when the action was proposed or refused;
   - a description of any other factors that are relevant to the charter school's proposal or refusal;
   - a statement that the parent of a student with a disability has protection under the procedural safeguards described in Chapter 2.0; and
   - sources for the parent to contact to obtain assistance in understanding the provisions of IDEA.

3.4 REVOCATION OF CONSENT FOR SPECIAL EDUCATION SERVICES

3.4.1. Parental Prior Notice of School Proposal

The parent has the right to revoke consent for the continued provision of special education and related services by submitting a written request for the revocation to the charter school Site Administrator.

The charter school Site Administrator will respond by issuing the parent a prior written notice to change the student's placement and direct the school to status the last date of specially designed instruction in the student's confidential folder and that services will be discontinued due to Parent written request as described in Chapter 7.0 (Individualized Educational Programs).

CHAPTER 4 IDENTIFICATION

INTRODUCTION

Under the Individual with Disabilities Education Improvement Act of 2004 (IDEA) and Nevada Administrative Code (NAC), the school has a "Child Find" obligation to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless, wards of the State, or attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated. Child Find responsibilities also include highly mobile and migrant children. In addition, early intervention strategies may be appropriate for some students who are experiencing academic and/or behavior problems.

This Chapter describes both the identification and the intervention processes. These processes are not mutually exclusive. Rather, either or both may be appropriate for a particular student. The process for making a referral is described in the Evaluation Chapter.

This chapter describes:

4.1 Child Identification
4.2 General Education Interventions/Response to Intervention (RtI) Model
4.3 Referral

4.1 CHILD IDENTIFICATION

4.1.1. Identification Requirements/Child Find

Identifying students with disabilities is the first step in providing appropriate educational services to students who are eligible for special education and related services.

IDEA and NAC regulations require all charter schools to have policies and procedures in place to ensure that children aged 3 through 21 residing within their enrolled students' counties who are suspected of having disabilities and needing special education and/or related services are identified, located, and evaluated. Therefore, all public charter schools are responsible for developing a "Child Find" program that will encompass these three elements of identification, locating, and evaluating students.

The charter school works in cooperation with other agencies in their county to:

1. Locate all children and youth with disabilities from the ages of birth through 21 in the counties of which your school(s) reside and/or provide services.
2. Identify and refer individuals suspected of having a disability for evaluations.
3. Provide information to the community about the Child Find project and increase awareness about the educational rights of individuals with disabilities and their parents, through the following methods:
   a. Newspaper articles and other media
   b. Correspondence with community members
   c. Annual screenings in schools and in the community
   d. Teacher training on identifying potential disabilities
4. Maintain a child identification log indicating which children 3-21 years of age are receiving special education and related services and which children were found to be not eligible for service. The log contains the following information, if applicable, on all children referred for evaluation:
   a. Student Name
   b. Age
   c. Date Referred

d. Date Evaluated
e. Date Service Initiated
f. Disability Category
g. Reason for Not Serving

5. Coordinate with other agencies providing services to children (i.e. local health department; Women, Infants, & Children (WIC), etc). Charter Schools will make at least two contacts per school year with local agencies to find out if they may have knowledge of children with disabilities who are not being served, explain the referral process, and request that they refer students under the age of 22 to public schools.

Students who may be identified include:

a. children who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade;
b. highly mobile students including migrant students;
c. homeless children;
d. wards of the state; and
e. children who are enrolled in private schools or are home-schooled

4.1.2 Before Making a Referral

When a child is having difficulty learning in a regular education classroom, it is often assumed that the child should be referred for a special education evaluation to determine any learning problems. But before a referral is made, the teacher should attempt a variety of strategies designed to facilitate the child's learning within that classroom.

The Individuals with Disabilities Education Act (IDEA) requires that children with disabilities be educated as much as possible with their nondisabled peers. By modifying what takes place in the classroom to meet a child's needs, we are addressing the spirit of the law. Frequently, such modifications are effective and may eliminate or diminish the need for special education services.

4.2 When Intervention Appropriate – General Education Interventions

If a student is experiencing an educational or behavioral difficulty but is not suspected of having a disability by the charter school, the charter school may attempt to remediate such difficulty through providing scientific, research-based interventions in general education environments.

The Nevada Administrative Code (NAC) §388.325 defines the use of scientific, research-based intervention for students who are not yet suspected of having a disability. The following procedures shall be used by the school whenever targeted scientific, research-based interventions are provided to a particular student who is experiencing academic or behavioral difficulty:

1. Develop an intervention plan for the student, to include:
   a. A description of the academic or behavior concerns, and the degree to which the student's academic or behavior performance fails to meet the demands of the educational setting;
   b. The interventions to be provided, which are targeted toward improving performance and increasing the rate of learning.
   c. The data to be collected to measure the student's level of performance and rate of learning.
   d. The frequency of data collection; a description of how the data will be summarized; a description of how intervention effectiveness will be evaluated; a schedule for evaluating intervention effectiveness.

2. Provide a copy of the intervention plan to the student's parents.

3. If the eligibility team intends to determine eligibility for SPECIFIC LEARNING DISABILITIES based upon the child's RESPONSE TO INTERVENTION, provide the "NEVADA DEPARTMENT OF EDUCATION POLICY STATEMENT – RESPONSE TO SCIENTIFIC, RESEARCH-BASED INTERVENTION" document to the student's parents. This Policy

Statement is not required if the student's eligibility for SPECIFIC LEARNING DISABILITIES will be determined based upon the discrepancy analysis model.

4. Based in part on the results of the targeted, scientific, research-based intervention, determine whether the student is suspected of having a disability and should be evaluated for special education eligibility.

5. If the parent requests an initial evaluation for special education eligibility while interventions are being attempted, the charter school must:
   a. Conduct the initial evaluation if the charter school agrees that the student is suspected of having a disability; **or**
   b. Provide *PARTENTAL PRIOR WRITTEN NOTICE* of its refusal to conduct the initial evaluation (if the charter school does not agree that the student is suspected of having a disability). Any proposed refusal to evaluate a student must be discussed with one of the LEA's Special Education Programs Professional (EPP).

If the charter school determines that the educational difficulty or behavior of the pupil is resistant to general education intervention, or if the charter school determines that the intervention requires continued and substantial effort and may require the provision of special education and related services to be effective, the charter school may refer the student for an initial evaluation.

4.3 REFERRAL

A student qualifies for all the rights and benefits of IDEA once he or she is determined to be a child with a disability as defined in the Nevada Administrative Code (NAC). Generally, students are evaluated when either the parents of the child request an evaluation, or when, as a result of the charter school's "child find" or general education intervention activities, charter school personnel recommend an evaluation.

If the charter school proposes to conduct an initial evaluation of a student, parents must be provided with prior written notice of the proposed evaluation and a copy of the Parent Rights document. Next, consent for the evaluation must be obtained before the evaluation may begin. See PROCEDURAL SAFEGUARDS section.

In conducting the evaluation, the charter school must use a variety of assessment tools and strategies to gather relevant functional and developmental information on the child, including information supplied by the child's parents. Further, the information gathered should relate to enabling the child to be involved in and progress in the general curriculum. If appropriate, because there are existing evaluation data (e.g., a student who moved to the charter school from out of state and evaluation information from the other state was available in a timely manner, or a student making the transition from infant/toddler early intervention services at age three), the charter school must review existing evaluation data and determine what, if any, additional assessments are necessary. See EVALUATION/REEVALUATION REPORT. On the basis of this review, the charter school must identify and gather the additional data needed to determine:

1. Whether the child has a disability.

2. The child's present levels of performance and educational needs.

3. Whether the child needs special education and related services.

The **initial referral** process is as follows:

1. Identify the student's problem and initiate the special education referral process.
   a. Complete the Special Education REFERRAL FORM and include the following:
      - Copy of emergency information obtained in most current school enrollment documents.
      - Vision and hearing results (must be a pass)
      - Developmental history completed

- Student classroom observation form completed
- Attendance information
- Copy of educational intervention(s) and modification(s) (RtI, CI, etc.)
- Academic results, sample of classroom work, test scores, etc.

b. Provide prior written notice of the proposal to evaluate the student (PARENTAL PRIOR WRITTEN NOTICE) with a copy of Parent Rights
c. Obtain parent consent to evaluate the student (CONSENT FOR EVALUATION)
   - Academic results (i.e.WIAT)
   - Behavior assessment (i.e. Devereaux or Burks)
d. Site Administrator/designee's signature on referral form authorizing the initial referral process.

2. Review referral packet for appropriateness and completeness.
   a. Parent has been given written notice of the charter school's proposal to evaluate the student.
   b. Parent has provided consent to evaluate prior to any individually administered assessments given on the basis of the suspicion of a disability.
   c. Parent has been given a copy of Parent Rights, and rights have been explained in their primary language (i.e. Spanish, German, etc.)
   d. Student has passed the vision and hearing tests,
      - or has been treated by a physician to correct problem area,
      - or a copy of the "passed" or "normal" results are provided.
   e. Copies of data are legible and included.
   f. Site Administrator has signed referral.
   g. Assign designee or case manager for referral.

3. Process referral packet.
   a. Send copies to the psychologist and/or other evaluation coordinator(s) (i.e. Speech & Language therapist) to initiate the evaluation.
   b. Collect further data if needed.
   c. Send copies of referral page, copy of consent for evaluation and relevant information to related service provider if assessment is needed and is indicated on referral form (i.e. Speech & Language therapist, Occupational therapist, or Physical therapist).

4. If applicable, psychologist will complete the evaluation, write the report, and forward copies to the case manager. If the speech therapist has been the evaluation coordinator, he/she also serves as the case manager. See Evaluation section of this Manual for further information.

5. Schedule a meeting to determine eligibility (PARENTAL PRIOR WRITTEN NOTICE and NOTIFICATION OF MEETING). See Eligibility section of this Manual for further information. Meeting must include required Eligibility Team members. Please refer to the signature lines of each disability form for specific required members of each eligibility team.

6. Once eligibility is determined and if student is found eligible, an Individual Educational Plan (IEP) must be written within 30 calendar days. Required IEP members, in addition to a person who can interpret the instructional implications of the evaluation must be present during the IEP.

CHAPTER 5 EVALUATION

INTRODUCTION

Before special education or related services can be provided to a student with a disability, the charter school must conduct a comprehensive evaluation based on the determined scope of the assessment to address all areas of suspected disability. The purpose of this evaluation is to determine whether the student is eligible for special education services and, if so, to determine the student's special educational programming and service needs. Evaluation of a student is also required in other circumstances, such as when it is suspected that the student is no longer eligible under the Individuals with Disabilities Education Act (IDEA) eligibility, or may have a disability not addressed by the student's current finding of eligibility.

This Chapter describes:

5.1 Suspicion of Disability
5.2 Initial Evaluations
5.3 Reevaluation
5.4 Evaluation for Transfer Students
5.5 General Requirements for Evaluation
5.6 Early Childhood Evaluation
5.7 Bilingual Evaluation
5.8 Evaluation for Special Education Students who are involved in the Discipline Process
5.9 Homebound Evaluation
5.10 Evaluation Reports
5.11 Independent Educational Evaluations
5.12 Screenings

5.1 SUSPICION OF A DISABILITY

If the charter school personnel have reason to suspect that a student may have a disability and need special education and related services, the Site Administrator and staff should be contacted so that they may meet to review the information available and determine whether a referral should be initiated. When a student is experiencing academic or behavioral problems but there is no suspicion of an IDEA eligibility, personnel should consider accessing the School Intervention Team /Response to Instruction Program (SIT/RTI) regarding any necessary interventions, accommodations, and supports for the student. Parent input is also an important consideration in relationship to providing students with intervention services.

5.2 INITIAL EVALUATIONS

5.2.1. Definition

The term "Initial Evaluation" refers to a formal evaluation that considers initial eligibility for special education under the Nevada Administrative Code (NAC). Initial evaluation applies to:

a. general education students with no history of special education;
b. general education students who previously received and were exited from special education, including general education students whose parents revoked consent for the continued receipt of special education services; or
c. all transfer students from other states that have a current out of-state eligibility, but no current special education eligibility in Nevada.

5.2.2. Scope/Review of Evaluation Data and Determination of Need for Additional Data

In the case of students transitioning from Early Intervention Services at age three (IDEA, Part C), or for students from out-of-state that have evaluation records available, as part of an initial evaluation, the combined members of the student's IEP committee and the Eligibility Team shall review existing evaluation data. Based on that review and input from the student's

parent, the team must identify what additional data, if any, are needed. The group may conduct its review without a meeting, but all should clearly document that the data has been reviewed in accordance with NAC requirements.

5.2.3. Request for an Initial Evaluation Referral

a. Sources may include parents and/or the charter school staff.
   - If the charter school personnel request an initial evaluation, initial evaluation steps need to be followed as described in 5.2.4.
   - If the parent requests an initial evaluation, either verbally or in writing, the charter school personnel must respond formally. They:
     - may decide an evaluation is NOT warranted or determined that interventions will be tried first, then a refusal (Form located in Appendix) must be completed and sent to parents: or
     - team may decide an evaluation is warranted, then proceed with procedures for initial evaluation including sending a written prior notice or
     - team may decide to do an evaluation (follow initial evaluation procedures) and refer to SIT to do interventions concurrently.

5.2.4. Initial Evaluation Steps

a. Initiate referral and notify team members and related service providers as deemed appropriate. Referral sources may include parents and/or charter school staff.
b. Provide the parent with the Procedural Safeguards and prior written notice and document all contacts and attempted contacts with the parent. If the charter school personnel are unable to convince the parent to participate, all efforts to obtain parent input should be documented.
c. Determine scope/review of evaluation data and determination of need for additional data (see Chapter 3.0).
d. Obtain Parent Consent for Evaluation. Parent consent for evaluation may not be necessary for out of state transfer students unless additional assessments are warranted as described in 5.4.
e. Conduct needed assessments as warranted.
f. Hold eligibility meeting within 45 school days of signed consent and/or the initiation of PWN (use appropriate prior notice procedures for scheduling as described in Chapter 3.0) without additional assessment.
g. DRAFT copies of evaluation reports may be given to the parent and must be clearly labeled as a draft.
h. Provide a copy of completed evaluation reports and Statement(s) of Eligibility to the parent on the day of the meeting or within 10 calendar days of eligibility meeting.
i. For eligible students, complete IEP development within 30 calendar days of eligibility determination.

5.3 REEVALUATIONS

5.3.1. Definition

The term “Reevaluation” refers to the formal evaluation of a student who is already identified as eligible for special education under NAC. Reevaluation applies to:

a. students who are routinely evaluated every three years for continuing special education eligibility in Nevada;
b. students who are evaluated for continuing eligibility for special education in Nevada under a different or additional eligibility classification. This includes: students who currently hold Developmental Delay or Speech/Language Impairment eligibilities;
c. other students whose primary eligibility classifications might change (e.g., LD to ED, ID to MI). A reevaluation is required if there is sufficient information to suspect that a significant change in a student’s physical, psychological, academic, or social functioning is occurring that may have an impact on the student’s eligibility for special education and/or related services, including situations where the student may no longer need special education services to receive an appropriate education.

5.3.2. Scope/ Review of Evaluation Data and Determination of Need for Additional Data

As part of any reevaluation, the combined input from the student's IEP team, including input from the student's parent(s), Identify what additional data, if any, are needed.
The combined members:

a. conduct a review of data from existing evaluations, including, but not limited tp:
   - evaluations and information provided by the parents of the student,
   - current local or state assessments, classroom-based assessments and observations,
   - observations by teachers and related service providers, and

b. based upon the review and input from the student's parent, identify the additional data, if any that are required to determine:
   - whether the student continues to have a disability, and the educational needs of the student,
   - the present levels of academic achievement and related developmental needs (functional levels) of the student,
   - whether the student continues to need special education and related services; and
   - whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

5.3.3. Reevaluation Steps

A student receiving special education services must be reevaluated before the student can be determined ineligible for continuing special education services as described in 6.0. As recognized exceptions under IDEA, a reevaluation is not required before the termination of a student's eligibility due to graduation with a regular high school diploma, or due to the student's exceeding the age of eligibility for FAPE under Nevada law. If the student's parent requests a reevaluation, and the MDT determines that a reevaluation is not required or otherwise warranted, the MDT must provide the parent prior written notice of refusal together with the procedural safeguards notice.

STEP 1 COMPLETE PRIOR PARENTAL NOTICE OF SCHOOL PROPOSAL AND REEVALUATION REFERRAL NOTICE
Reevaluation Referral Notice & the Prior Parental Notice of District Proposal

STEP 2: SCOPE of ASSESSMENT
Scope is documented in the MDT evaluation report and supporting evidence should be found in the confidential folder (Scope form located in Appendix). Note: Use of the form is optional as long as there is supporting evidence in the confidential folder. Conduct review of data from existing evaluations (See 5.3.2) Input is gathered from combined members of the Eligibility Team & IEP Team which includes parents.

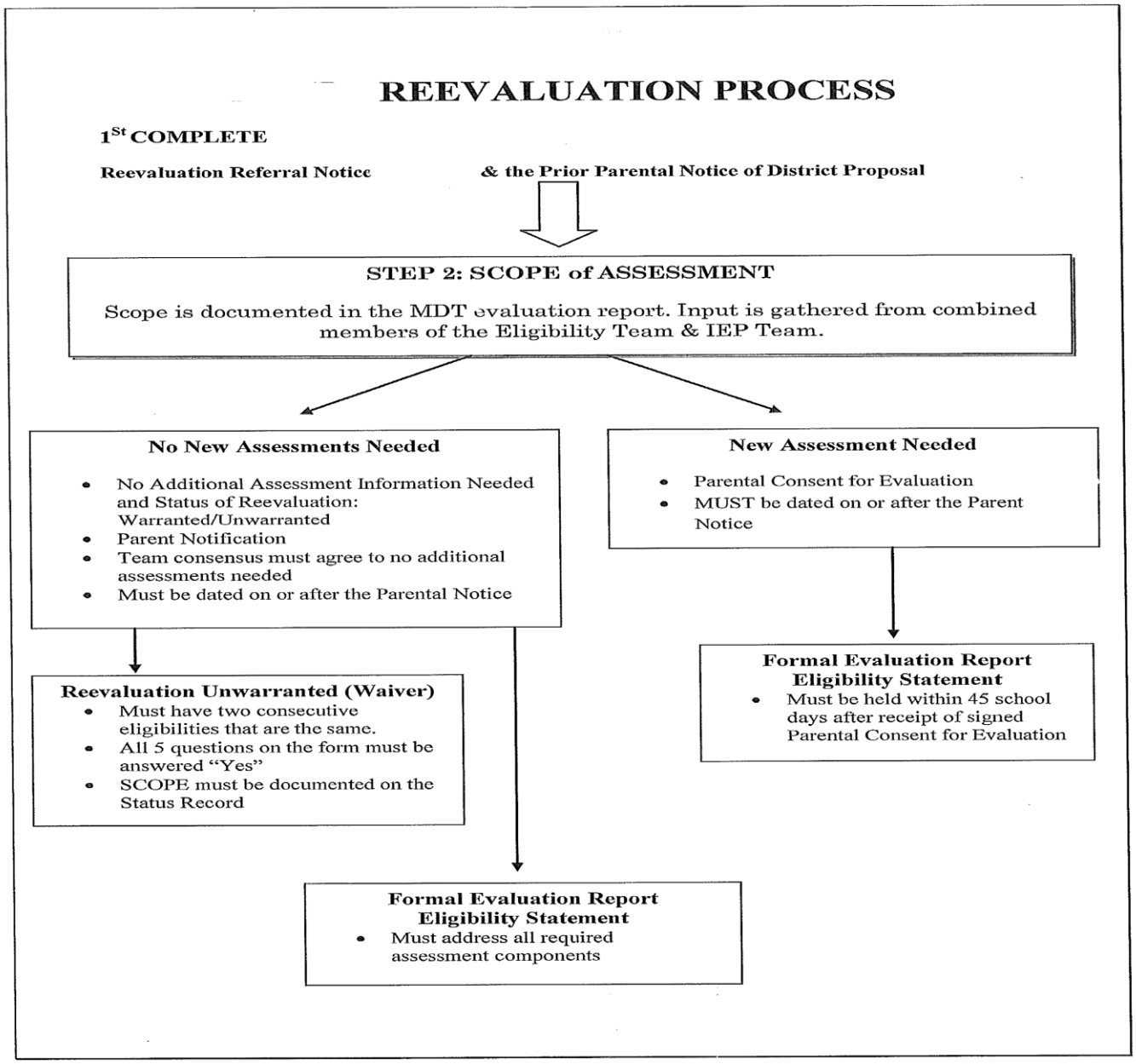
No New Assessments Needed
a. No Additional Assessment Information Needed and Status of Reevaluation: Warranted/Unwarranted
b. Parent Notification
c. Team consensus must agree to no additional assessments needed.
d. Must be dated on or after the Parental Notice

New Assessment Needed
a. Parental Consent for Evaluation
b. MUST be dated on or after the Parent Notice

Reevaluation Unwarranted (Waiver)
a. The student has two or more prior, consecutive evaluations confirming the current disability, only one of which needs to be a the current charter school Nevada evaluation
b. All 5 questions on the form must be answered "Yes"
c. SCOPE must be documented on the Status Record or form in Appendix.

Formal Evaluation Report Eligibility Statement

a. Must be held within 45 school days after receipt of signed Parental Consent for Evaluation
b. Must address all required assessment components
c. For reevaluations that are deemed unwarranted (Waiver), the development of a reevaluation report is required, and a new Statement of Eligibility and IEP is required. The IEP must be completed within 30 calendar days from the eligibility date. Completion of the statement of need for reevaluation (waiver) triggers the new 3-year routine reevaluation time line.



5.4 EVALUATION FOR TRANSFER STUDENTS

The circumstances under which a student enrolls or transfers into the charter school from another school district, will govern which specific special education procedures are applicable. Informed written consent for initial provision of services must be obtained from the parent prior to implementation of special education services.

All transfer students are entitled to the same open enrollment procedures as all other charter school students. All students should be registered and enrolled into the school by the provided deadlines.

5.4.1. Transfers Within Nevada

A current Nevada eligibility from any Nevada school district or charter school can be accepted outright by the charter school and that eligibility may remain in effect for up to 3 years of the date of the last formal eligibility determination. For in-state transfer students, formal evaluation is pursued only when deemed warranted by an MDT/IEP Team. The standard time line of 45 school days for timely completion of these reevaluations would apply.

When the parents register their child for school and indicate that student was receiving special education services at his/her previous school in Nevada, a form indicating the name and location of the previous school will be completed and signed by the parent. The current charter school will send the request to the previous charter school or county school district for confidential records even if the parents submit a copy of their child's current IEP. There are additional documents that need to be acquired such as the most current psychological report among other relevant information. Attempts to locate/obtain records will be documented. If such documentation cannot be obtained, charter school staff should contact the charter school or county school district by phone to follow up on the written request. Records received will be provided to the special education case manager and/or coordinator.

If the student's previous IEP is available, the charter school must provide the student with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, for a period no longer than 30 calendar days, until the charter school adopts the previous IEP, or develops a new IEP.

If no IEP is available, the student should be receiving services under a 30-calendar-day interim IEP. Upon the expiration of 30 days after the development of the interim IEP, a complete IEP must be developed. Because the student is already eligible in Nevada, a reevaluation is usually not needed.

5.4.2. Transfers From Out-of-State

Initial evaluation procedures are required for all out-of-state special education transfer students. This includes transferring from a State where a student was receiving special education services under the Developmentally Delayed classification to the age of nine. The timeline for completing an initial evaluation in Nevada is 45 school days from the date of parental consent for evaluation through formal determination of the student's eligibility for special education in Nevada.

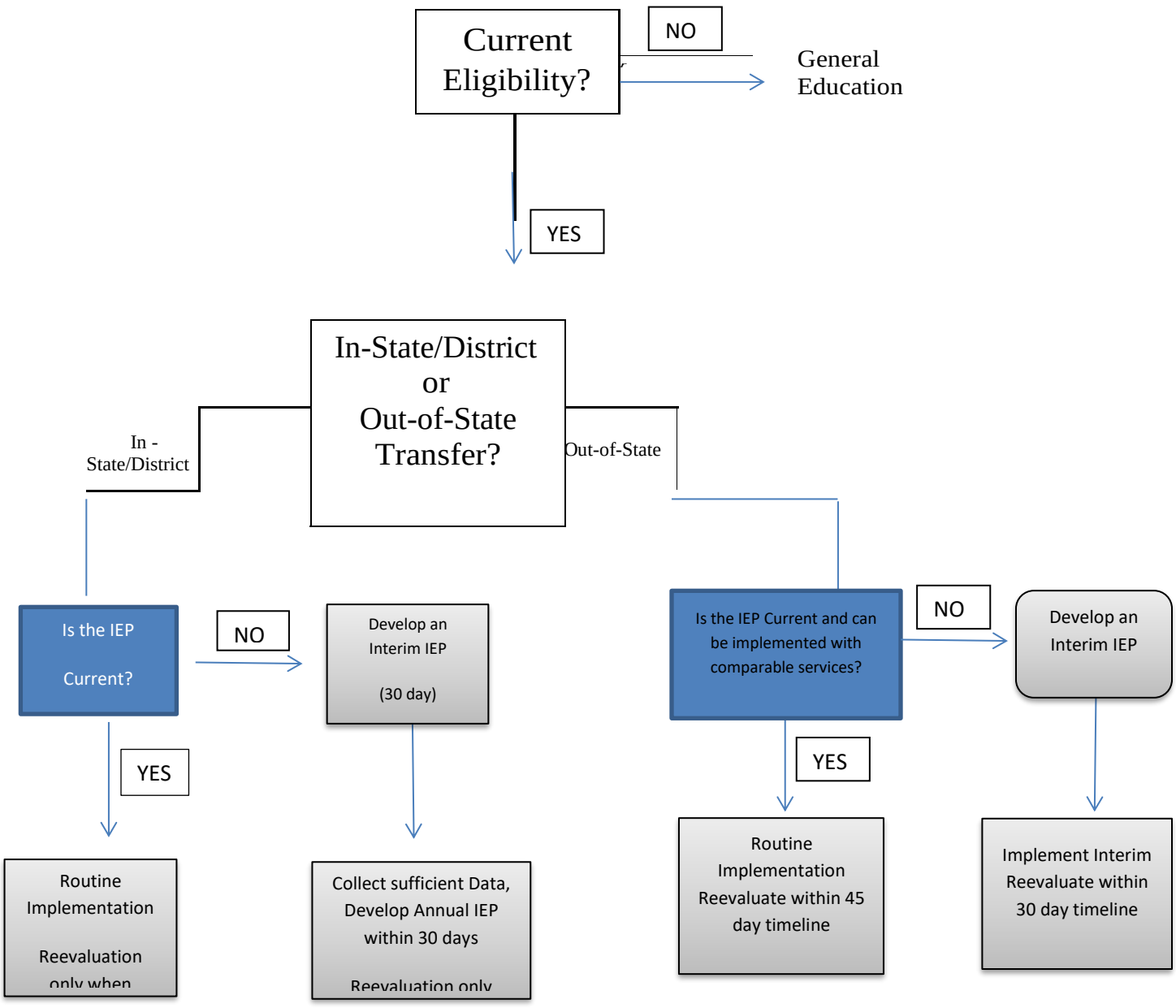
The evaluation coordinator is responsible for coordinating the process needed to ensure that Nevada eligibility is confirmed, whether under the 30-day interim IEP timeline (in circumstances when no IEP is available from the previous charter school or school district), or under the 45-school day timeline when the district is providing services comparable to the services provided under the student's out-of-state IEP.

Parental consent must be obtained using the CONSENT FOR EVALUATION form. If evaluation information is available, the combined members of the eligibility team and IEP Committee must complete the EVALUATION/REEVALUATION REPORT form. If no additional data are needed, provide PARENTAL PRIOR WRITTEN NOTICE of this decision. The eligibility team must meet to determine eligibility within 45 school days of obtaining the parent's written consent.

If the student's previous IEP is available, the charter school must provide the student with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, until eligibility in Nevada has been determined and until the charter school develops a new IEP, if appropriate.

If no IEP is available, the student should be receiving services under a 30-calendar-day interim IEP. If a 30-day interim IEP has been developed the student's eligibility must be confirmed and a complete IEP must be developed prior to the expiration of the 30 days. During the 30-day period, the student should be receiving services under an interim Individualized Educational Program.

TRANSFER STUDENTS FLOWCHART



5.5 GENERAL REQUIREMENTS FOR EVALUATIONS

Initial evaluations and reevaluations must be comprehensive enough to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been, or may be, classified.

5.5.1. Assessment Areas

Nevada regulations impose specific requirements for evaluation of particular areas of a student's abilities/skills, behavior, and performance, as follows:

a. Performance in Current Educational Setting

Definition: "Performance in the current educational setting" means the behavioral and academic functioning of a student in the environment in which the majority of the student's education occurs. Generally, a student's past and present educational performance is reviewed to obtain information about: achievement test scores; grades; appropriateness of instruction and progress relative to instruction; any prior, scientific, research- based interventions which may involve modification of the classroom environment, curriculum or delivery of instruction; any positive behavioral intervention/strategies/supports; disciplinary record; and attendance. The person conducting this portion of the evaluation should also review any information collected through the Response To Intervention Program (RTI). If the performance of a student with a disability in the student's current educational setting is assessed, the assessment may include:

- observation of the student in that setting;
- review of any report from a parent or teacher of the student;
- review of samples of the work of the student; and
- curriculum-based assessment.

If the assessment of performance is required to determine the eligibility of the student with Specific Learning Disabilities, information can be used from:

- an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or
- an observation by an eligibility team member of the student's academic progress in the regular classroom after the student has been referred for an evaluation and parental consent has been obtained. Any interpretation of an assessment of performance in the current educational setting must be made by one or more members of the eligibility team having personal knowledge of the performance of the student.

b. Intervention

Definition: "Intervention" means a strategy, developed on the basis of individual need, designed to have a remediate effect upon any academic or behavioral difficulties of a student. The term does not include disciplinary procedures applied to a group of students unless, giving consideration to the individual needs of a student, such procedures are demonstrably more appropriate than other strategies. Examples of intervention practices may include, but are not limited to:

- adapting curriculum materials to the needs of the student;
- variations in the techniques employed in teaching the student;
- tutoring or supplemental instruction;
- using behavior management programs;
- counseling or direct social skills instruction for the student; and
- modifications to the educational environment.

Definition: "Scientific, research-based intervention" means the modification of the classroom environment, curriculum or delivery of instruction in general education settings, which is based upon an examination of characteristics of the student as a learner, the instruction being provided and the curricular tasks to be accomplished, and targeted toward improving the student's level of performance and rate of learning. The modification of the classroom environment, curriculum or delivery of instruction is demonstrated through

scientifically-based research and practice to have a positive impact on a student's academic achievement or behavior.

c. Cognitive Abilities

Definition: "Cognitive abilities" means those abilities involving the processes of thinking, reasoning and problem solving. An individually administered, standardized test of cognitive ability must be used as part of the evaluation process, when appropriate, in assessing the cognitive abilities of a student with a disability. If a score other than the total score of the student on such a test is used to assess the student's cognitive abilities, the procedure must be justified, on the basis of professionally recognized criteria, in the records of the student maintained by the charter school. Any interpretation of an assessment of cognitive abilities must be made by a licensed school psychologist or licensed or certified psychologist. In the case of a student under the age of 6 years, any such interpretation may be made by a licensed school psychologist or a licensed or certified psychologist with documented training in the assessment of preschool students with disabilities

d. Social and Emotional Condition

Definition: "Social and emotional condition" means the present thoughts, feelings and interactive behavior of a person. If the social and emotional condition of a student is assessed, the assessment may include:

- observation of the student;
- interview of the student or of any person having personal knowledge of the student; and
- use of a behavior rating scale, an adaptive behavioral scale; and a self-report inventory.

A student may not be identified as a student with serious emotional disturbance without prior interventions and unless a variety of these techniques is used to assess the social and emotional condition of the student. Any interpretation of an assessment of social and emotional condition must be made by a school psychologist or another certified psychologist or licensed mental health professional.

e. Adaptive Skills

Definition: "Adaptive skills" include communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work. The person conducting the evaluation must use a validated adaptive behavior scale. The assessment must include an assessment of any six or more of the following:

- communication;
- self-care;
- home living;
- social skills;
- community use;
- self-direction;
- health and safety;
- functional academics; and
- leisure and work.

Any interpretation of an assessment of adaptive skills must be made by a person qualified to assess adaptive skills through the use of an adaptive behavior scale.

f. Health

Definition: "Health" means the general physical condition of a person. If the health of a student is assessed, the assessments include:

- review of health and developmental history;
- hearing and vision screening; and
- physical examination.

When the health of a student with a disability is assessed, the following assessments may also be included:

- audiological assessment;
- physical therapy assessment; or
- occupational therapy assessment of the student.

Any interpretation of an assessment of health must be made by a person qualified to assess the health condition of a student. An evaluation of a student's health and developmental history must be completed to determine if

the student has one or more health concerns that substantially affect his or her educational performance. It is essential that the student's medical history and current health be evaluated early in the evaluation process so that any health problems can be identified and, if possible, be remediated prior to conducting other evaluation procedures. Each student being evaluated must undergo a general health evaluation, including vision, hearing, and neurological screening, which must be conducted at the time, or within six months, of the evaluation. However, no student shall be required to undergo any physical examination or medical treatment if the parent objects because of religious beliefs.

A health evaluation generally is conducted by the charter school nurse, who may recommend further medical information as necessary, including obtaining a physician's report. The school nurse conducting the health evaluation should obtain information, as appropriate, from the student's parent, teacher, family physician, the student, and any other pertinent sources such as public health agencies or medical clinics with knowledge of the student. Other staff who obtains pertinent health information in the course of consulting with the parent or the student should provide such information to the school nurse conducting the review.

If a student fails any general health screening, the student should be referred for an examination by a licensed practitioner for diagnosis and remediation. If a student fails a hearing screening and no medical follow-up has occurred, or if a Multidisciplinary Team member believes the student may have a hearing disability, the school nurse should facilitate scheduling of an audiological evaluation with an audiologist. Similarly, if a student fails a general vision screening and no medical follow-up has occurred, the school nurse should facilitate scheduling of a vision evaluation with a licensed practitioner. If a student fails any general health screening, further evaluation and remediation of any problem involving vision, hearing, or neurological function should be completed when possible prior to conducting other evaluation procedures that may be affected by the condition.

If the health evaluation reveals that the student has a vision or hearing problem that cannot be remediated, the school nurse should notify all members of the evaluation team prior to other evaluation procedures being conducted. Failure of any general health screening does not constitute an eligibility determination for the purposes of the IDEA. The school nurse should inform the parent of any student who has failed a general health screening about the eligibility determination process described in the Eligibility Chapter 6.0.For assistance in informing the parent about the eligibility process, the school nurse should contact the student's Multidisciplinary Team.

If a medical consultation, including any psychiatric or neurological consultation, is appropriate, the school nurse conducting the evaluation should contact the charter school Site Administrator should assistance be required in facilitating such a consultation. Nevada regulations require any diagnostic decision concerning an evaluation of health to be made by a person qualified to assess the condition in issue.

The school nurse should document the results of the health evaluation in the MDT report, which should clearly indicate whether the student has a health concern requiring consideration by the Multidisciplinary Team and/or IEP Committee. For example, the report should include information about whether the student needs medication, special health care procedures, preferential seating, etc. The report should include reports of any other medical professionals consulted as part of the health evaluation.

A health evaluation of a student with significant health concerns who has transferred from outside the county of residence and wishes to enroll or is enrolled in the charter school should be completed as part of the evaluation process if the student:

- requires a medical procedure such as G-tube feeding, suctioning, catheterization, oxygen, etc.;
- recently experienced a traumatic brain injury;
- has a seizure disorder not under control;
- has uncontrolled respiratory problems requiring procedures during the school day;

- has other serious health concerns which might warrant medical intervention or monitoring; or
- requires significant assistance with personal care (e.g., toileting, feeding, etc.).

g. Speech, Language or Other Communication Skills

Definition: "Speech and language" means skills relating to articulation, phonology, receptive language, expressive language, syntax, semantics, morphology, fluency and the use of the voice. If the speech and language or other communication skills of a student are assessed, the assessment may include:

- observation of the student;
- interview of the student or of any person having personal knowledge of the student;
- use of information from a parent or teacher of the student;
- use of a standardized test of speech, language or other communication skills; and
- health assessment.

Any interpretation of an assessment of speech, language or other communication skills must be made by a licensed speech and language specialist.

h. Academic Achievement

Definition: "Academic achievement" means the possession of basic reading skills and skills relating to oral expression, listening comprehension, written expression, reading fluency, reading comprehension, mathematics calculation and mathematics reasoning. In the case of a student under the age of 6, the term means academic readiness and the mastery of language concepts. If the academic achievement of a student with a disability is assessed, the person conducting the assessment may use:

- a standardized test of academic achievement;
- curriculum-based assessment; and
- a report by the teacher of the student.

If the assessment of academic achievement is required to determine the eligibility of the student for special services and programs of instruction, then the assessment must be based upon the use of a standardized test. Any interpretation of an assessment of academic achievement must be made by a person qualified to administer individually standardized tests of academic achievement to the student.

i. Functional Behavior

As used in this section, if the functional behavior of a student is assessed as part of the evaluation process, the assessment must include:

- systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration and intensity of the behavior;
- systematic observation of the events that immediately precede each display of the targeted behavior and are associated with the display of the behavior;
- systematic observation and analysis of the consequences following the display of the targeted behavior, to identify the specific environmental or physiological outcomes produced by the behavior, in order to determine the function that the behavior serves for the student. The communicative intent of the targeted behavior must be identified in terms of what the student is either requesting or protesting through the display of the behavior.
- analysis of the settings in which the targeted behavior occurs most frequently. Factors that may be considered include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the student and staff and other students, the degree of participation of the student in the setting, the amount and quality of social interaction, the degree of choice and the variety of activities.
- review of records for health and medical factors which may influence the targeted behavior, including, without limitation, levels of medication, sleep cycles, health and diet; and
- review of the history of the targeted behavior to include the effectiveness of intervention previously used.

"Targeted behavior" means the particular adaptive or inappropriate behavior of the student that the person conducting the assessment monitors in order to promote adaptive behavior and reduce the occurrence of inappropriate behavior.

5.5.2. Evaluation Procedures

In selecting tests and other evaluation materials used to assess a student, the charter school personnel must ensure that in conducting the evaluation, the charter school MDT must, at a minimum:

a. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent that may assist in determining:
   - whether the student is a student with an IDEA eligibility; and
   - the content of the student's IEP, including information related to enabling the student 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 student is a student with an IDEA disability and for determining an appropriate educational program for the student.

c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

d. Ensure that assessments and other evaluation materials used to assess the student are:
   - selected and administered so as not to be discriminatory on a racial or cultural basis; and
   - provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer;
   - used for the purposes for which the assessments or measures are valid and reliable;
   - administered by trained and knowledgeable personnel; and
   - administered in accordance with any instructions provided by the producer of the assessments.

e. Use assessments and other evaluation materials including those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

f. Select and administer assessments to best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

g. Select assessment tools and strategies which provide relevant information that directly assists team members in determining the educational needs of the student.

h. Assess the student 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.

i. Coordinate with students' prior schools if they have transferred from one district to another district in the same school year, or from another charter school to the charter school , as necessary and as expeditiously as possible to ensure prompt completion of full evaluations.

j. Must be sufficiently comprehensive to identify all of the student's special education and related service's needs, whether or not commonly linked to the disability category in which the student has been classified.

5.5.3. Required Assessments by Eligibility Category

a. An evaluation for Autism Spectrum Disorder under the Nevada Administrative Code (NAC) must include assessment of:
   - health and medical status;
   - developmental history, including, without limitation, the rate and sequence of development and a clear statement of strengths and weaknesses;
   - cognitive abilities;
   - social and emotional condition in multiple settings;
   - academic achievement;
   - adaptive skills; and
   - speech, language and other communication skills.

b. An evaluation for Autism Spectrum Disorder must also consider:
   - sensory regulation;

- self-help and independent living skills;
- behavior problems;
- symbolic and imaginative play;
- activities and special interests; and
- motor skills.

c. An evaluation for Hearing Impairment under NAC must include:
- a comprehensive audiological examination, including pure tone and speech discrimination tests, performed by an audiologist; and
- an assessment of the health of the student, which must include:
    - health of the student, which must include a comprehensive examination of vision;
    - academic achievement of the student; and
    - speech and language of the student.

If the above requirements are satisfied, the evaluation of the student may include an assessment of the student's cognitive abilities and social and emotional condition.

d. An evaluation for Visual Impairment under NAC must include:
- a comprehensive examination of vision, performed by an eye specialist; and
- an assessment of the health and academic achievement of the student.

If the above requirements are satisfied, the evaluation of the student may include an assessment of the student's cognitive abilities and social and emotional condition.

e. An evaluation for Orthopedic Impairment under NAC must include an assessment of:
- the health of the student, which must include a physical examination; and
- the student's functional limitations in relation to the demands of a regular classroom.

If the above requirements are satisfied, the evaluation of the student may include an assessment for physical therapy or occupational therapy, and an assessment of the student's cognitive abilities, social and emotional condition and academic achievement.

f. An evaluation for Health Impairment other than Orthopedic under NAC must:
- assess the health of the student; and
- analyze the ability of the student to perform in a regular classroom.

If the above requirements are satisfied, the evaluation of the student may include an assessment of the student's developmental history, cognitive abilities, social and emotional condition, academic achievement and language and motor skills.

g. An evaluation for Speech and Language Impairment under NAC must include an assessment of:
- the performance of the student relating to language, articulation, fluency or voice, as relevant to the student's impairment;
- the health of the student; and
- if relevant to the student's eligibility for special education services, the cognitive abilities, academic achievement, and social and emotional condition of the student.

h. An evaluation for Traumatic Brain Injury under NAC must include an assessment of:
- health;
- developmental history;
- cognitive abilities;
- social and emotional condition;
- academic achievement;
- language and motor skills;
- sensory and perceptual abilities; and
- attention, comprehension, judgment and problem-solving skills.

An evaluation for Traumatic Brain Injury must also consider, without limitation:
- medical documentation of the injury;
- the student's educational performance relative to a normative population;
- the student's strengths and weaknesses; and
- if possible, the student's educational performance before and after the student acquired the injury.

i. An evaluation for Intellectual Disability under NAC must include an assessment of:
- cognitive abilities;
- adaptive skills, including prevocational and vocational assessments, if appropriate;
- health, including a developmental history;
- academic achievement; and
- performance of the student relating to speech and language.

j. An evaluation for Emotional Disturbance under NAC must include an assessment of:
- social and emotional condition, based in part upon information from the student;
- health and cognitive abilities;
- performance in current educational setting; and
- any previous intervention.

"Socially maladjusted" and "conduct problem" mean behavior characterized by knowledge of social expectations and intentional disregard of those expectations.

k. An evaluation for Specific Learning Disability under NAC must include assessment of:
- health and developmental history;
- performance in the student's current educational setting;
- any scientific, research-based intervention provided to the student;
- academic achievement;
- social and emotional condition;
- cognitive abilities, only if the evaluation involved determining the existence of a statistically significant discrepancy between achievement and intellectual ability; and
- an observation of the academic performance of the student in the student's classroom or, in the case of a child under school age, in an environment appropriate for the child's age.

To ensure that underachievement of a student suspected of having a Specific Learning Disability is not due to lack of appropriate instruction in reading or math, the evaluation must consider:
- data that demonstrates that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel;
- data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction and was provided to the student's parents; and other extrinsic factors, such as limited English proficiency. Evidence of appropriate instruction and interventions to promote student progress is important in ensuring a full evaluation of all areas of suspected need.

l. An evaluation for Multiple Impairments under NAC must include:
- an assessment of Intellectual Disability, including:
- cognitive abilities;
- adaptive skills, including prevocational and vocational assessments if appropriate;
- health of the student, including a developmental history;
- academic achievement; and
- performance of the student relating to speech and language; and
- an assessment of another disability satisfying NAC requirements.

m. An evaluation for Developmental Delay under NAC must include an assessment of:
- health;
- developmental functioning; and
- social and emotional condition.

n. An evaluation for Deaf-Blindness under NAC must include an assessment of
- hearing impairment satisfying NAC requirements; and
- visual impairment satisfying NAC requirements.

5.5.4. Timelines for Evaluations

a. Every effort must be made to complete the evaluation within a reasonable time after the charter school has reason to suspect that a student may have a disability and need special education and related services.

- Both initial evaluations and reevaluations must be completed within 45 school days, from the date of securing informed parental consent or Notice of No Additional Assessments Information Needed, whichever is appropriate, through completion of eligibility determination. The 45-day timeline applies to those days when the student is scheduled to attend school for a standard instructional day (i.e., not summer vacation, track breaks, holidays or ESY). Exception: evaluations that coincide with Interim IEP placements must be completed within 30 calendar days.
- A formal reevaluation must be conducted when conditions warrant it (i.e., new referral questions/assessment needs).
- A formal reevaluation must occur:
    - Not more than once a year, unless the parent and the charter school otherwise agree.
    - At least once every 3 years, unless the parent and the charter school agree that a reevaluation is not necessary. (Student must have 2 or more evaluations, one of which must have been conducted by the current charter school).
- An authorized charter school representative (site administrator or designee) must be involved in the decision-making process. He/she must possess a valid Nevada Administrative license or Nevada Special Education license/endorsement.
- Agreement between the parent and the charter school that a reevaluation is not warranted must be documented through the Statement of Need (SCOPE) for Reevaluation form.
- The charter school is not required to conduct reevaluations for students to meet the entrance or eligibility requirements of an outside institution or agency (e.g., vocational rehabilitation programs, colleges/universities, outside agencies, or other post-secondary settings).

b. Timelines in Exceptional Circumstances

- Upon formal written request of the charter school, the Superintendent of Public Instruction at the Nevada Department of Education may extend the deadline for conducting the initial evaluations for not more than 15 school days.
- The deadline does not apply if the parent of the student repeatedly fails or refuses to deliver the student for the evaluation.
- If for any reason (such as extended illness of the student), it becomes impossible to complete the evaluation within 45 school days, the charter school personnel should document the justification for the delay in writing. Delay should only occur in exceptional cases and the documentation for the justification should conform to the codes used in the charter school student information system.

5.6 EARLY CHILDHOOD EVALUATION

5.6.1. Early Childhood Considerations

The completion of formal eligibility reevaluations for students with disabilities who are 3, 4 or 5 years of age occur when warranted, including when other eligibility classifications are suspected.

In the case of a 5-year old who has a Developmental Delay eligibility, formal reevaluation procedures are required and this reevaluation must occur no later than the student's sixth birthday.

5.7 BILINGUAL EVALUATIONS

5.7.1. Language and Cultural Information

If there is reason to believe that the student may have limited English proficiency (LEP) and is being considered for referral for evaluation or has been referred for evaluation (as well as when an evaluation has been ordered by a hearing officer), the Site Administrator (or designee) should ensure that the following have occurred:

a. The charter school personnel must have assessed and documented the student's proficiency in English and the student's native language. This language assessment must include:

- an interview with the student's parent;
- a determination of the language spoken in the student's home;
- the language the student uses most comfortably and frequently;

- the language the student uses to conceptualize and communicate; and
- the student's levels of language proficiency in English and the native language if feasible to do so.

b. Information must be gathered about the student's cultural background, including:
- the language spoken at home;
- ethnicity;
- socioeconomic status;
- the extent to which school expectations may conflict with cultural expectations;
- family mobility; and
- other information which may be relevant to how the student functions at school.

c. Information must be gathered about the student's mode of communication through observation of the extent to which the student uses expressive and written language and other modes of communication as a substitute for expressive language (e.g., gestures, signing, or unstructured sounds).

5.7.2. Evaluations

If there are indications that a student may use a language other than English, the MDT must determine whether a bilingual evaluation is necessary, on a case-by-case basis. For the purpose of making such a determination, the MDT must include qualified personnel with knowledge of second language acquisition theory or document consultation with such a professional.

When a bilingual evaluation is required, the MDT must consult with a Speech Language Pathologist or a bilingual School Psychologist, as needed, in determining which evaluation components must be conducted by qualified bilingual personnel, and which components may be conducted by site-based staff. During the evaluation process, the student's proficiency in their native language must be determined, if feasible, and must be documented in the evaluation report.

5.8 EVALUATIONS FOR SPECIAL EDUCATION STUDENTS WHO ARE INVOLVED IN THE DISCIPLINE PROCESS

5.8.1. In some circumstances, a student who has not yet been determined to be eligible may be entitled to procedural protections under the IDEA and NAC. If there was a recognized suspicion of disability prior to the behavior infraction and recommendation of an alternative placement, discipline must cease, unless the infraction involved weapons, drugs or serious bodily harm, and an expedited evaluation must occur. The LEA is deemed to have knowledge that a student is a student with a disability if, before the behavior that precipitated the disciplinary action occurred:

a. the parent of the student had expressed concern in writing, to the charter school supervisory or administrative personnel, that the student is in need of special education and related services;

b. the parent of the student had requested an evaluation of the student; or

c. the teacher of the student, or other personnel of, the charter school had expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the charter school director of special education or to other charter school supervisory personnel.

5.8.2. Exception - The LEA shall not be deemed to have knowledge that a student is a student with a disability if:

a. the parent of the student has not allowed an evaluation;

b. if the parent of the student has refused services;

c. the student has been evaluated and it has been determined that the student is not a student with a disability; or

d. the parent has revoked consent for special education and related services.

5.8.3. If a request is made for an evaluation during the time period in which the student is pending long-term disciplinary action (i.e. after the discipline infraction has occurred), an evaluation shall be conducted by the referring school in an expedited manner. Pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities.

5.9 HOMEBOUND EVALUATION

Evaluations for special education eligibility completed for students who are hospitalized or are receiving homebound services must follow standard procedures for evaluation. Evaluation practices may differ in terms of the setting and modifications required to complete evaluations with these students. The charter school personnel are responsible for completing the evaluation for all students enrolled at the charter school.

5.10 EVALUATION REPORTS

5.10.1. At the conclusion of the evaluation process, a written report that summarizes the procedures employed, the results, and any educational implications must be developed and eligibility members should have input. The MDT evaluation report may include assessment data from general and special education teachers and related services providers including a school psychologist, speech and language pathologist, school nurse, occupational therapist, physical therapist, and other appropriate personnel. All eligibility members who conduct assessments must include their results in the report.

5.10.2. The MDT evaluation report must include a detailed, educationally relevant description of the student's needs. The report must be written in succinct, readily understandable language, using as little educational jargon as possible. Each report should include, as appropriate:

a. student demographic information;
b. reasons for referral;
c. review of prior/previous interventions and student progress, and the student's educational history and classroom performance data;
d. evaluation methods used;
e. any variation from standard conditions in the administration of assessments, including variations in the qualifications of the person administering a test or the method of test administration;
f. results of all relevant assessments and interpretations of results, including the student's strengths and weaknesses;
g. a description of the student's relevant behavior during the evaluation and classroom observation, and the relationship of that behavior to the student's evaluation results and educational performance;
h. if a bilingual evaluation was conducted or considered, the language(s) used to test the student and the methods used;
i. environmental, cultural, or economic factors; and
j. professional recommendation regarding the student's eligibility for special education and related services.

5.10.3. Distribution of a draft MDT evaluation report to the parent at, or immediately prior to, scheduled eligibility meetings is an acceptable practice that can facilitate team collaboration and informed decision making. However, draft reports do not constitute educational records under FERPA and therefore, the parent is not entitled to earlier release of draft reports.

5.10.4. The person(s) conducting the evaluation must sign the MDT evaluation report, provide the dates the assessments were administered, and the date of the eligibility meeting. The parent must receive a copy of the signed MDT evaluation report and Statement(s) of Eligibility upon their completion at the formal MDT eligibility meeting. The MDT evaluation report must be maintained in the student's confidential folder.

5.11 INDEPENDENT EDUCATIONAL EVALUATIONS

5.11.1. Definition

An independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the charter school.

5.11.2. Right to evaluation

If a parent disagrees with an evaluation obtained by the charter school, the parent has the right to request an IEE. The charter school personnel must respond to the request in a timely manner. The charter school personnel must, without unnecessary delay, either:

a. ensure that an IEE is provided at the charter school's expense; or

b. initiate an impartial due process hearing, to demonstrate that the charter school's evaluation is appropriate.

At expense means that the charter school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. The parent may be asked about, but not required, to provide reasons for objecting to the charter school's evaluation prior to obtaining an IEE, but any request for such reasons may not be used to delay an IEE. For an independent educational evaluation to be conducted at the charter school's 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 the charter school uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. Beyond these conditions, the charter school is not allowed to impose additional conditions or timelines.

If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at public expense. If a due process hearing results in a final decision that the charter school's evaluation is appropriate, the student's parent still has the right to an IEE, but not at the charter school's expense. The charter school personnel must consider an IEE, whether or not conducted at the charter school's expense, in any decision regarding the provision of a free appropriate public education to the student, so long as the IEE meets the charter school criteria. The results of an IEE may be presented as evidence in a due process hearing.

5.11.3. Procedures

a. If a parent requests an IEE, either verbally or in writing, the school must submit the request in writing along with the confidential folder to the charter school Site Administrator or designee within two school days of the parent's request.

b. Within 15 school days of the receipt of the request, the Site Administrator, or other charter school designee, will review the request and notify the parent of the decision in writing.

c. The decision will come from the charter school Site Administrator or designee.

d. The school will not send a Parental Prior Notice of District Refusal.

5.11.4. Notice of the Right to an Independent Educational Evaluation

The charter school personnel must provide to parents, on request for an IEE, information about where an IEE may be obtained, including the charter school's criteria applicable to IEEs. This information should be made available in a manner that is readily understandable to the general public, including parents whose native language is not English.

5.11.5. Screenings

The screening of a student by a teacher or specialist to determine appropriate instruction strategies for curriculum implementation shall not be considered to be an evaluation for determining eligibility for special education and related services.

CHAPTER 6 ELIGIBILITY

This Chapter describes:

6.1 The Eligibility Determination
6.2 The Multidisciplinary Team (MDT) and Eligibility Team (ET)
6.3 Criteria for determining Eligibility
6.4 Report of the Eligibility Determination

6.1 THE ELIGIBILITY DETERMINATION

Once a student has been formally evaluated, the charter school must convene a meeting of the Multidisciplinary Team (MDT) to determine whether the student has a disability and whether the student is eligible for special education and related services. This chapter explains the general requirements for eligibility determination, eligibility criteria, the composition of the MDT, and the requirements for the team's reports. In order to ensure that required time frames are met for conducting an Individualized Education Program (IEP) meeting and that students begin receiving needed services in a timely manner, it is important to promptly schedule the MDT's eligibility determination meeting. In many instances, the eligibility determination and the IEP meeting may be held on the same date, provided that all necessary participants for each meeting are available and appropriate prior notices were sent.

6.1.1. General Requirements of Eligibility Determination

a. Upon completion of a formal evaluation, an MDT of qualified professionals and the student's parent must determine whether the student is a child with a disability within the meaning of IDEA. IDEA defines a child with a disability as a child who has been formally evaluated, has one or more identified disabilities, and because of that disability, needs special education and related services.

b. A student must have at least one of the following disabilities, as defined in the NAC, to be eligible for special education services in Nevada:
   - Autism spectrum disorder;
   - hearing impairment (including deafness);
   - visual impairment (including blindness);
   - deaf-blindness;
   - orthopedic impairment;
   - health impairment, other than orthopedic impairment;
   - speech and language impairment;
   - traumatic brain injury;
   - intellectual disability;
   - emotional disturbance;
   - specific learning disability;
   - multiple impairments; and/or
   - developmental delays (for a child aged 3 through 5 only).

c. A student is not considered eligible for special education services if the MDT determines, through an appropriate evaluation, that a student has one of the above disabilities but does not require special education services. Related services are a support service and are only provided to students eligible for special education services.

d. Speech and Language Impairment is one of the identified eligibilities under NAC. Speech/Language services may be considered as either specially designed instruction or related services.

6.1.2. Lack of Instruction in Reading or Math and Limited English Proficiency

a. A student may not be determined to be a child with a disability if the determinant factor for eligibility is:
   - lack of appropriate instruction in reading including the essential components of reading instruction;

- the essential components of reading instruction means explicit and systematic instruction in:
    - phonemic awareness;
    - phonics;
    - vocabulary development;
    - reading fluency, including oral reading skills; and
    - reading comprehension strategies;
- lack of appropriate instruction in math; or
- limited English proficiency; and
- the student does not otherwise meet the eligibility criteria described in this chapter.

6.1.3. Restrictions

a. Drug or Alcohol Addiction

A student's drug or alcohol addiction may not serve as the sole basis for determining that the student has a disability for purposes of IDEA eligibility. However, a student with a drug or alcohol addiction is eligible under IDEA if the MDT determines that the student otherwise meets the criteria for one of the identified disabilities and needs special education and related services.

b. Students Incarcerated as Adults

The charter school is not responsible for initial identification activities for students who are convicted as adults and incarcerated in adult prisons.

6.1.4. Age Ranges for Eligibility

A child with a disability who has an educational need is eligible for services under IDEA when the child turns three years of age. A student's eligibility terminates when the student graduates with a regular high school diploma (Option 1) or reaches age 22, whichever is earlier.

NOTE: Even though Federal and State monies are terminated after a Special Education student's 22nd birthday, public charter schools may choose to continue services through the end of the school year. Additionally, students who receive an Adjusted Diploma (Option 2) before their 22 birthday, can choose to return and stay in school until they are 22 years of age.

6.1.5. Termination of Eligibility

a. Any termination of eligibility is considered a change in placement. Termination of eligibility occurs when the student or guardian who has retained educational rights:
    - graduates with a regular high school diploma (Option 1);
    - turns 22 years of age, or
    - is formally evaluated and found not eligible by the Multidisciplinary Team, or
    - student or guardian revokes services.

b. A Free Appropriate Public Education (FAPE) is available to any individual student with a disability who needs special education and related services. A student may still be eligible for special education even though they have demonstrated passing grades and are advancing grade to grade. The determination that a student is eligible under this part must be made on an individual basis by an appropriate MDT.

6.2 THE MULTIDISCIPLINARY TEAM

6.2.1. General Requirements for MDT/Eligibility Team Membership

Membership requirements differ based on specific eligibility classifications, as defined by NAC. These requirements are identified in the following chart.

REQUIRED PARTICIPANTS AT MDT EVALUATION/ELIGIBILITY MEETINGS						
Eligibility Category	***School Psychologist***	***Special Ed. Teacher / Specialist***	***Gen. Ed. Teacher***	***Speech Pathologist***	***School Nurse***	***Parent***
Autism Spectrum Disorder	X	X	X	X		X
Deaf/Blind*		**			R	X
Developmental Delay	X	X			R	X
Emotional Disturbance	X	X	X			X
Health Impairment	X	X	X		X	X
Hearing Impairment/ Deaf*		**			R	X
Intellectual Disability	X	X		X		X
Multiple Impairment	X	X		X		X
Orthopedic Impairment		X	X		X	X
Specific Learning Disability	X	X	X			X
Speech/Lang. Impairment		** *	X	X		X
Traumatic Brain Injury	X	X	X	X	X	X
Visual Impairment		**			R	X

Above Required Participants Chart Key
X = required member as indicated by the (NAC)
** =the charter school /SPCSA recommends an audiologist be present*
*** = Two (2) specialists required in attendance*
****=only if the student has another disability in addition to speech and language impairment*
R = Recommended member by the charter school/ SPCSA

6.2.2. Other Considerations

a. A minimum of three (3) participants must be in attendance for any eligibility.
b. Health assessments are required for all eligibilities; however, a school nurse is not always a required participant in formal eligibility meetings.
c. Eligibility decisions are finalized as a function of the majority position among required team members, whereas IEP and placement decisions are typically finalized as a function of attaining consensus among required participants. In the absence of a consensus among MDT members for eligibility determination, the team must consider and determine the following factors:
    - were there sufficient discussions among team members over outstanding disagreements; and
    - is there enough information available to render a decision.

6.3 CRITERIA FOR DETERMINING ELIGIBILITY

In order to determine that a student is eligible for special education and related services, the MDT must determine that the student meets the specific criteria under NAC for one or more disabilities. The following sections describe NAC criteria according to specific classifications.

6.3.1. Autism

a. Definition and Criteria for Determining Eligibility

NAC defines "Autism" to mean a spectrum disorder which:

- significantly affects the verbal and nonverbal communication and social skills of a person and is often characterized by repetitive activities and stereotyped movements, resistance to changes in environment or daily routine, and responding to sensory experiences in an unusual manner;
- is usually apparent before the age of 3 years; and
- adversely affects the educational performance of a student causing significant delays or irregular patterns in learning, or both. The term includes, without limitation, a group of developmental disorders such as autistic disorder, Asperger's disorder, atypical autism, pervasive developmental disorder and other disorders that share the characteristics described above. The term Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance as defined in NAC.

6.3.2. Hearing Impairment

a. Definition

NAC defines "Hearing Impairment" to mean an impairment of the hearing mechanism which affects sound integration and prevents or delays the normal development of speech and language.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction if the MDT concludes that the student meets the following standards, as applicable:

- Hard of Hearing
- the student has the ability, if aided, to hear and understand most spoken words;
- the student's hearing mechanism, though defective, is sufficiently functional with or without the use of a hearing aid to allow a receptive flow of information; and
- the student has an average hearing threshold of 30 decibels or more.
- Deafness
- routine auditory communication is impossible for the student, or nearly so, because of the student's inability to discriminate among and understand the sounds that reach the student;
- the sense of hearing of the student is nonfunctional for the ordinary purposes of life, whether as the result of congenital or post-lingual deafness; and
- the student has an average hearing threshold level, at 500, 1,000 and 2,000 Hz, of 92 decibels or more.

As used in this subsection, nonfunctional for the ordinary purposes of life means that the student does not receive speech sounds clearly enough through hearing, with or without amplification and notwithstanding the fact that he may be aware of loud or random noises, to develop language. A student under the age of 6 years can be eligible for the special services and programs under the classification of Hearing Impairment.

6.3.3. Visual Impairment

a. Definition

NAC defines "Visual Impairment" to mean an impairment which, despite correction, adversely affects or will adversely affect the ability of a student to benefit from or participate in an educational program without the assistance of special education.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction based on moderate or severe visual impairment if the MDT concludes that the student meets the following standards, as applicable:

- Moderate Visual Impairment
  - the student can use vision as the main channel of learning; and
  - the student's visual acuity is 20/70 or less in the better eye with the best possible correction; or
  - the student suffers from a progressive deterioration of vision, the probable result of which will be the student's visual acuity is 20/70 or less in the better eye with the best possible correction.
- Severe Visual Impairment
  - the student's visual acuity does not exceed 20/200 in the better eye;
  - the student's vision in the better eye is restricted to afield which subtends an arc of not more than 20 degrees; or
  - the student suffers from a progressive deterioration of vision, the probable result of which will be one or both of the conditions described in the points above. A student under the age of 6 years can be eligible for the special services and programs under the classification of Visual Impairment.

6.3.4. Deaf-Blindness

a. Definition

NAC defines "Deaf-Blindness" to mean concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for students who are deaf or students who are blind.

b. Criteria for Determining Eligibility

Nevada regulations do not delineate specific criteria for determining Deaf- Blindness. To be determined eligible for services under the disability of Deaf-Blindness, the student must be eligible to receive services under both Hearing Impairment and Visual Impairment. A student under the age of 6 years can be eligible for the special services and programs under the classification of Deaf-Blindness.

6.3.5. Orthopedic Impairment

a. Definition

NAC defines an "Orthopedic Impairment" to mean a severe impairment that adversely affects the student's educational performance and which results from:

- congenital anomaly including without limitation, clubfoot and absence of a member;
- a disease, including without limitation, bone tuberculosis and poliomyelitis; or
- any disease including without limitation, cerebral palsy, an amputation and a fracture or burn that caused a contracture.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction if the MDT determines that the student suffers from a Severe Orthopedic Impairment which adversely affects the student's educational performance. To determine whether an Orthopedic Impairment adversely affects educational performance, an analysis must be conducted of the impairment to determine whether the student can function in a regular classroom.

6.3.6. Health Impairment other than Orthopedic Impairment

a. Definition

NAC defines "Health Impairment" to mean an impairment that limits the strength vitality or alertness of the student, including, but not limited to, a heightened alertness to environmental stimuli which results in limited alertness with respect to the educational environment and which:

- is caused by chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, childhood disintegrative disorder, diabetes, epilepsy, a heart condition,

hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, Rhett's disorder, sickle-cell anemia, and Tourette syndrome (this list of specific health conditions is meant to be illustrative, not exhaustive); and

- adversely affects the educational performance of the student.

b. Criteria for Determining Eligibility

A student is eligible for special services and programs of instruction if the MDT concludes that the student has health impairment other than an orthopedic impairment which could reasonably be interpreted as adversely affecting the educational performance of the student. Adversely affecting educational performance may include, without limitation, difficulty concentrating, chronic fatigue and impulsiveness which interfere with the student's ability to be educated.

c. Some students with attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD) may be eligible for special education and related services by meeting the criteria for Health Impairment, or may be eligible based on meeting the criteria described in this chapter for another type of disability. Those students would be classified as eligible for services under the Health Impairment definition if:

- the ADD or ADHD is determined to be a chronic health problem that results in limited alertness (including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment);
- the ADD or ADHD adversely affects educational performance; and
- special education and related services are needed to address the ADD or ADHD.

6.3.7. Speech and Language Impairment

a. Definition

NAC defines "Speech and Language Impairment" to mean a disorder relating to language, articulation, fluency, or the use of the voice which:

- is outside the range of acceptable variation in a given environment;
- is inconsistent with the chronological or mental age of the student; or
- affects the emotional, social, or educational adjustment of the student.

b. Criteria for Determining Eligibility

Nevada regulations state that a student is eligible for special services and programs of instruction based on a speech and language impairment if the MDT concludes that the student meets the following standards, as applicable:

- that an impairment exists;
- the student has demonstrated the ability to profit from speech and language therapy; and
- the student requires a program of instruction, because of the nature or severity of the student's impairment, which is not feasible in the current educational setting because:
- intensive remedial techniques or strategies, which can only be implemented in a clinical or therapeutic setting, are required to improve communication skills of the student;
- the nature of the impairment requires that the student receive the services of a speech and language pathologist; or
- the impairment is of such severity or multiplicity as to require individual or small group management that is available only in a speech and language program. The MDT may find that a student has a Speech and Language Impairment based on a deficit or disorder with respect to:
    - phonology or articulation, as indicated by the presence of three or more of the following conditions:
    - the student has the physiological potential to make the neuromuscular adjustments necessary for oral expression;
    - the student's lack of intelligibility interferes with communicative ability;
    - the student cannot adequately discriminate, initiate, or sequence sound patterns;
    - the student's ability to articulate is significantly less than that which is expected in view of the student's cognitive abilities and level of development; or
    - the deficit or disorder has an adverse social, emotional, or academic effect on the student.

- use and comprehension of language, as indicated by the presence of two or more of the following conditions:
- the student's ability to comprehend language is significantly less than that which is expected in view of the cognitive abilities and level of development of the student;
- the student's pragmatic use of language is inappropriate; or
- the deficit or disorder has an adverse social, emotional, or academic effect on the student.
- fluency of speech, as indicated by the presence of two or more of the following conditions:
    - the student's speech is observed to be diffluent;
    - the severity of the deficit or disorder is such that it interferes with the student's communication; or
    - the deficit or disorder has an adverse social, emotional, or academic effect on the student.
- quality, pitch, or intensity of voice, as indicated by the presence of two or more of the following conditions:
    - voice therapy is recommended by a physician or another person certified as a specialist in the identification and treatment of oral, nasal, or laryngeal anomalies;
    - the severity of the deficit or disorder is such that it interferes with the student's communication; or
    - the deficit or disorder has an adverse social, emotional, or academic effect on the student.
- A student with limited English proficiency is eligible for the special services and programs of instruction on the same basis as other students, if the impairment:
    - manifests itself in the student's native language and in English; and
    - is not attributable to the phonological system of the student's native language, or to dialectical differences of articulation and language form between that language and English.
- A student under the age of 6 years can be eligible for special services and programs under the classification of Speech and Language Impairment.

6.3.8. Traumatic Brain Injury

a. Definition

NAC defines "Traumatic Brain Injury" to mean an injury to the brain caused by an external force that results in the total or partial functional disability or psychosocial impairment of a person, or both. Except as otherwise provided in this section, the term applies to any injury to the brain which adversely affects educational performance including, without limitation, injuries affecting a student's:

- cognitive abilities;
- speech;
- language;
- information processing;
- memory;
- attention;
- reasoning;
- abstract thinking;
- judgment;
- problem solving abilities;
- sensory, perceptual and motor skill abilities;
- psychosocial behavior; and
- physical functions.

The term does not include injuries to the brain that are congenital or degenerative or which are induced by trauma during birth.

b. Criteria for Determining Eligibility

A student is eligible for special services and programs of instruction if the MDT concludes that the student has a traumatic brain injury that adversely affects the student's educational performance. In making the determination, the eligibility team shall consider, the following, but not limited to::

- medical documentation of the injury;
- the student's educational performance relative to a normative population;
- the student's strengths and weaknesses; and if possible, the student's educational performance before and after the student acquired the injury.

6.3.9. Intellectual Disability

a. Definition

NAC defines the term "Intellectual Disability" as a condition that:

- is characterized by intellectual functioning at a level that is significantly below average, and which exists concurrently with related limitations in two or more of the following adaptive skill areas:
    - communication skills;
    - self-care;
    - home living;
    - social skills;
    - use of the community;
    - self-direction;
    - health and safety;
    - functional academics;
    - leisure; and
    - work;
- manifests before the age of 18 years; and
- adversely affects the educational performance of a student.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction based on mild, moderate, severe, or profound Intellectual Disability if the MDT concludes that the student meets the following standards, as applicable:

- Mild Intellectual Disability
    - the measured cognitive abilities, as determined by an acceptable individual standardized test, are at least 2 standard deviations below the mean score for that test;
    - the adaptive skills, in comparison with those members of the student's chronological peer group, indicates that the student is experiencing difficulty; and
    - the academic achievement is generally consistent with the cognitive abilities and adaptive skills of the student.
- Moderate Intellectual Disability
    - the measured cognitive abilities, as determined by an acceptable individual standardized test, are at least 3 standard deviations below the mean score for that test;
    - the adaptive skills, in comparison with those members of the student's chronological peer group, indicates that the student has markedly lower capabilities; and
    - the academic achievement and speech and language development is generally consistent with the cognitive abilities and adaptive skills of the student.
- Severe Intellectual Disability
    - the measured cognitive abilities, as determined by an acceptable individual standardized test, are at least 4 standard deviations below the mean score for that test;
    - the adaptive skills, in comparison with those members of the student's chronological peer group, indicates that the student has extensively lower capabilities; and
    - the developmental functioning of the student is generally consistent with the cognitive abilities and adaptive skills of the student.
- Profound Intellectual Disability
    - the measured cognitive abilities, as determined by an acceptable individual standardized test, are at least 5 standard deviations below the mean score for that test;

- the adaptive skills, in comparison with those members of the student's chronological peer group, indicates that the student has extremely limited capabilities; and
- the developmental functioning of the student is generally consistent with the cognitive abilities and adaptive skills of the student.

6.3.10. Emotional Disturbance

a. Definition

NAC defines "Serious Emotional Disturbance" to mean a severe emotional disorder that:

- is exhibited by a person for at least 3 months;
- adversely affects academic performance; and
- includes one or more of the following:
- an inability to learn which is not caused by an intellectual, sensory or health factor;
- an inability to engage in or to maintain interpersonal relationships with peers and teachers;
- inappropriate behavior or feelings;
- a general and pervasive mood of unhappiness or depression; a physical symptom associated with a personal or academic problem; or
- the expression of fears regarding personal or academic problems.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction based on an emotional disturbance if the MDT concludes that:

- the student exhibits one or more of the characteristics described in section below;
- these characteristics have been evident for at least 3 months;
- the characteristics adversely affect the student's ability to perform developmental tasks appropriate to the student's age:
    - within the educational environment, despite the provision of intervention strategies; or
    - in the case of a student under school age, in the home, child care, or preschool setting; and
    - special education support is required to alleviate these adverse effects.

The characteristics listed in Nevada regulation for Emotional Disturbance involve consistent manifestation of any of the following:

- an inability to build or maintain satisfactory interpersonal relationships within the school environment, including:
    - withdrawal or isolation from others; or
    - efforts by the student to obtain negative attention from others through punishment;
    - inappropriate behavior or feelings under normal circumstances, including atypical behavior such as outbursts of anger, crying, or head banging, without apparent cause or reason;
    - a pervasive mood of unhappiness or depression; or
    - fears or a tendency to develop physical symptoms associated with personal or school problems.

Nevada regulations specify that a student is not eligible for special education and programs of instruction solely because of sensory, intellectual, or health factors or the student is socially maladjusted or has a conduct problem. A student who is socially maladjusted or has a conduct problem may not be determined to be eligible for special education services and programs of instruction unless the MDT concludes that the student otherwise meets the eligibility criteria.

6.3.11. Specific Learning Disability

a. Definition

NAC defines "Specific Learning Disability" to mean a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. The disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The disorder includes, without limitation, such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction based on specific learning disabilities if the MDT concludes that:

- The student does not achieve adequately for the student's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards:
    - oral expression;
    - listening comprehension;
    - written expression;
    - basic reading skills;
    - reading fluency skills;
    - reading comprehension;
    - mathematics calculation; or
    - mathematics problem solving;
- The student does not make sufficient progress to meet age or State- approved grade-level standards in one or more of the areas identified in this subsection when using a process based on the student's response to scientific, research-based intervention; or the student 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; and
- The findings in this subsection are not primarily the result of:
    - a visual, hearing, or motor disability;
    - intellectual disability;
    - emotional disturbance; cultural factors;
    - environmental or economic disadvantage; or
    - limited English proficiency.
- Interventions implemented in general education classrooms have not remedied any identified underachievement.
- Any identified underachievement or severe discrepancy between achievement and intellectual ability is not correctable without special education services.
- If the charter school determines that student has not made sufficient progress to meet age or State-approved grade level standards in one or more of the areas identified in this subsection when using a process based on the student's response to scientific, research-based intervention the charter school, being a public agency, must document:
    - the instructional strategies used and the student centered data collected; and
    - that the student's parents were notified about the charter school's Special Education Department's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
    - strategies for increasing the student's rate of learning; and
    - the parents' right to request an evaluation to determine whether the student is eligible for special education and related services.
- The MDT must document the determination of eligibility which must contain:
    - a statement as to whether the student has a specific learning disability;
    - the basis for making that determination, including an assurance that the determination has been made in accordance with NAC;
    - a description of the relevant behavior noted during the observation of the student;
    - a statement of the relationship of that behavior to the academic functioning of the student;
    - any educationally relevant medical findings;
- a statement as to whether the student does not achieve adequately for the student's age or to meet State approved grade-level standards and:

- the student has not made sufficient progress to meet age or State approved standards when using a process based on the student's response to scientific, research based intervention; or
- the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development.
- a statement that any identified underachievement or severe discrepancy between achievement and intellectual development is not correctable without special education services;
- the conclusion of the team concerning the effect upon the student of any visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

- if the student has participated in a process that assesses the student's response to scientific, research-based intervention:
  - the instructional strategies used and the student centered data collected; and
  - documentation that the student's parents were notified about:
  - the charter school's Department's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
  - strategies for increasing the student's rate of learning; and
  - the parents' right to request an evaluation to determine whether the student is eligible for special education and related services.
- a certification by each member of the team that the report reflects the member's conclusions or, if the report does not reflect the conclusions of a member, a minority report of the conclusions of that member.

Students with ADD or ADHD who are eligible for special education and related services may meet the criteria for "Health Impairment," "Specific Learning Disability" or "Emotional Disturbance", depending upon the student's profile.

6.3.12. Multiple Impairment

a. Definition and Criteria for Determining Eligibility

NAC defines "Multiple Impairments" to mean that a student meets the requirements for eligibility for students with Intellectual Disability and the requirements for eligibility for any additional disabling condition, other than a Specific Learning Disability, Developmental Delay or a Speech and Language Impairment.

6.3.13. Developmental Delay

a. Definition

NAC defines "developmental functioning" to mean cognitive abilities, gross and fine motor skills, self-help, social and emotional condition, and the skill in the use of receptive and expressive language.

b. Criteria for Determining Eligibility

Nevada regulations provide that a student is eligible for special services and programs of instruction based on Developmental Delay (DD) if the Multidisciplinary Team concludes that the student demonstrates a delay of at least two standard deviations in one, or at least one standard deviation in two or more, of the following areas:

- receptive or expressive language;
- cognitive abilities;
- gross or fine motor function;
- self-help;
- social or emotional condition.

c. Termination of Eligibility

A student may no longer be identified with a developmental delay if:

- the student maintains appropriate developmental functioning in all developmental areas for 6 months or more, and the MDT, based on evaluation data, concludes that special education services are no longer necessary; or

- the student reaches age 6. For students who have DD classification and are approaching the age of 6, the charter school should reevaluate to determine whether the student has another disability that would require continuing special education services.

6.4 REPORT OF THE ELIGIBILITY DETERMINATION

6.4.1. Preparation of the Reports

The MDT must document its determination of a student's eligibility or ineligibility for special education services in a written evaluation report and statement of eligibility. All team members must indicate that the evaluation report is an accurate summary of their analysis and conclusions by signing the final report. All evaluation reports must be filed in the student's confidential folder (All students who have been formally evaluated should have a confidential folder developed and maintained at the charter school campus, whether or not the student was found eligible). The MDT must complete a statement of eligibility for each disability formally considered by the team. The parent must be provided a copy of finalized statements of eligibility and evaluation reports on which the determination of the student's eligibility or ineligibility is based. When the eligibility determination is based on the conclusions of the majority of the team, and some members disagree, the team may consider whether to prepare a written report of the minority's conclusion (required for minority conclusions when determining specific learning disability eligibility). A minority report must be attached to the pertinent statement of eligibility in the confidential folder. NOTE: Refer to 5.2 and 5.3.

6.4.2. Content of the MDT Evaluation Report

The evaluation report should discuss the MDT's findings and conclusions regarding whether the student has a specific disability and whether, because of that disability, the student needs special education and related services. The report should discuss the basis for these conclusions, with reference to the definitions, criteria, and required evaluation components for each particular area of disability considered, including those rejected by the team. The report should describe the student's areas of deficit and strengths and the resulting effects on student's learning, functional performance, and academic achievement. An evaluation report must include the reason for referral, required assessments by disability classification, and determination of special education need. The report should specifically recommend any additional evaluations when needed. If no such recommendation is made, the presumption will be that the MDT has concluded that no additional evaluation is required. The report should be written in clear and concise language understandable to the parent and others who may refer to it.

CHAPTER 7 INDIVIDUALIZED EDUCATION PROGRAMS

INTRODUCTION

Once a determination has been made that a student has a disability and needs special education and related services, an Individualized Education Program (IEP) must be developed for the student in accordance with the procedures and standards described in this Chapter. An IEP is a written program designed to provide special education and related services in accordance with the student's disability related needs.

This Chapter describes:

7.1 Prior Written Notice
7.2 Parental Participation
7.3 IEP Meeting Participants
7.4 Consent for Initial Provision of Special Education and Related Services
7.5 Types of IEPs
7.6 IEP Components
7.7 Students with disabilities in adult prisons
7.8 Conducting an IEP meeting

7.1 PRIOR WRITTEN NOTICES

7.1.1. Parental Prior Notice of District/the charter school Proposal

a. It is the responsibility of the special education supervisor to reach an agreement with the parent for a mutually agreed upon time for a meeting and provide Prior Written Notice (PWN) to the parent/legal guardian and student if 14 years of age or older.
b. Beginning when a student reaches age 14, the notice must indicate that proposed action of the meeting is to also plan transition services and a copy of the notice **must** be provided to the student. Additionally, the confidential folder must have copies of the PWN to parents and student.

7.1.2. Proposed Meeting Arrangements

a. At a reasonable time before a proposed IEP meeting, the Site Administrator or designee must also provide proposed meeting arrangements to the student's parent.
b. The meeting arrangements should include time, date, location, participants and their positions of the IEP meeting (i.e. Amy Smith, Occupational Therapist)
c. Beginning at age 14, the student must be invited to attend the meeting and be provided a copy of the meeting arrangements.
d. The Proposed Meeting Arrangements and the Parental Prior Notice of School Proposals must use understandable language and be provided in the native language or other mode of communication of the parent/guardian and/or student.
e. A copy of the Proposed Meeting Arrangements and the Parental Prior Notice of School Proposals must be filed in the student's confidential folder and documented in the status record that a copy was given to the parent and the student (14 years or older). See Chapter 3.0 on Prior Notices for additional information and procedures.

7.2 PARENTAL PARTICIPATION

7.2.1. The Site Administrator or designee must take steps to ensure that one or both of the student's parents/legal guardians are present at each IEP meeting or are afforded the opportunity to participate in the development of the student's IEP.

7.2.2. IEP meetings should be scheduled at a mutually agreed upon time and place, and the parent should be notified well enough in advance, 5 to 10 days, of the meeting to ensure that they will have an opportunity to attend. If neither parent can physically attend an IEP meeting, the Site Administrator or designee must use other methods to ensure parent participation (this could include a telephone conference call, videoconference, or other means with the required team members present).

7.2.3. The charter school may proceed with an IEP meeting without a parent in attendance, if and only if, the charter school has detailed records of all required attempts to ensure parent participation as described in 7.2.4. below, unless the parent has expressed a desire to attend, then the school must continue to document attempts to include the parents in the development of their child's IEP.

7.2.4. All efforts to arrange a mutually agreed upon time and place for the meeting must be documented in the student's confidential folder, including:

a. detailed records of telephone calls made or attempted and the results of those calls,
(It is the best practice that at least one telephone call is made, and follow-up calls are made if staff is unable to speak with the parent directly over the phone. If parents don't have a phone, document other methods utilized to contact parent);
b. copies of correspondence sent to the parent and any responses received; and
c. detailed records of any visits made to the parent's home or place of employment and the results of those visits.

7.2.5. The charter school should take whatever action is necessary to ensure that the parent understands the proceedings of the IEP meeting, including arranging for an interpreter for a parent who is hearing impaired or whose native language is other than English. Parent must have a waiver signed when interpreter is required but not utilized.

7.3 IEP MEETING PARTICIPATION

7.3.1. Required participants

The Site Administrator or designee is responsible for ensuring that the IEP Team includes the following required participants:

a. one or both of the student's parents/legal guardians;
b. the charter school representative who acts as the Local Education Agency (LEA) representative and is:
    - qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
    - knowledgeable about the general curriculum;
    - knowledgeable about the availability of the charter school resources; and
    - a Site Administrator or designee who has attained an administrator's and/or Special Education endorsement/license and has the authority to commit the charter school resources and ensure that IEP services will be provided.
c. at least one General Education Teacher who teaches the student;
    - If the student has more than one teacher, the Site Administrator or designee may designate which teacher(s) will participate.
    - If the student does not currently access general education classes, a general education teacher knowledgeable of the grade level curriculum must attend.
d. at least one Special Education teacher or provider who is or will be responsible for implementing the IEP; and
    - For example, a student who receives only speech/language services, the speech/language pathologist would serve as the special education teacher.
e. an individual who can interpret the instructional implications of evaluation results, (who may also be a member of the team as described above other than the parent).

7.3.2. Additional participants who must be invited

a. In the case of an IEP that includes transition services or considers the student's transition service needs:

- the student must be invited;
- **upon parental/legal guardian consent**, a representative of a participating agency that is likely to provide or pay for transition services must be invited if the IEP is to include transition services or to consider the student's transition service needs. A parent can refuse to provide consent for the charter school to invite other agencies that are likely to be responsible for providing or paying for transition services.

b. In the case of an IEP for a student that has reached the age of majority (age 18), the parent may be invited by the student. If educational rights have been retained by the parent, follow procedures outlined in 7.1.1 – 7.2.5

c. In the case of an IEP that includes a related service, the provider must be invited (attendance is not required) if the student's evaluation has identified a need for a particular related service or if a related service is to be discussed as part of the IEP meeting.

d. In the case of an initial IEP meeting for a preschool child who previously received early intervention services, the charter school must notify the parent that, upon the parent's request, the charter school will invite the service coordinator or representative of the child's early intervention system to participate in the meeting.

e. In the case of an IEP for a student whose parent/legal guardian is deaf or whose native language is other than English, the charter school must take whatever action is necessary to ensure the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter.

7.3.3. Other participants that may be invited

a. The charter school has the right to invite additional participants who have knowledge or special expertise concerning the student to the IEP meeting. The parent must be provided this information in writing on the Proposed Meeting Arrangements form (i.e. Prior Written Notice form). The school must obtain written permission from the parent prior to the proposed meeting.

b. If behavioral concerns are going to be discussed, a person who is knowledgeable about positive behavioral supports may be invited. This person may be a special education teacher, school counselor, school psychologist, behavior mentor teacher or special education instructional facilitator.

c. The parent has the right to bring additional participants to an IEP meeting who have knowledge or special expertise regarding the student. The parent determines the knowledge or special expertise of the additional participants. This may include friends, family members, neighbors, attorneys and advocates. The parent may indicate who they are bringing when responding to the proposed meeting arrangements, however, it is not required.

7.4 CONSENT FOR INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

7.4.1. Consent for the Initial Provision of Services is only obtained after the initial eligibility has been determined in the State of Nevada

a. Consent for Initial Provision of Services must be obtained before the Initial IEP meeting

b. Before consent is obtained, the parent must be provided with an explanation of the continuum of services.

c. The parents must be fully informed of the special education and related services

d. The charter school may not initiate a due process hearing to provide special education and related services to a student when a parent refuses to consent to initial services. A student whose parent has refused consent for initial services would not be provided special education and related services and would continue to receive general education services.

7.4.2. Revocation of Consent for Special Education and Related Services

a. The charter school must respond to any parent request for termination of services. A student may only be removed from special education for the following reasons:

- found not eligible through a reevaluation;
- graduation with an Option One/Standard diploma;
- aging out at 22 years old;
- written revocation of consent by parent and the charter school's issuance of prior notice of revocation of services; or

- the decision of a hearing officer.

b. If at any time following the initial provision of special education and related services, the parent revokes consent for the continued provision of special education and related services;
   - the parent must submit a written request for revocation of consent to the charter school Administration
   - upon receipt of the request from the parents, the charter school Administration will:
     1. send the parent a prior written notice to change the student's placement, including date of effectivity of termination of specially designed instruction services (the school will continue implementing the student's IEP until the date services will be discontinued);
     2. notify the school of the date when services will be discontinued;
     3. within ten calendar days from the date of revocation request, the prior written notice is sent to the parent; and
     4. the charter school will document on the status record of the confidential folder the date that services will be discontinued.
   - after services have been terminated through revocation, the school is not required to convene an IEP Team meeting or develop an IEP for further provision of special education and related services;
   - the charter school can initiate a due process hearing or mediation procedures to continue special education and related services for a student when their parent have revoked consent;
   - if at a later date the parent requests that special education services be reinstated, the request will be treated as an initial referral;
   - if the parent requests that the special education records be expunged, Family Educational Rights and Privacy Act (FERPA) procedures for amending records are followed;
   - if the student engages in behavior that may result in a disciplinary change of placement:
     - the student is not entitled to the protections under IDEA;
     - the charter school is deemed not to have knowledge of a suspicion of a disability; and
     - the student will be disciplined as a general education student.
   - the parent consent is for the initial provision of special education and related services generally not for a particular service.
   - a parent cannot revoke one service (e.g. revoke resource services but want the speech/language services).
   - if a parent disagrees with the provision of any particular service, they can pursue their due process rights by requesting a hearing.

7.5 TYPES OF IEPS

Requirements for Prior Written Notice, Parental Participation, and IEP Meeting Participants must be met for all types of IEP meetings.

7.5.1. Initial IEP

a. Purpose
   - An Initial IEP is the first IEP developed following the Initial Eligibility in the state of Nevada and Consent for Initial Provision of Services.
   - In the case of a student that was previously determined eligible and then exited from special education services in Nevada, any new eligibility determination in Nevada would be followed by an Initial IEP.
   - In the case of a student that was previously determined eligible in Nevada and moved to another state or was not in school and then re-enrolled in another Nevada charter school or Nevada county school district with an expired IEP and expired eligibility, see Transfer Flow Chart Chapter 5.0.

b. Time lines
   - An Initial IEP meeting must be convened within 30 calendar days after the date of the eligibility determination. It may be held immediately following the eligibility determination, but no later than 30 calendar days.
   - An Initial IEP must be in effect before special education and related services are provided to the student.
   - An Initial IEP must be in effect by the third birthday if a student is receiving services through an Individualized Family Service Plan (IFSP) and continues to be eligible for services. The Initial IEP team must

consider the student's IFSP. Note: An IFSP is a plan for special services for young children, birth to three years of age, with developmental delays.

c. IEP Development

- **After** Consent for Initial Provision of Special Education and Related Services is signed, an Initial IEP is developed based on current information which may include: educational records, formal and informal assessments, teacher reports and observation data, medical records, interviews with student, parent, and school personnel and any outside information provided by the parent.
- A student whose parent has refused consent for initial services is not provided special education and related services and therefore an IEP does not need to be developed. See Procedural Safeguards Chapter 2.0 for additional information and procedures.

7.5.2. Annual IEP

a. Purpose

- An Annual IEP is the yearly review and revision of the current IEP.

b. Time lines

- After the Initial IEP is developed, the charter school must ensure that the IEP team reviews/revises the student's IEP periodically, but no less than annually, to determine whether the annual goals are being achieved.
- While the student remains eligible under IDEA, the Annual IEP must be held on or before the one year anniversary of the date of the previous Annual IEP.
- The charter school must ensure that each student with a disability within the school has a current IEP in effect at the beginning of each school year.
- An IEP must be implemented as soon as possible following its development. There can be no unnecessary delay in providing special education and related services to the student.

c. IEP Development

- Prior to the development of the annual IEP, each goal in the current IEP must be reviewed for progress.
- An Annual IEP must be developed based on current information which may include: educational records, formal and informal assessments, teacher and related service provider reports and observation data, medical records, interviews with student, parent, and school personnel and any outside information provided by the parent.
- In the event that the parent cannot, or does not participate in the annual review, the IEP team **must** proceed with the development of the Annual IEP, provided that the parental prior notice requirements have been met.

7.5.3. IEP Review/Revision

a. Purpose

- The IEP Review/Revision is to ensure services continue to be appropriate based on new information and/or the charter school or parental concerns.

b. Time lines

- Any time before the annual review, the parent/legal guardian or the charter school may request to reconvene the IEP team to review and possibly revise the IEP.
- If a parent requests a meeting and the team agrees with the need for a revision, a prior written notice of proposal and meeting arrangement must be provided to the parent.
- If the team disagrees with the need for a revision meeting, a prior written notice of refusal must be provided to the parent. See Prior Notice Chapter 3.0 for additional information and procedures.

c. IEP Development

An IEP review and/or revision may be required, as appropriate, to address the following:

- the results of any evaluation;
- disciplinary actions that result in a disciplinary change of placement;
- lack of expected progress towards the annual goals;
- lack of expected progress in the general education curriculum;

- any proposed placement change;
- information about the student provided to or by the parent; or
- the student's anticipated needs (supplementary aids/services).
- During the IEP revision, the entire annual IEP does not need to be reviewed. Items discussed are related to the purpose of the meeting as identified in the prior notice and other areas agreed upon by the team.

d. Revision without a Meeting

IDEA allows the parent and the LEA to agree to make changes to an annual IEP without a meeting. The charter school will not implement this provision witho0ut supervisor's approval and written permission from the parents/legal guardians. Note: This is used in rare circumstances.

7.5.4. Interim IEP

a. Purpose

- The purpose of an Interim IEP is to provide appropriate special education services until the charter school either conducts an evaluation and/or develops a new IEP.
- The charter school's Interim placement procedure is reserved for a transfer student, both in-state and out-of-state, with a current special education eligibility or an expired IEP from other school districts.

b. Timelines

- The transfer student should be enrolled as expeditiously as possible in the charter school.
- An Interim IEP meeting must be scheduled and an interim IEP developed in order to determine the student's appropriate placement for the interim period.
- The Interim IEP expires in 30 calendar days from the date it was developed. See Evaluation Chapter 5.0 on Transfer Students for additional information and procedures.

c. IEP Development

- An Interim IEP should be developed based on available information which may include: educational records, medical records, and interviews with student, parent, and prior school staff.
- Educational records may be exchanged between school districts without parent consent under FERPA. However, an Authorization for Release of Confidential Information must be signed by a parent to obtain records from outside agencies. If the charter school sends confidential records to another school without parent permission, the charter school must notify parent which confidential records were forwarded and where you sent them. (Best practice would be to send notice as registered receipt to parents and retain in records.)
- The Interim IEP must include all the required components of an IEP as described in section 7.6.
- In developing the Interim IEP, the team may need to rely on a limited amount of information which may not be current. This information will serve as a basis to develop the Interim IEP until the charter school develops a new IEP.
- Within 30 calendar days of the development of the interim IEP, the MDT/IEP team must reconvene to address eligibility and develop a comprehensive IEP.

7.5.5. Temporary Placement

a. A temporary placement is for a student with a current out of district eligibility and current IEP. The current out of district IEP is implemented to provide comparable special education services until the charter school develops a new IEP. Comparable services means services that are "similar," or "equivalent" to those described in the student's IEP from the previous school.

b. If the charter schools determines that comparable special education services cannot be offered then the charter school must develop an Interim IEP to provide appropriate special education services until the charter school conducts an evaluation. (see 7.5.4)

c. The current out of state IEP can be implemented for no longer than 45 school days from the date of enrollment.

d. The transfer student should be enrolled as expeditiously as possible in the charter school. Educational records may be requested and obtained from out of district school without parental consent, however, under FERPA parents must be notified. An authorization for Release of Confidential information must be signed by a parent to obtain records from outside agencies.

e. The Site Administrator or designee is responsible for review of the student's educational records and consults with the parent in order to provide services. The charter school in consultation with the parent must provide the student with a Free Appropriate Public Education by implementing the current out of district or out of state IEP as written or implementing a 30 day interim IEP. If the team implements the out of district IEP with comparable services, the school team MUST convene to address eligibility within 45 school days of placement.

f. If the parent disagrees with the charter school's comparability of services the STAY PUT would not apply because Nevada eligibility has not been determined. The student will be placed in general education. The 45 school day timeline still applies.

g. If the parent disagrees with providing the student with Special Education services the parent should be provide an explanation and copy of parental rights, specifically revocation procedures.

7.5.6. Homebound IEP

a. Purpose

Homebound is a temporary service for all students who are unable to attend school full time with health issues due to injury or illness. If a student is eligible to receive special education and related services, Homebound becomes an educational placement. Therefore, an IEP revision is written to address a change of placement.

b. Time lines

- A licensed physician completes the referral and provides a treatment plan. The information on the referral must be verified before homebound services can begin. The fact that the student will be or anticipated to be absent for an extended period must be substantiated by a qualified physician who is acting within their authorized scope of practice. For additional information, see Placement Chapter 8.0.
- After the receipt of a completed Homebound referral, the charter school staff initiates a Revision IEP meeting.

c. IEP Development/Meeting

- The charter school is responsible for conducting all events (i.e., homebound revision IEP, annual IEP, three year reevaluation and the anticipated date of return to school).
- The charter school is responsible for inviting all pertinent/required members of the IEP team and distributing all necessary notifications.
- The Homebound teacher(s) must be included in the IEP meeting.
- During the IEP meeting, the Homebound representative cannot substitute for any IEP required participant (LEA, SET or GET). The Homebound representative will sign the IEP cover page in the area marked "other."
- The school nurse or school psychologist provides current health/psychological information for the IEP.
- At a minimum, the homebound revision IEP must include: IEP Page One, present levels of performance addressing the student's current medical condition, specially designed instruction, and placement page. Other pages may be included, if appropriate.
- Instruction is intended to reflect the student's educational program as outlined in the student's IEP. The amount of instruction is dependent on several factors: the student's IEP, the age of the student, the grade of the student, the nature of the defined health issues, the identified schedule of the secondary student, NAC, and other disability related needs. The actual determination of the amount of weekly instructional hours is determined by the IEP team after due consideration of the above factors.
- The Homebound teacher must be provided a copy of the student's Annual IEP and the Revision IEP indicating the need for Homebound instruction. The assigned Homebound teacher must follow the IEP as written.
- If related services are part of the IEP, the Homebound teacher must confirm with the parent that related services are being provided in the home. The Homebound teacher must contact the charter school Site Administrator or designee if related services have not been initiated.
- The Homebound teacher is responsible for submitting progress reports and grades the student has earned to the charter school Site Administrator. Recording and disseminating the report card to the family is the responsibility of the charter school.

- The charter school must maintain student attendance. Students who return to school after being in a Homebound Placement prior to the end of the semester may require a reduced schedule until the new semester begins. This must be determined by the team and addressed on the accommodations page of the IEP.
- During any period of Homebound services, the Homebound teacher is responsible for providing all applicable books, materials, and assignments from the student's classroom teacher and/or service providers; reviewing completed assignments with the student; and returning materials to the student's teacher for grading and/or credit. During any provision of Homebound services, an adult (other than the Homebound teacher) aged 21 or older must be present.
- If the student will continue to be on Homebound placement at the beginning of a new school year and the doctor's orders have expired, a new application must be completed to update the student's condition and the IEP team must determine if the need for Homebound placement continues.
- Homebound is a placement decision, therefore the IEP team must convene an IEP for placement to Homebound and placement back to the school campus. The IEP may include two placement pages. The first page indicating the Homebound placement and the second page indicating the placement after a physician has released the student and the student no longer requires Homebound.
- Homebound teacher must hold proper certification/license to provide services outlined in IEP. (See 8.5.2 for additional information)

e. Private Mental Health Treatment Facilities
- If a parent enrolls a child in a private mental health treatment facility, the IEP will NOT be changed to reflect Homebound placement as the charter school is not providing services.
- If this student becomes eligible for Homebound services outside the mental health treatment facility, regular Homebound procedures will be followed beginning with the application.

7.5.7. Graduation IEP

a. Purpose
- A Graduation IEP is only developed for a student who is graduating with an adjusted (Option II) diploma.

b. Time lines
- A graduation IEP is developed when:
- A student meets the high school graduation credit requirements (22 1/2 credits) and has not passed the Nevada High School Proficiency/End of Course Examinations; or
- The IEP team elects to adjust the required areas of study and prescribe an appropriate curriculum.

c. IEP Development
- The present levels of the graduation IEP should indicate the student may return at any time before their 22nd birthday to receive special education services. A graduation IEP for an Option II diploma is not an exit IEP. Graduation of a student via an Adjusted High School Diploma (Option II) does not automatically end the student's eligibility for special education and related services.
- The current Annual IEP is in effect if the student returns for educational services before the IEP has expired. If the IEP has expired, there are two choices:
- a new Annual IEP can be written upon enrollment; or
- an interim IEP can be written for the student who has been out of school for an extended period of time.
- Additionally, if the student returns more than three years after their last MDT evaluation, eligibility must be determined before continuing special education services.

7.5.8. Exit IEP

a. Purpose/Time lines

An Exit IEP must be developed:
- within 30 calendar days, following a reevaluation meeting which determines the student is no longer eligible for special education;
- when a student reaches the age of 22 (aging out); or
- when a student meets regular (Option 1) diploma requirements.

b. IEP Development

- In the case of an Exit IEP following a reevaluation:
  - present levels must include the results of the reevaluation indicating the student is no longer eligible for special education services; and
  - placement must be changed to indicate the student is no longer receiving special education services.
- In the case of an Exit IEP for a student aging out or graduating with an Option I Diploma/Regular Diploma, provide:
  1. present levels which indicate why the student is no longer eligible for special education services;
  2. a Summary of Performance must be completed by the IEP team (see appendix for Summary of Performance template); and
  3. include academic and functional performance (which include recommendations on how to assist the student in meeting their postsecondary goals; and
  4. include a team of persons with knowledge or special expertise regarding the student should give input to the creation of the document.
- Placement is changed to indicate the student is no longer receiving special education services.

7.6 IEP COMPONENTS

An IEP is designed to provide special education and related services for a student with an identified eligibility. The following forms must be completed by the IEP team in accordance with the student's needs.

7.6.1. IEP Information/Page One

The IEP information page:

a. identifies demographic information;
b. documents Student's primary language, English language learner code, and primary language spoken at home;
c. documents the need for an interpreter or other accommodations (if parent is not in attendance, interpreter does not sign as a participant);
d. identifies eligibility;
e. identifies meeting information;
f. identifies IEP team participants (participants should print and sign that they attended the meeting);
g. documents receipt and explanation of Procedural Safeguards:
   - A copy of the Procedural Safeguards must be reviewed and given to the parents during initial, annual, re-evaluation, and manifestation determination meetings or when requested by the parent.
   - If a revision IEP is held during that school year, document the annual date that the Procedural Safeguards were given.
   - Documents that at least one year prior to reaching age 18 the student was informed of their rights under IDEA and advised that these rights will transfer to them at age 18;
   - If the student is 16 at the time an IEP is being developed, and there is no expectation that another IEP will be held prior to the student turning 17, the rights transfer must be discussed when the student is 16, and otherwise it will not be discussed at least one year prior to reaching age 18.
   - Parents whose child participates in the state's alternate assessment may submit an application (Notice of Application to Represent the Educational Interests of a Special Education Student at the Age of Majority) to continue to represent their child's special education interests.
     - This application applies to IDEA educational rights only and is not meant to replace court competency rulings.
   - Use the comments section to note any additional important information, (e.g., that a meeting was conducted via telephone, that a meeting was being held in response to a parental request, or that the parent was not in attendance.)

7.6.2. Present Levels of Academic Achievement and Functional Performance

Present Levels of Academic Achievement and Functional Performance serves as the foundation for the development of goals and benchmarks in the IEP. Data in this section should be collected in a variety of areas and from a variety of sources. Federal law requires the IEP team to consider relevant results of the initial evaluation or most recent evaluation of the student and the academic, developmental and functional needs of the student. For students who are 16 or older, or who will turn 16 when the IEP is in effect, also consider the results of age appropriate transition assessments related to training, education, employment, and independent living skills as appropriate.

a. The name of the assessments and the date assessed, that provide pertinent information for the development of the IEP should be written in this section. This may include formal or informal methods, norm or criterion referenced tests, classroom observations, student work samples, teacher-made or other achievement tests, recent evaluation results, behavior rating scales, performance data from the regular education teachers, and parental input.

b. When appropriate, English Language Proficiency scores must be included.

c. Results corresponding to the assessments conducted should be described to build a profile of the student's current abilities. Grades, attendance and test scores should be utilized in combination with assessments conducted to build an accurate picture of the student's ability.

d. Functional performance includes self-help, social-emotional, organizational skills and daily living skills as appropriate. A statement of functional performance must be stated even if the student is functioning with age appropriate skills.

e. Parent input can be noted in this section as "not demonstrated in the school setting," unless the student is performing in a setting that requires parental support.
Effect on student's involvement and progress in the general curriculum or, for Early Childhood students, involvement in developmental activities are also noted in Present Levels.

f. Describe how the student's disability affects his or her involvement and progress in the general curriculum. For early childhood students, focus on the student's involvement in appropriate developmental activities. Information recorded here should relate to the assessment results. In describing the student's current and anticipated level of participation in the general curriculum, consider the following:

- Do not use "may," use "does or will". Example: John will have difficulty with basic multiplication facts.
- The regular education teacher(s) MUST BE consulted regarding the student's performance relative to the classroom expectations. The regular education teachers should share information regarding the accommodations, modifications or supports that might be required in order for the student to participate meaningfully in the general curriculum.
- Requires input from general education teacher on what is taught, how it is taught, what instructional activities students are engaged in and how are the knowledge and skills demonstrated and evaluated.
- Indicate student's performance as it relates to general education classroom requirements and expectations.
- Do not include accommodations and placement information.
- No effect statement is required for summary of most recent MDT results (unless initial)
- No effect statement for ELL students is required when reporting English acquisition scores as having a Second Language. Being eligible as an ELL student is NOT considered a disability.
- For each area of deficit, 2 elements must be identified:
    - grade level expectations that the student is not meeting and
    - how the student's deficits impacts the student in that area
- A separate effects statement is required for each deficit area.
  Ex. Typical peers are able to _____. Due to XYZ's deficit in (Reading Comprehension), he/ she is unable to _____.

(DO NOT include an accommodation or modification at the end of the sentence.)

7.6.3. Student Strengths/Parent Concerns/Student's Preferences and Interests

a. Describe student strengths using input from teachers, parents and student (if applicable), and take these into consideration when developing the IEP.

b. Complete the statement to reflect the parent's concerns as they relate to the student's education. This information must be considered when determining services.

c. Information concerning the student's interests and preferences are required if transition services will be discussed, beginning at age 14 or younger, if appropriate. This information may be collected before the meeting or solicited from the student during the meeting.

7.6.4 Special Factors

The team must consider and address each of the special factors. If the team chooses "Yes" for any of the factors, the team may address this factor in a variety of ways, including goals and benchmarks, a behavior plan, supplementary aids and services, related services, or accommodations and modifications. Each special factor that is marked "Yes" must be reflected in the present levels of performance.

a. "Behavior impeding learning" – if team selects "Yes", either a behavior plan in accordance with the five elements of NAC 388.284 must be developed OR the five elements must be included within the IEP and noted on the status record indicating where in the IEP each element is addressed:
   1. positive methods to modify the environment of pupils with disabilities to promote adaptive behavior and reduce the occurrence of inappropriate behavior;
   2. methods to teach skills to pupils with disabilities so that the pupils can replace inappropriate behavior with adaptive behavior;
   3. methods to enhance the independence and quality of life of pupils with disabilities;
   4. the use of the least restrictive methods to respond to and reinforce the behavior of pupils with disabilities; and
   5. a process of designing interventions based on the pupil that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the pupil without the use of aversive or negative means.

b. "Require assistive technology devices and services" – if team selects "Yes", team must determine nature and extent of devices and services and address the needs in the IEP.

c. "Limited English proficiency" – if team selects "Yes", accommodations proven to be effective for English Language Learners must be listed in the supplementary aids and services section.

d. "Blind or visually impaired" – if team selects "Yes", team must evaluate reading and writing needs and provide for instruction in Braille unless deemed not appropriate for the student.

e. "Deaf or hard of hearing" – if team selects "Yes", team must consider language and communication needs and address the needs in the IEP.

f. "Dyslexia and Specific Learning Disability (SLD)" - if team selects "yes", team must consider instructional approaches and address those chosen in the IEP. (AB341)

7.6.5. Transition Services

Transition services are a coordinated set of activities for a student with a disability that is designed within an outcome-oriented process and promotes the student's movement from school to postsecondary activities.

a. Transition services must be based on the individual student's needs, taking into account the student's preferences and interests.

b. The transition statement should relate directly to the student's goals beyond secondary education, and show how planned studies are linked to these goals.

c. When completing the transition section of the IEP the team must consider the following:
   - diploma option must be declared at age 14 and reviewed annually;
   - beginning at age 14, a short statement that directly quotes what the student wants for the future must be included under "Vision for the Future";
   - if the student is 14 years of age or older on the day of the IEP, a statement of transition services with regard to the student's course of study must be completed (standard course of study, functional curriculum, advanced courses, or vocational program);
   - if the student is 16 years of age or older or will reach 16 years of age when the IEP is in effect, the team will describe desired post-secondary goals and coordinated activities. At a minimum, the transition plan

must cover, "Training/Education" and "Employment". "Independent Living Skills" are addressed when appropriate. Transition services may be considered earlier if deemed appropriate by the IEP team;

- on or before the student's 16th birthday, the IEP team must develop a statement of needed transition services, including strategies or activities to work toward the measurable postsecondary goals already identified. The statement must address each type of coordinated activity: instruction, related services, community experiences, the development of employment and other post-school adult living objectives; and if appropriate, acquisition of daily living skills and a functional vocational evaluation; and
- upon parental consent, a representative of a participating agency must be invited if that agency is likely to be responsible for providing or paying for transition services.

7.6.6. Annual Goals and Benchmarks

The IEP team must develop measurable academic and functional annual goals for the areas of need identified in the present levels. General instructional strategies and methodology are not required to be included in the student's IEP in order to receive FAPE. The goals and benchmarks indicated in the IEP must enable the student to be involved and make progress in the general education curriculum, or for preschool children, as appropriate, enable participation in developmentally appropriate activities.

a. All goals must be derived from the present levels of performance.

b. Significant deficit areas must be addressed by a goal.

c. Goals must be specific to the student, measurable and attainable in a year's time. Goals are measurable when they state:
   - direction (increase, maintain, decrease, etc.);
   - area of need (reading, social skills, communication, functional, etc.);
   - level of attainment or success (grade level, accuracy, etc.);
   - how progress will be measured; and
   - setting and staff responsible for implementation.

d. Postsecondary goals are required for students who are 16 or older or will turn 16 when the IEP is in effect and are designed to assist the student in moving toward the desired postsecondary outcomes.
   - At least one goal must be related to training/education and employment (one goal can be developed for both).
   - The IEP must indicate which goals are written to support postsecondary transition outcomes in training/education, employment or independent living skills.
   - Postsecondary goals for independent living skills are optional and written when appropriate for the student.
   - Postsecondary goals must be based on age appropriate assessments, as described in present levels of academic achievement and functional performance.
   - Postsecondary goals may be considered earlier if deemed appropriate by the IEP team.

d. Benchmarks are developed to describe the amount of progress the student is expected to make toward the annual goals within specified segments of the year, generally coinciding with reporting periods (first grading period, first semester of school year, etc.).

e. If the IEP team determines that a student will receive Extended School Year (ESY) services, the applicable boxes must be checked to indicate the goals that will be addressed during ESY. The charter school will be responsible for providing this service if they offer this service at the time of the IEP.

7.6.7. Specially Designed Instruction

a. All areas of Specially Designed Instruction (SDI) must be addressed by a goal and reflected in present levels.

b. SDI must be written to reflect deficit areas (such as reading, math, written expression, behavior or communication). SDI does not address course subjects such as history, science, geography, etc. If for example, a student needs services in these areas, SDI needs to be written as reading in the content area of history. SDI is NOT a class schedule.

c. "Direct" services mean services provided to the student from a special education teacher/related services provider or an assistant under the direction of a special education teacher or provider.

d. "Consult" services means services provided to other staff members regarding the student.
e. "Assess" can be added to indicate an assessment for Adapted Physical Education services, Hearing Impaired services, and Vision services.
f. State the projected date for the beginning and ending of the services.
g. State the anticipated frequency and location of services.

7.6.8. Related Services

a. Related services are supportive services that are required for the student with a disability to benefit from special education. Recommendations made by the related services personnel should be used to guide IEP team discussions.
   - Referrals for any related services, except transportation, are generated by the IEP team. The IEP team should consult with the related services provider to determine the appropriateness of the referral.
   - Related Services assessments require prior written notice (PWN) and permission (consent) to evaluate.

b. The time line for the completion of related service assessment, reconvening of the IEP team for the review of the report, and consideration of the recommendations regarding services is 45 school days.
   - Related Services may include:
     - Speech/Language Therapy;
     - Physical Therapy;
     - Occupational Therapy;
     - Counseling;
     - Psychological Services;
     - Orientation and Mobility;
     - Audiology (does not include a medical device that is surgically implanted, the optimization of that device's functioning, and maintenance of that device or replacement of that device);
     - School Health Services and School Nurse Services;
     - Medical Services for diagnostic or evaluation purposes;
     - Recreation, including therapeutic recreation;
     - Parent Counseling and Training;
     - Interpreting Services;
     - Social work Services; and
     - Transportation: this a related service that is provided for a student with a disability as a related need. The charter school must develop a mutual agreement to provide transportation services.
   - "Direct" services are services provided to the student from a special education teacher/related services provider or an assistant under the direct supervision of a special education teacher. Instruction can be provided in a group or individually.
   - "Consult" services are services provided to other staff members service personnel may include observing the progress of the student in various educational environments.
   - "Assess" means that the team has agreed that an assessment is required. Permission to evaluate must be completed.

c. State the projected date for the beginning and ending of the services.
d. State the anticipated frequency and location of services.

7.6.9 Method for Reporting Progress

a. The IEP team determines how the student's parent will be regularly informed of the student's progress toward the annual goals
b. At a minimum, an "IEP Goals Page(s)" must be indicated in the IEP.
c. Progress reports must be completed and a copy must be given to parent and a copy filed in the confidential folder for each reporting period.
d. Document that the progress report was provided to the parent in the status record.

e. Early Childhood Special Education (ECSE) Six-Month Review is required for special education students under the age of six. This review is conducted with the parent at least every six calendar months from the initial IEP and six months from each annual review.
   - The purpose of this review is to:
   - Provide updated information to the parent;
   - Measure the extent of student progress; and developmentally appropriate performance in all of the early childhood domains for six months or more.
   - Prior to the Six-Month Review meeting, the teacher of record reviews all data and if there is data to support that developmentally appropriate functioning in all domains has been maintained for six or more months, an IEP meeting must be scheduled, adhering to SPCSA procedures for notification of a formal IEP meeting.
   - The data collected from a variety of sources may include the Brigance of Early Childhood Development, Creative Curriculum, Speech and Language session notes and assessments, portfolio of student work, parental input, and ongoing data collection. This information must be documented on IEP Progress Report.
   - The review must include input from related service providers who are providing services to the student.
   - This Six-Month Review does NOT require convening an IEP, unless changes will be made to the IEP. If changes are needed, then the charter school procedures must be followed for an IEP.

7.6.10. Accommodations and Modifications/Supplementary Aids and Services

a. Identify supports provided to enable the student to advance appropriately toward attaining the annual goals, be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities.
b. Identify adaptive equipment needs without specifying the equipment.
c. Reference current behavior plans and health plans.
d. Include English Language Learner (ELL) strategies that will meet the language needs of the student if the student demonstrates limited English proficiency as indicated by Special Factors.
e. State the projected beginning and ending dates for services.
f. State the frequency of services indicating the specific circumstance(s) or condition(s) in which the accommodation and/or modification will be utilized.
g. State the location where the accommodation and/or modification will be implemented.

7.6.11. Participation in State-wide and School-wide Assessment Accommodations

a. Indicate how the student will participate in state-wide or school-wide assessments.
b. If the team discusses an alternate assessment, the following criteria must be indicated:
   - The student must meet all six criteria on the Nevada Alternative Assessment (NAA) participation form.
   - A statement of why the student cannot participate in a particular general assessment, even with appropriate modifications or accommodations.
   - A statement of why the particular alternate assessment selected is appropriate for the student.
c. Non-enrolled adult students – if a student had an IEP in high school and is requesting to test as an adult with accommodations, the following criteria apply:
   - The student must have a statement of eligibility that is less than 3 years old.
   - The student must be under 22 years of age
   - The student must have a current IEP listing the testing accommodations
   - A student who has earned an adjusted diploma may return and take the High School Proficiency Exam.
d. The State approved accommodation form must be used and completed for each student at the annual review. Any accommodation not specifically listed on the form must be approved individually by the Nevada Department of Education to assure a valid administration of the test.

7.6.12. Activities Eligibility

a. The IEP team determines the student's participation in extracurricular activities
b. If an IEP team recommends an exception to the rules of the Nevada Interscholastic Activities Association (NIAA) the parent must contact the NIAA requesting the exception.

7.6.13. Extended School Year (ESY) Determination

a. ESY services must be provided only if the student's IEP team determines, on an individual basis, that services are necessary for the provision of a free appropriate public education to the student. The need is based upon guidelines established for ESY, in the areas of regression/recoupment or a critical learning period. The IEP team needs to base their ESY decisions on the data collected. The team may not limit extended school year services to a particular category of disability or unilaterally limit the type, amount or duration of those services.
b. ESY services must be addressed at every annual IEP
c. If the ESY decision is deferred to a later date, the team must hold an IEP Review/Revision on or before the deferred date to discuss the data collected and make an ESY determination.
d. The charter school is required to support Extended School Year (ESY) when they offer ESY and/or a student requires it.

7.6.14. Placement Considerations

An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular education environment including academic classes, nonacademic settings, and extra-curricular activities must be discussed.

a. Each placement must be reviewed and considered until a choice is made by the team. All placements discussed must either be rejected or accepted (If considering a change of placement see Chapter 8.0).
b. The IEP team determines the placement not the specific site location.

7.6.15. Justification Statement

A justification statement is provided only when a student is removed from the regular education environment. Special classes, separate schooling, or other removal of students with disabilities from the regular education environment can only occur if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

a. The IEP team must explain why the student's IEP cannot be implemented in the regular education environment with the use of supplementary aids and services.
b. A student with a disability may not be removed from education in age appropriate regular classrooms solely because of modifications in the general curriculum.
c. Justification statements must be individualized and related to each student's particular needs.
d. In selecting the least restrictive environment, consideration must be given to any potential harmful effects on the student or on the quality of service that the student needs.

7.6.16. IEP Implementation

a. If the parent agrees with the IEP, the Intent to implement must be completed and given to the parent along with the copy of the IEP. The implementation date is as soon as possible, but no later than ten (10) calendar days.
b. If the parent does not participate in the IEP meeting, marks disagree, or declines to select an option, the Intent to implement must be completed and sent to the parent along with a copy of the IEP. The implementation date is ten (10) calendar days from the date of the completion of the IEP. See Chapter 3.3.4 for more information on Notice to Implement IEP.
c. If the parent participated via telephone, the IEP Intent to implement must be completed and sent to the parent along with a copy of the IEP. The implementation date is determined by the parent's agreement or disagreement with the IEP.

7.6.17. Consensus

Decisions in special education that pertain to identification, evaluation, placement, or provision of FAPE, must be made by the team as a matter of consensus or general agreement among involved parties. The charter school has the ultimate responsibility to ensure that the IEP includes the services the student needs in order to receive a free appropriate public education (FAPE). For special education decision-making, the following sequential priorities have been established to assist teams in achieving consensus.

a. Unanimous Agreement – All participating parties, including parents and their representatives agree on major decisions pertaining to identification, evaluation, placement, or provision of FAPE. When unanimous agreement is NOT achieved, then:

b. Consensus among School Members – All participating charter school personnel excluding the parents and their representatives reach general agreement. When consensus among all participating charter school personnel is NOT achieved, then:

c. Consensus among School Required Members – All required charter school personnel excluding other participating charter school members, parents and their representatives reach agreement. When consensus among all required charter school personnel is NOT achieved, then:

d. Lack of Consensus – In the absence of a final decision by the charter school's required members of the IEP team, the team must consider and determine the following factors: a) was there sufficient discussion among team members over outstanding disagreements, and b) is there enough information available to render a decision. Considering these factors, the team has two options:

- Reschedule the meeting to provide thorough discussions on disagreed upon issues and/or gather more information, or
- The LEA makes the final decision during the IEP meeting when the consensus building and problem solving options appear to be exhausted.

7.6.18. Tape recording

A parent request to record an IEP meeting may be permissible under certain circumstances.

a. Any parent making a request to record must do so prior to the meeting, and all participants in the IEP meeting must agree to the recording. The IEP team can reconvene at another agreed upon time and place if either the parents/legal guardians and/or school is not prepared to record the meeting.

b. In instances where the parent with a disability is requesting the recording to understand the proceeding, the request must be honored by the school staff. The charter school must make arrangements to record the meeting and the charter school's recording becomes the official copy.

c. It is the charter school's responsibility to record the meeting and provide a copy to the parent.

d. A copy of the recording must be maintained in the student's confidential folder.

7.6.19. Advocates or attorneys present at meetings

a. At the discretion of the parent or the charter school, both parties have the right to bring to the IEP meeting individuals who have knowledge of the child and/or the IEP meeting process, or special advocate or attorney. The primary role of the advocate or attorney is to advise and assist the parent in taking an active and participatory role in the meetings. Their role may also include:

- assuring that the parents receive and are cognizant of their procedural safeguards;
- providing explanation/clarification as necessary to understand the process;
- helping parents articulate their concerns;
- offering positive and proactive suggestions to assist the timely completion and appropriate development of the IEP, and
- participate as part of the IEP team if they have "specialized knowledge" of the student.

b. The parent has the right to representation at the meeting and ideally would notify the charter school that they are bringing a representative, however, this is not required.

c. Before the school can discuss a student with an advocate/attorney when the parent is not present, the school must obtain a written release of information signed by the parent.

d. Advocates or attorneys are not permitted to direct or take over an IEP meeting, or require the charter school staff to do or refrain from doing a specific act. The charter school is charged under Nevada Administrative Code (NAC) and IDEA with the responsibility of facilitating IEP meetings, as well as ensuring that the parent has had an adequate opportunity to participate as an equal member of the team. Only the parent can authorize or reject services under NAC and IDEA.

7.6.20. Copies of IEPs

a. Access to a copy of the IEP must be provided to each regular education teacher, special education teacher, and related service provider who will be working with the student.

b. If the charter school develops a DRAFT IEP prior to the IEP meeting, the charter school should make it clear to the parents at the outset of the meeting that the services proposed by the charter school are preliminary recommendations for review and discussion with the parents. The charter school should provide the parents with a copy of the DRAFT proposal prior to the meeting, so as to give the parents an opportunity to review the recommendation of the team and be better able to engage in a full discussion of the proposals for the IEP. It is not permissible for the team to have a final IEP completed before the IEP meeting begins.

7.6.21. Time Frames

An IEP must be implemented immediately following its development. An IEP should never contain breaks in service delivery.

CHAPTER 8 PLACEMENT

INTRODUCTION

After a student's IEP has been developed, their educational placement which includes programs and services must be determined by the IEP team. That level of placement occurs along the continuum of placements available for students with disabilities. Often confused, but not interchangeable, is the term "location". "Location" refers to the physical setting, such as the specific classroom or facility where a student's IEP will be implemented.

This chapter describes:

8.1 Placement Process
8.2 Least Restrictive Environment
8.3 Individualized Placement
8.4 Continuum of Placement Decisions
8.5 Special Considerations for Certain Types of Placements

8.1 PLACEMENT PROCESS

8.1.1 Time Frames

a. The student's placement must be determined at least annually.
b. If there are placement concerns prior to the annual review date, the parent/legal guardian or
c. the charter school may request to reconvene the IEP team to review and revise the IEP. An IEP must be implemented as soon as possible following its development. There can be no unreasonable or arbitrary delay in providing special education and related services to the student.

8.1.2. Determination by IEP Team

a. The student's educational placement must be determined by a group of persons, including the parent, and other persons who are knowledgeable about:
   - the student;
   - the meaning of the evaluation data; and
b. The placement options. The IEP team determines the student's placement.
   When the student requires a level of placement which is not available at the charter school, the school will contact a representative from the student's county school district of residence, and together they will determine the location of placement once the IEP team has determined the appropriate placement.

8.1.3. Change of Placement

a. If at any time the charter school proposes or refuses to change the student's educational placement, in response to a parent request, the parent must receive prior written notice, as described in Chapter 3.0 Prior Notice.
b. A revision IEP is required when:
   - the charter school personnel or a student's parent believe that the student's placement may be inappropriate; or
   - a significant change in the student's placement is being considered by the school.

8.2 LEAST RESTRICTIVE ENVIRONMENT

8.2.1. The Least Restrictive Environment (LRE) standard requires the charter school to ensure that, to the maximum extent appropriate, students with disabilities

a. are educated with students who are not disabled; and

b. that 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 of a student is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

8.2.2. The LRE standard requires the charter school to ensure that students with disabilities participate with non-disabled students in non-academic and extracurricular services and activities to the maximum extent appropriate. Such activities may include: meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups, field trips, assemblies, clubs sponsored by the charter school, and employment opportunities. LRE requirements apply to both eligible school age students and preschool children.

8.2.3. Special education is not a "place," but rather a set of services delineated in the student's IEP. The LRE provision of the IDEA emphasizes services rather than the placement.

8.3 INDIVIDUALIZED PLACEMENT

8.3.1. The content of the student's IEP determines placement, rather than the placement determining the content of the IEP.

8.3.2. The placement decision must be individualized and based on the student's IEP.

8.3.3. Placement, not location, is determined by the IEP team.

8.3.4. Should a change of placement occur and the charter school is determined not to be the appropriate placement, the charter school and the student's county school district of residence will work in conjunction to assign a student as close as possible to the student's home if the IEP team has determined a specialized level of service.
(NAC 388A.453(8))

8.3.5. Eligibility, administrative convenience, the availability of educational or related services, or the availability of space does not determine placement.

8.3.6. Retention is not an IEP team decision. Retention is governed by the charter school administration regulation and state law.

8.4 CONTINUUM OF PLACEMENT DECISIONS

8.4.1. The charter school is required to ensure that a variety of placement options is available to meet the needs of students with disabilities for special education and related services. The continuum must provide for supplementary services (such as resource room or itinerant instruction) in conjunction with placement in a regular education class. The continuum includes, as appropriate, instruction in:

a. regular education classes;
b. regular education classes with resource room;
c. self-contained programs;
d. community-based programs;
e. home instruction;
f. hospitals or institutions.
g. Working with County School Districts to obtain and utilize their resources, the charter school can further discuss special classes and special schools as an option for appropriate instruction.

8.4.2. The continuum of placement options for a child in early childhood special education may include, as appropriate:

a. an integrated or specialized center-based program (i.e., a program in which a group of children receives services at a central location) in a regular or special school;
b. a home-based program;
c. an itinerant consultant working with a community-based facility; or
d. the instruction of the child in a hospital or institution.

8.5 SPECIAL CONSIDERATIONS FOR CERTAIN TYPES OF PLACEMENTS

8.5.1. Disciplinary Placements

Under certain circumstances involving discipline, the charter school staff may remove a student with a disability from their current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, including a suspension for more than 10 school days. For a description of these circumstances, see Chapter 9.0. The charter school is responsible for identifying or developing an alternative educational placement including, but not limited to, contracted or inter-local agreement between another charter school or the county school district. The originating charter school is responsible for cost of placement.

8.5.2. Homebound and Hospital Placements

Homebound instruction may be appropriate for a limited number of students, such as students who are medically fragile and are not able to participate in a school setting with other students. However, a medically fragile student may benefit educationally and socially from a general education classroom placement, and may be provided with medically-related services that would permit such a placement. Homebound is not an appropriate placement consideration or an acceptable alternative when a due process hearing or disciplinary action is pending.

a. Homebound Services for Students receiving Special Education are for students with an IEP who are unable to attend classes due to physical or mental illness where confinement in a hospital or in the home is expected to be a minimum of fifteen (15) consecutive school days. Homebound services are:
   - intended to be a temporary service; and
   - the responsibility of the student's attending school.

   Homebound instruction is provided:
   - in the home, by a one-on-one Homebound instructor;
   - by referring school staff; and
   - is the responsibility of the charter school.

Homebound instruction is one of the most restrictive educational placements offered by the charter school. Every effort must be made to maintain instruction in the school setting before identifying a Homebound placement. It is the responsibility of the charter school to explore all lesser restrictive options. Such options may include, but are not limited to, a shortened school day and Supplemental Home Services. If a parent enrolls a child in a private mental health treatment facility, the IEP will NOT be changed to reflect homebound placement as the charter school is not providing services. If this student becomes available for homebound services outside the mental health treatment facility, regular homebound procedures will be followed beginning with the application.

Placement of students in Homebound education is initiated by the parent who obtains a Homebound application/referral directly from the charter school when it is determined that a student is unable to attend school due to injury or illness. If the charter school personnel receive notice that it is anticipated that the student will be absent from school for at least 15 consecutive school days for medical reasons, that person should contact the School Nurse (if the medical reason involves physical illness) or School Psychologist (if the medical reason involves mental or emotional illness or substance abuse problems). The fact that the student will be or is anticipated to be absent for at least 15 consecutive school days must be substantiated by a qualified physician who is acting within their authorized scope of practice.

b. Application/Referral

- The application/referral is a four-part form requiring completion by the parent, physician, counselor and/or the school nurse and/or the school psychologist.
- Anticipated confinement duration must be specified (e.g., six weeks, one month). A non-specific period of time (e.g., lifetime, 99 years, to be determined) is not acceptable.
- A description of the student's disability is required. In the case of a student with a psychological diagnosis, a copy of the psychiatrist's/attending physician's Treatment Plan and a copy of the therapist's Treatment Plan is also required. In addition, a copy of the school team's transition plan (i.e., a plan to return the student to school, with a timeline, procedures, activities, and responsible school personnel who will participate and be responsible for initiating and monitoring the plan) is required.
- If an extension of Homebound Services is needed, another application must be submitted or, in exceptional cases, a physician's memo or letter may be offered as an extension of the original application if it is within the same school semester. The extension must also identify a specific ending date.
- The application/referral must be completed by all four parties and then faxed or emailed to the charter school. A copy must be maintained at the school in the student's confidential folder.
- Homebound Service is considered a placement change for students receiving special education services and must be determined during an IEP meeting. An IEP Revision meeting must be convened by the student's school of attendance prior to initiation and termination of Homebound Service.
- Within one week of receiving the necessary paperwork, the school will notify appropriate school staff of the status of the referral and/or the Homebound Instruction effective start date. (See 7.5.6 for additional information)

CHAPTER 9 DISCIPLINE

INTRODUCTION

The charter school is obligated to provide a free appropriate public education (FAPE) to all eligible students with disabilities, including students who have been suspended or expelled, and is prohibited from applying its disciplinary policies in a manner that discriminates against students with disabilities. Certain procedures apply for placement of a student in an interim alternative educational setting in connection with disciplinary action against the student.

"School day" is defined as any day, including a partial day that students are in attendance at school for instructional purposes.

This chapter discusses the requirements for disciplinary actions for a student with a disability:

9.1 Short-Term Disciplinary Action
9.2 Disciplinary Change of Placement
9.3 Long-Term Disciplinary Removal
9.4 Manifestation Determination
9.5 Request for Hearing
9.6 Protections for Students Not Yet Eligible for Special Education
9.7 Referral to Law Enforcement Agencies
9.8 Disciplinary Information in a Student's Record

9.1 SHORT-TERM DISCIPLINARY ACTION

Short-term disciplinary removal for students with disabilities refers to a student's removal from instruction for less than 10 cumulative or 10 consecutive days in a given school year. This includes suspensions and Required Parent Conferences (RPC).

9.1.1. Educational Services

a. Educational services are not required if removal is for a total of 10 school days or less in a given school year and if services are not provided to students without disabilities who have been similarly removed.

b. Behavior plans may need to include:
   - review and/or revision of an existing behavioral intervention plan (BIP); and/or
   - functional behavioral assessment if there is no existing behavior plan.

c. Any break in IEP mandated services equals removal. In-school suspension (ISS) would not be considered as part of the days of suspension as long as the student:
   - participates in the general education curriculum (ISS is considered a general education environment); and
   - continues to receive the services and make progress toward meeting the goals in the student's IEP.

d. If a student is removed from his or her current educational placement for more than **a total of 10 school days** in a school year, even if these removals do not constitute a change in placement, school personnel must arrange to provide the student educational services to:
   - the extent necessary to enable the student to appropriately progress in the general education curriculum; and
   - appropriately advance toward achieving the goals set forth in the student's IEP.

9.2 DISCIPLINARY CHANGE OF PLACEMENT

Although the charter school personnel must take certain steps in connection with disciplinary action against a student who has or may have a disability, the most significant procedural protections with respect to disciplinary actions against a student with a disability are triggered when the action constitutes a change in the student's educational placement.

9.2.1. A disciplinary change of placement occurs when a student with a disability is removed from their current educational placement for more than 10 consecutive school days in a school year; or in a series of removals that constitute a pattern when:

a. the series of removals totals more than 10 cumulative school days in a given year;
b. the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
c. such additional factors as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

9.2.2. For any disciplinary actions that total less than 10 school days in a given school year, the charter school is not required to take any action. If the charter school personnel have questions regarding whether a series of disciplinary actions may constitute a change in placement, they should consult the charter school Site Administrator.

9.3 LONG-TERM DISCIPLINARY ACTION CONSTITUTES A CHANGE IN PLACEMENT

Long-term disciplinary removal for students with disabilities refers to a student's removal from instruction for 10 or more consecutive school days in a given school year. This removal constitutes a change of placement. The parent has the right to have a manifestation determination review, to determine relatedness of the student's behavior to the disability, when the student's school recommends removal of the student from the current educational placement to an interim alternative educational placement for more than 10 school days for violating school disciplinary rules.

9.3.1. Procedural Safeguards

a. Procedural Safeguards must be provided to parents when the school proposes a removal that will result in a disciplinary change of placement.
b. The date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability, the Site Administrator, school board, or designee must notify the parent of that decision and provide the parent with procedural safeguards notice and the charter school's appeal process.

9.3.2. Educational Services (Alternative Instructional Arrangements, AIA)

a. If a student is removed from their current educational placement for more than a total of 10 school days in a school year, the Site Administrator must ensure that services are provided to the student with disabilities on the 11th day of total removals.
b. These services must be provided to the extent necessary to:
    - enable the student to appropriately progress in the general curriculum;
    - appropriately advance toward achieving the goals set out in the student's IEP; and
    - receive, as appropriate, a functional behavioral assessment (FBA) and behavioral intervention services and modifications that are designed to address the behavior so that it does not reoccur.
    - Note: Alternative Educational Placement

9.4 MANIFESTATION DETERMINATION

A manifestation determination meeting must be convened immediately, but no later than 10 school days after the date on which a disciplinary change of placement decision is made. Note: As of the 11th school day of suspension, alternative instructional arrangements must be provided while waiting to convene a manifestation determination meeting.

9.4.1. Procedure

a. The Site Administrator meets with parent to inform them of the recommendation for a long-term removal and to provide procedural safeguards.
b. The site administration must notify special education staff so that a manifestation determination/IEP meeting can be scheduled.
c. Appropriate prior written notice must be provided to the parent indicating disciplinary action.

9.4.2. Participants:

a. LEA;
b. Parent; and
c. Relevant members of the IEP team (as determined by the parent and LEA).

9.4.3. The school is required to proceed with the Manifestation Determination (MD) meeting in a timely manner. If the parent is unavailable to attend within the 10 day timeframe, the manifestation determination meeting can be convened without the parent.

a. If a MD has occurred without the parent, an Intent to Implement must be completed and sent to the parent as described in Chapter 3.0.
b. If the parent disagrees with the MD, an Intent to Implement must be completed and sent to the parent.
c. The MD review may be conducted by the IEP Team at the same meeting at which it develops or revises a BIP and appropriate behavioral interventions.

9.4.4. Manifestation Determination Meeting

When conducting a manifestation determination meeting, the IEP Team must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent to determine:

a. if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or
b. if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

Based on this information, the IEP Team must determine whether the student's behavior that is subject to the disciplinary action is a manifestation of their disability. If the LEA, parent and relevant members of the IEP team determine that a student's misconduct was caused by or had a direct and substantial relationship to the student's disability, or a direct result of the District's failure to implement the student's IEP, the conduct shall be determined to be a manifestation of the student's disability.

9.4.5. If the IEP Team determines that the behavior was not a manifestation of the student's disability:

a. the student is subject to the same disciplinary action as nondisabled peers;
b. after the 10th day of removal, students with disabilities must continue to receive educational services; and
c. the parent may request an expedited due process hearing.

9.4.6. If the IEP team determines that the behavior was a manifestation of the student's disability, the team must either:

a. conduct a functional behavioral assessment (FBA) unless the LEA had conducted a FBA before the behavior that resulted in a change of placement occurred, and implement a behavioral intervention plan (BIP); or
b. if a BIP had been developed, review the BIP, and modify it, as necessary, to address the behavior.

In addition, the IEP Team should complete the Functional Behavioral Assessment worksheet, the Behavior Plan Worksheet, and all relevant sections of the IEP, as appropriate. The IEP Team may also want to consider if the student needs a reevaluation. Except as provided in section 9.4.7., **the school may not** impose disciplinary action and must return the student to the placement from which the student was removed, unless the IEP team agree to a disciplinary change of placement.

9.4.7. Special Circumstances

The charter school may discuss removal of 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 student's disability, in cases where a student:

a. carried a weapon to school or to a school function under the jurisdiction of the charter school; or
   - The term weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

b. knowingly possessed or used illegal drugs or sold or solicited the sale of a controlled substance while at school or at a school function under the jurisdiction of the charter school ; or
   - An illegal drug means a controlled substance, but does not include a substance that the student legally possesses or uses under the supervision of a licensed health-care professional, or that is legally possessed or used under federal law.

c. had inflicted serious bodily injury upon another person while at school or at a school function under the jurisdiction of the charter school.
   - Serious bodily injury is an injury involving **substantial** risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of function of a bodily member, organ or mental faculty.

For questions regarding special circumstances, contact the charter school site administrator for assistance.

9.5 REQUESTS FOR A HEARING

9.5.1. A parent may request a due process hearing when they disagree with any decision regarding disciplinary placement or the manifestation determination.

9.5.2. Following a request from the charter school, the LEA may request a due process hearing when they believe that maintaining the current placement of the student is substantially likely to injure the student or others.

9.5.3. The hearing officer may order a disciplinary change of placement which may include:

a. returning the student with a disability to the placement from which they were removed; or

b. ordering a change in placement to an interim alternative educational setting for no more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the child or others.

9.5.4. The Nevada Department of Education (NV DOE) who is the State Education Agency (SEA) is required to arrange for an expedited hearing that must occur within 20 school days from the date that the request is made. The hearing officer must render a decision within ten school days after the hearing.

9.5.5. Stay Put Requirements

The student is to remain in the educational setting pending the decision of the hearing officer or until the time period of the disciplinary infraction ends.

9.6 PROTECTIONS FOR STUDENTS WHO ARE NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

9.6.1. In some circumstances, a student who has not yet been determined to be eligible as a student with a disability may be entitled to procedural protections. If there was a suspicion of a disability prior to the behavior infraction and recommendation of an alternative placement, discipline must cease and an expedited evaluation must occur unless the infraction involved weapons, drugs or serious bodily harm. The LEA is deemed to have knowledge that a student is a student with a disability if, before the behavior that precipitated the disciplinary action occurred:

a. the parent of the student had expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;
b. the parent of the student has requested an evaluation of the student; the teacher of the student, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the Site Administrator of the school.

9.6.2. Exception: The LEA is deemed not to have knowledge that a student is a student with a disability if the parent of the student has not allowed an evaluation, has refused or revoked services, or the student has been evaluated, and it was determined that the student was not a student with a disability.

9.7 REFERRAL TO LAW ENFORCEMENT AUTHORITIES

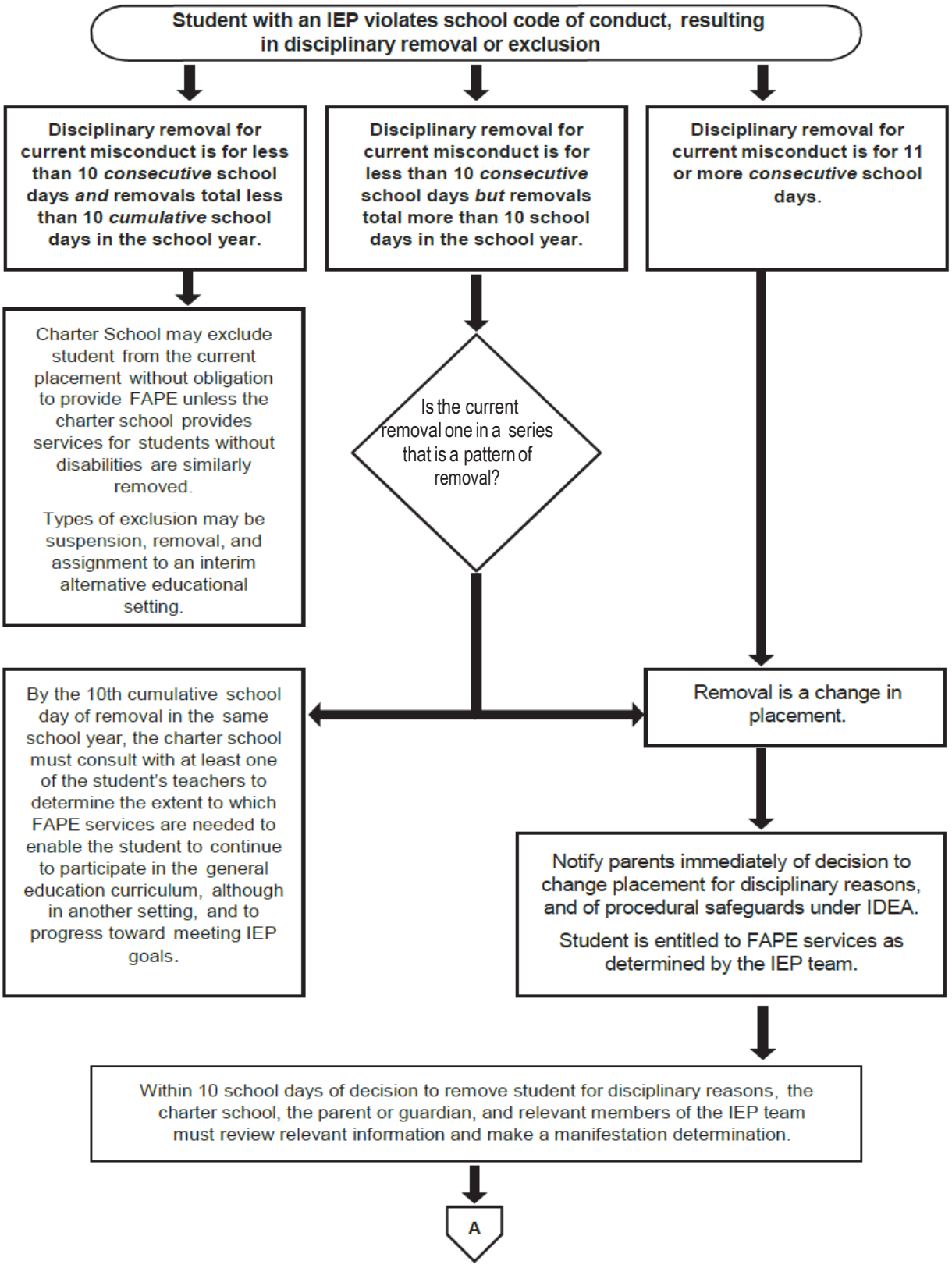
The protections described in this Chapter do not prevent school personnel from reporting a crime committed by a student with a disability to appropriate authorities. Similarly, these protections do not prevent state law enforcement and judicial authorities from exercising their responsibilities in applying federal or state law to crimes committed by a student with a disability. If school personnel report a crime committed by a student with a disability to appropriate authorities, they must ensure that copies of the student's special education and disciplinary records are transmitted for consideration by those authorities to whom the agency reports the crime. The student's records may be transmitted only to the extent such transmission is permitted by the Family Educational Rights and Privacy Act.

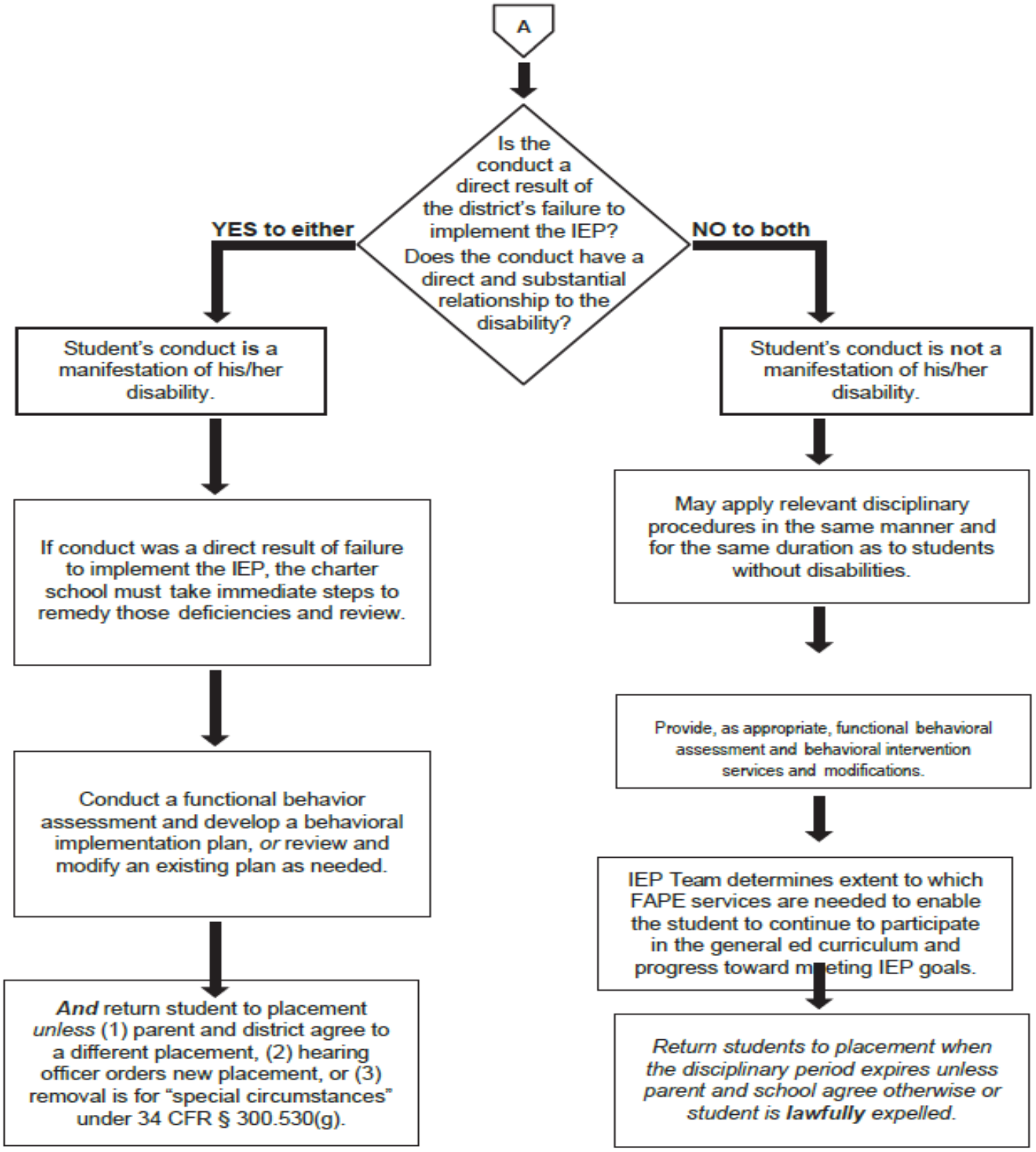
9.8 DISCIPLINARY INFORMATION IN STUDENT RECORDS

9.8.1. If a student has been or is being subjected to any disciplinary action, the school may include information about such previous or current disciplinary actions in the student's records to the same extent such information is included in the records of students without disabilities.
The information may include:
a. a description of the student's behavior that required disciplinary action;
b. a description of the disciplinary action taken; and
c. any other information that is relevant to the safety of the student and other individuals involved with the student.

9.8.2. The school also may transmit the disciplinary information in the records of students with disabilities to the same extent that type of information is transmitted in the records of nondisabled students. If the student transfers to another school, the student's current IEP and any information of disciplinary action as described above must be transmitted with their records.

IDEA Disciplinary Procedures for Students with Disabilities

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Is the conduct a direct result of the district's failure to implement the IEP? Does the conduct have a direct and substantial relationship to the disability?
YES to either
NO to both
Student's conduct is a manifestation of his/her disability.
If conduct was a direct result of failure to implement the IEP, the charter school must take immediate steps to remedy those deficiencies and review.
Conduct a functional behavior assessment and develop a behavioral implementation plan, or review and modify an existing plan as needed.
And return student to placement unless (1) parent and district agree to a different placement, (2) hearing officer orders new placement, or (3) removal is for "special circumstances" under 34 CFR § 300.530(g).
Student's conduct is not a manifestation of his/her disability.
May apply relevant disciplinary procedures in the same manner and for the same duration as to students without disabilities.
Provide, as appropriate, functional behavioral assessment and behavioral intervention services and modifications.
IEP Team determines extent to which FAPE services are needed to enable the student to continue to participate in the general ed curriculum and progress toward meeting IEP goals.
Return students to placement when the disciplinary period expires unless parent and school agree otherwise or student is lawfully expelled.

CHAPTER 10 STUDENT RECORDS AND CONFIDENTIALITY

INTRODUCTION

The charter school is required to follow certain procedures for collecting, maintaining, disclosing, and destroying educational records relating to a student with a disability. Education records include records covered under Family Educational Rights and Privacy Act (FERPA). A record includes printed or handwritten documents, but also includes information recorded in any other way, including computer media, videotape, audiotape, film, microfilm, and microfiche.

This chapter discusses student records and confidentiality requirements:

10.1 Education records defined
10.2 Maintenance of records
10.3 Access to records
10.4 Copying records
10.5 Requests for records
10.6 Destruction of records
10.7 Amendment of records at parents' request
10.8 Annual notice of parental rights

10.1.1. Education records include records that are:

a. directly related to a student; and
b. maintained by the charter school .

10.1.2. The term does not include:

a. records that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person;
b. records of the charter school security;
c. personnel records;
d. records that are created or received after a student that is no longer enrolled in the charter school; or
e. documents under development, but are not yet completed (Multidisciplinary (MDT) reports).

10.1.3. Some of the protections for student records relate to information that is personally identifiable to the student. Information is personally identifiable if it includes:

a. the name of the student, the student's parent, or other family member;
b. the student's address;
c. a personal identifier, such as the student's social security number or student number; or
d. a list of the student's personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

10.1.4. Although this Chapter refers to the rights of the parent, these rights will transfer from the parent to the student when the student reaches age 18. If the general rights of the parent under IDEA are transferred to the student at age 18, as described in the Procedural Safeguards Chapter 2.0, the parent's rights regarding education records will transfer to the student. However, the school is required to provide the parent and the student notice required under the procedural safeguards requirements of IDEA, as described in the Procedural Safeguards Chapter 2.0.

10.2 MAINTENANCE OF RECORDS

The charter school is required to protect the confidentiality of personally identifiable information regarding a student. The charter school's Special Education Department and its Site Administrator are the designated school officials responsible for ensuring the confidentiality of any personally identifiable information.

10.2.1. The Site Administrator shall:

a. designate a confidentiality official to serve as a records custodian for each school;
b. ensure that all school staff that collect or use a student's personally identifiable information are trained in confidentiality requirements;
c. maintain the records in a secure and locked location; and
d. ensure that a current list of the names and positions of those the charter school employees who have access to the records are maintained; and
   - posted in plain view and in close proximity to the confidential records; and
   - ensures that the person(s) who access each student education record signs the Status Record.

10.3 ACCESS TO RECORDS

10.3.1. General Right of Access

School personnel must permit the parent to inspect and review any education records relating to their child that the charter school collects, maintains, or uses under IDEA.

a. As part of the process of allowing access to education records, the Site Administrator is responsible for verifying that the person requesting access has authority to do so. For assistance in determining whether a parent has authority to access a student's education records, contact the charter school Site Administration.
b. For procedures related to copying records refer to section 10.4.
c. the charter school regulations require that the Site Administrator must comply with a request to access or review records:
   - no more than 10 days after receipt of the request to review the records; or
   - before any meeting regarding an IEP, hearing, or resolution session.
d. the charter school personnel must be present to interpret records being reviewed and must follow the record of access procedures as described in 10.3.2. below.

10.3.2. Record of Access

The charter school is required to keep a Status Record of parties obtaining access to confidential education records collected, maintained, or used under IDEA. The record must include the:

a. first and last name and title of the party accessing the record;
b. date access was given; and
c. purpose for which the party is accessing the record.

10.3.3. Parent Right to Access

a. Parents' right to inspect and review education records includes the right to:
   - a response from the school for a reasonable requests for explanations and interpretations of the records;
   - request copies of the records containing the information; and
   - have a representative of the parent inspect and review the records.
b. In order to provide meaningful explanations of records for a parent who may be unable to read due to blindness, inability to read English, distance, or other reasons, the Site Administrator must take steps to provide an interpreter, an oral explanation, Braille versions of documents, or an opportunity to review the documents over the telephone, as appropriate. In addition, copies of certain documents may be provided to a parent, as described in section 10.4.1.
c. If any education record includes information on more than one student, the parent has the right to inspect and review only the information relating to their own child, or to be informed of that specific information. School

personnel should ensure that they block out or omit information about other students on copies of education records or take other measures to avoid disclosure to unauthorized persons.

d. The school is required to provide the parent, on request, a list of:
   - the types and locations of education records collected, maintained, or used by the school; and
   - the charter school employees with authority to access student's personally identifiable information.

e. The school shall:
   - inform the parent when personally identifiable information is no longer needed to provide educational services to the student;
   - maintain a permanent record of the student's name, address, telephone number, grades, attendance, classes attended, grades completed and the year they were completed; and
   - not disclose personally identifiable information except as authorized by law.

f. rights of access extend to student teachers and related service interns who have a legitimate educational interest in accessing educational records.

g. Specific requirements apply to maintenance and disclosure of disciplinary information included in a student's records. These requirements are discussed in the Discipline Chapter 9.0.

10.4 COPYING RECORDS

10.4.1. If a parent requests a copy of an education record:

a. the charter school personnel shall comply with the request within a reasonable period, but not more than 45 calendar days after receipt of the request.

b. The school is allowed to charge a fee for copying, but may not charge a fee for searching or retrieving information. The fee may be waived if charging the fee would effectively prevent the parent from exercising their right to inspect and review the documents. The fee schedule must be published in the school/parent/student handbook.

10.5 REQUEST FOR RECORDS

10.5.1. Written parental consent must be obtained before personally identifiable information in the student's records is disclosed to anyone other than officials of the charter school collecting or using the information under IDEA.

10.5.2. FERPA prevents school personnel from disclosing personally identifiable information in a student's education record, except if the parent or eligible student provides the signed Authorization for Release of Confidential Information consent form.

10.5.3. The written consent must:

a. specify the records that may be disclosed;

b. state the purpose of the disclosure; and

c. identify the party to whom the disclosure may be made.

10.5.4. Prior written consent is not required when providing education records to:

a. school officials with a legitimate educational interest;

b. officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;

c. specified officials for audit or evaluation purposes;

d. appropriate parties in connection with financial aid to a student;

e. organizations conducting certain studies for or on behalf of the school;

f. accrediting organizations;

g. comply with a judicial order or lawfully issued subpoena; or

h. state and local authorities, within a juvenile justice system, pursuant to specific State law.

However, the school must make a reasonable attempt to notify the parent, unless the disclosure was initiated by the parent or eligible student, or unless the school's annual FERPA notification includes a provision that education records will be forwarded upon request to other institutions where the student seeks admission or intends to enroll or is already enrolled. The parent is entitled to a copy of the record that was disclosed and has the right to a hearing.

10.5.5. If a parent refuses to provide consent to disclose a student's personally identifiable information, the charter school personnel should contact the charter school Site Administration.

10.6 DESTRUCTION OF RECORDS

10.6.1. If the parent requests that personally identifiable information in the records be destroyed, the parent should contact the charter school Site Administrator. Destruction means either physical destruction or removal of personal identifiable information. However, the charter school may maintain (without a time limitation) a permanent record of the student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed.

10.6.2. The charter school's policy is to destroy a student's records six (6) calendar years <u>after</u> he/she graduates or would normally have graduated from high school.

10.7 AMENDMENT OF RECORDS AT PARENT'S REQUEST

10.7.1. Request for Amendment

a. The parent may request the school to amend information in their child's education records if the parent believes that the information:
   - is inaccurate;
   - is misleading; or
   - violates the student's privacy rights or other rights.

b. The parent must submit the request in writing to the Site Administrator to explain which information is being challenged and the reasons for their objection to the information.

c. Within ten school days after receiving such a request, the Site Administrator must inform the parent in writing of the determination, the reasons for the decision, and the right to appeal.

10.7.2. Appeal

The parent has the right to appeal the determination to the Site Administrator or school designee within ten school days after receipt of the Site Administrator's letter. The Site Administrator or designee shall hold a hearing with the parent within fifteen working days of receipt of the appeal.

10.7.3. Hearing

Upon a parent's request, the school is required to provide an opportunity for a hearing to challenge information in the student's education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. The parent's request for a hearing should be forwarded to the Site Administrator or designee.

a. Requirements:
   - the hearing must be scheduled within fifteen working days after receipt of request;
   - reasonable notice must be provided to the parent of the date, time, and place of the hearing;
   - the hearing must provide the parent a full and fair opportunity to present relevant evidence, and the parent may be assisted by an attorney or other individual at the parent's expense;
   - within five working days after conclusion of the hearing, the Site Administrator or designee must inform the parent of their decision in writing; and
   - the parent shall be notified of the decision by certified mail.

b. If, as a result of the hearing, it is determined that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the charter school personnel must amend the information

accordingly. The charter school personnel are responsible for informing the parent in writing that the information has been amended.

c. If, as a result of the hearing, it is determined that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the Site Administrator or designee must inform the parent of their right to place in the student's school records a statement commenting on the disputed information or setting forth any reasons for disagreeing with the information. Any such explanation that is placed in the student's records must be maintained by the charter school as part of the student's records. If the student's records or the contested portion is disclosed by the charter school to any party, the explanation must also be disclosed to the party.

10.8 ANNUAL NOTICE OF PARENTAL RIGHTS

10.8.1. The charter school is required to notify parents annually of their right to:

a. inspect and review the student's education records;

b. seek amendment of the student's education records that the parent believe are inaccurate, misleading, or that violate the student's privacy rights;

c. disclosure of personally identifiable information unless an exception applies; and exception applies; and

d. file an administrative complaint regarding alleged noncompliance with records requirements.

10.8.2. The charter school is required to provide annual notice about these rights in a manner that effectively notifies parents who are disabled, or who have a primary or home language other than English.

APPENDIX