

Lowell Public Schools



Special Education Procedural Manual

2021

ADMINISTRATION STAFF

Dr. Joel Boyd - Superintendent of Schools

Robin Desmond – Chief Academic Officer

Michael Lovato – Special Education Director

Donna Maluccio – Assistant Special Education Director

Ashley Pennell – Assistant Special Education Director

Mike Ortiz – Legal Counsel

Jane Mosher-Canty – Legal Counsel

Limitations of Use of this Handbook and Disclaimer

The purpose of this operating and procedural manual is to provide support and guidance to the management and staff of Lowell Public Schools. Nothing in this manual is intended to create, nor does it create any enforceable rights, remedies, entitlements or obligations. The Special Education Office reserves its right to change or suspend any or all parts of this manual at the district's discretion to ensure full compliance with federal and state laws and regulations, Massachusetts Department of Elementary and Secondary Education guidelines, Federal United States Department of Education guidelines, and Lowell Public School Committee policies.

Updated January 2021

Lowell Public Schools Mission/Vision Statement

Mission Statement

All students will be provided an individualized and meaningful education that provides opportunity for inclusion that is developed by:

- Engaging the educational community
- Providing opportunity for rigor and relevance
- Providing opportunity for relationships with the community

Vision Statement

To provide a comprehensive system of coordinated services and supports across inclusive settings to meet each learner's unique academic, behavioral, health, and social-emotional needs; and to provide leadership, resource management, technical assistance, and guidance to students, families, and staff through a comprehensive system of tiered supports and services students within an inclusive environment.

PURPOSE & INTRODUCTION.....Page 10

1.0 Communication with Non-English-Speaking Parents

2.0 PRE-REFERRAL AND REFERRAL PROCESSPage 12

- 2.1 Child Find
- 2.2 Pre-Referral Requirements and Response to Intervention
- 2.3 Referral for Initial Evaluation
- 2.4 School Referral
- 2.5 Parent Referral
- 2.6 Private School Referral
- 2.7 Sending Out Consent to Evaluate
- 2.8 Parent **Does Not** Submit Signed Parental Consent
- 2.9 Receipt of Consent at End of School Year
- 2.10 Early Childhood Evaluation Requests

3.0 EVALUATION PROCESSPage 18

- 3.1 Initial Evaluation
- 3.2 Required Assessments for an Initial Evaluation
- 3.3 Evaluation Reports
- 3.4 Provision of Outside Evaluations
- 3.5 Re-evaluations
- 3.6 Assessments Required for Suspected Specific Learning Disabilities (SLD) Determination
- 3.7 Assessment Reports

- 3.8 Review of Existing Evaluation Data Procedure for Re-evaluations
- 3.9 Psychological Evaluations for Re-evaluations
- 3.10 “Private Evaluation”
- 3.11 Independent Educational Evaluation
- 3.12 Extended Evaluation

4.0 THE TEAM PROCESS.....Page 29

- 4.1 The IEP Team
- 4.2 Parent Participation in Team Meetings
- 4.3 Decision Making at Team Meetings
- 4.4 Eligibility Determination
- 4.5 Disability Categories
- 4.6 Criteria for Determining the Existence of a Specific Learning Disability
- 4.7 Effective Progress
- 4.8 Specially Designed Instruction
- 4.9 Eligible for Special Education
- 4.10 Not Eligible for Special Education
- 4.11 Parent Understanding of Evaluation Agreement
- 4.12 The Special Education Eligibility Flowchart
- 4.13 Parent Disagrees with Eligibility Finding
- 4.14 Independent Educational Evaluations (IEE)
- 4.15 Extended Evaluations
- 4.16 Confidentiality

- **5.0 DEVELOPMENT OF THE IEP** Page 45
- 5.1 Summary of Team Meeting Form
- 5.2 A Team Meeting Works Best If
- 5.3 The IEP Should Serve to Focus on the Special Education Services
- 5.4 Parents and/or Students Need to Provide Input into IEP Development
- 5.5 Teams Should Keep a Whole Child Perspective
- 5.6 The General Curriculum Must Be Addressed in ALL Student’s IEPs
- 5.7 The IEP Must Address ALL Areas of Educational Need
- 5.8 The IEP Must Include:
- 5.9 Free and Appropriate Public Education (FAPE)
- 5.10 Least Restrictive Environment (LRE)
- 5.11 Placement
- 5.12 Students Privately Placed at Parent’s Expense
- 5.13 Voluntary Termination from School Prior to Graduation or Age 22
- 5.14 Graduation Requirements for Special Education Students
- 5.15 Age of Majority
- 5.16 College Testing Information
- 5.17 Continuum of Special Education Services
- 5.18 Related Services
- 5.19 Assistive Technology
- 5.20 Special Transportation
- 5.21 Out of District Placement

- 5.22 IEP Amendments
- 5.23 Progress Reports
- 5.24 Extended School Year (ESY)
- 5.25 State/District Wide Assessment Accommodations
- 5.26 MCAS Alternative Assessments

6.0 PROPOSING IEPsPage 71

- 6.1 Processing the Proposed IEP for Distribution to Parents
- 6.2 Implementation of IEP
- 6.3 Receipt of Signed IEPs
- 6.4 Receipt of Partially Rejected and Fully Rejected IEPs
- 6.5 Amendments
- 6.6 IEP Revisions
- 6.7 Declining Special Education Services
- 6.8 Students New to Lowell Public Schools

7.0 PROGRESS MONITORING Page 75

- 7.1 Progress Monitoring/Progress Reports
- 7.2 Mailing Home and Filing Progress Reports
- 7.3 Retention of Students with IE

8.0 STUDENT DISCIPLINE PROCEDURESPage 77

- 8.1 Disciplining Students with Disabilities

9.0 REQUEST FOR SERVICES Page 80

- 9.1 Release of Information

- 9.2 Parent request for Observation
- 9.3 Home-Hospital Educational Services

APPENDIX

| | | |
|------------|---|---------|
| APPENDIX A | <u>HOME LANGUAGE SURVEY</u> | Page 12 |
| APPENDIX B | <u>PROCEDURAL SAFEGUARDS</u> | Page 17 |
| APPENDIX C | <u>N1 NOTICE OF PROPOSED SCHOOL DISTRICT ACTION</u> | Page 25 |
| APPENDIX D | <u>SPECIFIC LEARNING DISABILITY FORMS</u> | Page 34 |
| APPENDIX E | <u>POST SECONDARY PLANNING</u> | Page 59 |
| APPENDIX F | <u>AGE OF MAJORITY NOTICE/FORM</u> | Page 62 |
| APPENDIX G | <u>MCAS PARENT ALTERNATIVE NOTICE</u> | Page 71 |
| APPENDIX H | <u>TEAM MEETING SUMMARY</u> | Page 71 |
| APPENDIX I | <u>IEP CHECKLIST/COVER SHEET</u> | Page 72 |
| APPENDIX J | <u>PROGRESS REPORT COVER SHEET</u> | Page 77 |
| APPENDIX K | <u>CONSENT FOR RELEASE OF INFORMATION</u> | Page 81 |
| APPENDIX L | <u>OBSERVATION CONSENT/CONFIDENTIALITY FORM</u> | Page 82 |
| APPENDIX M | <u>TEMPORARY HOME AND HOSPITAL FORM</u> | Page 83 |

1.0 Purpose & Introduction

Purpose

This manual has been developed as a resource for Lowell Public Schools' Staff and administration to provide guidance on policies, practices and procedures and to ensure a responsive and inclusive environment based on each student's individual needs. This manual or handbook is meant as a guide to providing a framework that brings cohesion and coherence to our ongoing work in order to better serve students with disabilities in Lowell.

This Manual or Handbook is a living document that will be continually updated to remain comprehensive and current, and to ensure fidelity with the laws and regulations. Please take note that the following practices and procedures are aligned with the following laws and regulations:

- Massachusetts Department of Education, Massachusetts General Laws Ch. 71B, et seq. and Massachusetts Special Education Regulations 603 CMR 28.00 et. seq
- The Individual with Disabilities Education Improvement Act of 2004, and 34 CFR 300 et. seq.
- The No Child Left Behind Act (NCLB) helps to ensure equity, accountability and excellence in education for children with disabilities.
- Section 504 The Rehabilitation Act of 1973 (as amended).
- Title VI of the Civil Rights Act of 1964
- The Equal Educational Opportunities Act of 1974
- Title IX of the Education Amendments
- Title II of the Americans with Disabilities Act of 1990

Since the special education laws and regulations are complex, this Special Education Procedure Manual summarizes State and Federal Regulations and outlines procedures to facilitate the implementation of the Regulations and ensure compliance.

The goal is for practitioners to benefit from this Procedure Manual as a resource and a guide to service students with special education needs. The aim is to improve special education services for students with disabilities, increase educational results, and strengthen the involvement of parents and general education teachers.

Introduction

The Lowell Public Schools is committed to providing all students with disabilities access to the curriculum and general education programs. With a continuum of resources and services available, Lowell Public Schools will provide the instruction necessary to help students with disabilities close the gap between their skills and their grade level expectations.

Special education support and services should not be viewed as a separate model, but instead as part of the continuum of supports, services and interventions created to ensure that the educational environment is responsive to the diverse learning needs of all students. Working together staff can ensure equal opportunity, full participation and increased outcomes for all learners, including students with disabilities.

We hope the information contained in this handbook will be helpful to all who are a part of the Special Education process within the Lowell Public Schools. We encourage you to share with parents' information to join the Lowell Public Special Education Parent Advisory Council, in order to connect with other families and staff, and to help advise the district on current special education related issues, programs and information.

1.1 Communication with Non-English-Speaking Parents

When working with families whose primary language is not English, the district is required to provide translation services. These services may include interpreters at team meetings, as well as having documents translated. All special education documentation sent home should be translated for the family. This would include, for example, N1s, Evaluation Consent Forms, Meeting Invitations, assessments (reports), IEPs, etc. Copies of all interpreted documents should be sent to the Special Education Office to be maintained as part of the student's file. When

translation services are required, please contact the Special Education Office. At each Team meeting, the Team chairperson (Evaluation Team Chairperson for Initial/Re- evaluations and Liaisons for Annual Reviews) should complete the Home Language Survey (see Appendix A) to document whether oral interpretation and/or written translations are required. The Home Language Survey should be completed annually until the parents indicate they do not require either oral interpretation or written translations. This signed form should be sent to the Special Education Office to be maintained in the student's file.

When an evaluation by a district staff member requires translation, a copy of the evaluation should be emailed to the special education office as a word document, with a request or cover page which denotes the need to facilitate the translation process and the specific language required.

2.0 Pre-Referral Process for Special Education

2.1 Child Find

Child Find is part of the federal law, Individuals with Disabilities Education Act (IDEA). Under this law, the district must identify, locate and evaluate all children with disabilities in the state who need special education and related services. To do so, all public-school districts must conduct "Child Find" activities.

It is the responsibility of Lowell Public Schools to identify any child who may have a disability who either:

- resides in the City of Lowell
- is in a district approved home-school program
- who attends a private school within the geographic boundaries of Lowell (resident or non-resident)

Child Find is an ongoing process directed by the Special Education Department to locate, identify, assess and evaluate (with parental consent) children and youth from the ages of 3-22 who may be eligible to receive special education services because they have a disability.

The Special Education Department of Lowell Public Schools is responsible for conducting Child Find activities to inform the public that every child with a disability is entitled to a free, appropriate public education designed to meet the child's individual needs.

2.2 Pre-Referral Requirements and Response to Intervention

A primary result of the Massachusetts Education Reform Act of 2000 reinforces the belief that the general education curriculum is for each and every student. Therefore, special education "should not be a separate program, but rather should be one aspect of a continuum of supportive services and programs that are provided to ensure that the general education environment is a responsive one", Massachusetts Department of Education, March 2001.

General Education Responsibilities Prior to Considering a Referral for a Special Education Evaluation.

Prior to referral of a school age child for evaluation to determine special education eligibility under the Massachusetts Special Education Regulations, the Principal of the child's school shall ensure that all efforts have been made to meet such child's needs within the regular education program. The Principal of each school shall adopt and implement the District's curriculum accommodation plan created under section MGL, Chapter 71 section 38Q 1/2 in developing strategies for serving children with diverse learning styles within the regular classroom. These efforts and their results shall be documented and placed in the child's school record but they shall not be construed to limit or condition the right to refer a school age child for an evaluation under the provisions of this chapter.

Furthermore, under the regulations, the Principal's role has been greatly expanded. The Principal must promote instructional practices to respond to struggling students and ensure that adequate instructional support is available to students and teachers to include but not be limited to:

- Remedial instruction
- Consultative services for teachers
- Availability of reading instruction at the elementary level
- Other services consistent with effective educational practices

- Instructional and behavioral accommodations
- The use of any other general education support services
- Appropriate services for linguistic minority students

If the student is referred for an evaluation to determine special education eligibility, the Principal must also ensure that documentation on the use of instructional support services is provided as part of the information reviewed by the Team when determining eligibility.

All interventions, instructional practices and accommodations should be documented in the RTI/TAT process if the referral for special education has been put forward by the school district. RTI should also be implemented in conjunction with a *referral for evaluation*.

*** If the referral is coming from outside the school district, the consent should be processed in accordance with the law. Additionally, the ETC should refer the student to the TAT Team. This will begin data collection on interventions being implemented and ensure the students are receiving support during the processing of the consent and evaluation.** Once a formal referral for evaluation has been expressed either in writing or orally by a parent or other person in a legal caregiver capacity, the school district may not delay the provision of said evaluation and should immediately refer the student to TAT. The district must promptly and without delay send notice and seek permission to conduct an initial evaluation for special education eligibility. The school district has five (5) working school days from receipt of referral to send the Parent the evaluation consent form for their signature and consent. If a parent provides verbal permission/consent, that it should be followed up by written consent or something akin to this. Parental consent for evaluation must be obtained before initiating the evaluation.

Teacher Assistance Teams (TAT)

The Lowell Public Schools have established Teacher Assistance Teams (TAT) in each building to assist teachers in meeting the needs of students experiencing difficulties in the regular classroom. The Teacher Assistance Team is a small group of school staff that meets on a regular basis with teachers who request assistance in meeting the needs of students in their regular classrooms.

2.3 Referral for Initial Evaluation

A referral for an initial evaluation to determine eligibility may be initiated by a parent or any person in a care-giving or professional position concerned with the student's development (Parent Referral) or as the result of the TAT Process. The TAT process will also be implemented in conjunction with a parent referral for evaluation. A parent's right to refer their child for a special education evaluation, however, is not limited and should never be delayed because the school district has not fully explored and/or attempted some or all of the available instructional support programs or any other type of interventions. In any case where the parent or person making a referral has concerns about the student's development or a suspicion that the student may have an educational disability, the school district must respond in writing to the request within five (5) school working days. Parental consent must be obtained before conducting any evaluation for special education services.

2.4 School Referral

Once the Teacher-Assisted Team (TAT) has determined that all efforts have been made to meet the needs of the student within the general education program, that the general education interventions and supports and efforts have been unsuccessful and the student is not making adequate progress; the TAT may refer the student for an initial evaluation in order to determine special education eligibility. Documentation of this referral must be included in the student record. *The team will propose evaluations in the areas of suspected disability (areas of concern) based on the academic and medical data available.* The Evaluation Team Chair (ETC) shall ensure that the school's documentation of the use of instructional interventions and supports for the student is provided as part of the evaluation information reviewed available to the Team when determining eligibility. The ETC will notify the parents of the school district's proposal for an initial evaluation. The ETC shall send notice and consent within a "consent packet" (including Parental Notice of Procedural Safeguards, N1, and Evaluation Consent) and shall coordinate the evaluation process. (See Section 2.7- Sending out Consent to Evaluate).

2.5 Parent Referral

A parent (including foster parent, guardian, an individual with whom the child lives, or an individual legally responsible for the child's welfare) or any person in a care-giving or professional position concerned with the student's development may refer a student at any time for an initial evaluation to determine eligibility for special education. This referral may be made either orally or in writing. If a parent or caregiver verbally requests an evaluation, the ETC should be notified immediately. Parents are strongly encouraged to submit a written request for an evaluation; however verbal confirmation of the parent's decision to pursue a special education evaluation also necessitates that the referral process begin. Upon receipt of parent referral, the school district must respond in writing to the request within five (5) school working days. Parental consent must be obtained before conducting any evaluation for special education services.

District staff should inform parents about the instructional support process through the TAT available in their child's school and provide parents with an opportunity for this support process to take place as a first step. Parents should be encouraged to access the TAT process for their child as a prerequisite to a special education evaluation. Parents should be told of their right to request a special education evaluation at any point. *Unless given parent permission, the instructional support process cannot delay a parent's request for a special education evaluation.*

If a parent agrees to access the instructional support process as a first step, instead of pursuing an evaluation, the ETC shall confirm and document this via written agreement using an N1 notice. This agreement should be maintained in the student cumulative file and a copy sent to the parents.

2.6 Private School Referral

When private school personnel submit a referral for a special education evaluation, the ETC must notify the parents immediately and forward them a Release of Information Form in order to facilitate communication between the private school staff and the district. The school district is obligated to conduct a

review to determine if special education evaluations for students who attend private school is appropriate at no cost to the private school or parents. An evaluation cannot be conducted without receipt of a signed Parental parent consent. The district must respond as described above in Section 2.4 – School Referral. The private school must provide all relevant educational documents to include all interventions provided for the suspected area of need.

When a parent of a private school student contacts the school district to request a special education evaluation, the same process as described above in Section 2.5 Parent Referral would apply.

2.7 Sending Out Consent to Evaluate

Upon receipt of the completed Initial Evaluation Request Packet indicating the parent’s decision to continue the evaluation process, the ETC will seek consent for the evaluation within five (5) school working days by mailing a consent packet to the parents which includes:

- A proposal to conduct an initial team evaluation (N1)
- An evaluation consent form (N1a)
- A notice of procedural safeguards (Appendix B)

NOTE: No testing/evaluations should begin prior to receiving the evaluation consent form back with a check indicating consent and a parent signature.

Consent for an initial evaluation for wards of the state is not required if the LEA cannot identify the parent or determine who has parental rights, the LEA will act in pursuant to its rights and responsibilities under DESE regulation 603 CMR 28:10, School District Responsibility. The District is obligated to seek a surrogate parent, through the DESE, for wards of the state. A ward of the state includes foster children (except if the child has a foster parent) and a child “who is” in the custody of a public child welfare agency.

2.8 Parent Does Not Submit Signed Parental Consent

If signed parental consent has not been received within thirty (30) calendar days

excluding summer break, then the consent packet will be mailed a second time with the date documented. If signed parental consent has not been received within two (2) calendar weeks of the second attempt, the consent packet will be mailed a third time with the date documented. If signed parental consent has not been received within two (2) calendar weeks of the third attempt, the ETC will notify the Special Education Administration.

Additional efforts to obtain parental consent will be made and documented. If the parent revokes consent or refuses any evaluation and the District determines that such action will deny the student a Free Appropriate Public Education (FAPE), the district may seek resolution through the Bureau of Special Education Appeals (BSEA) consistent with 603 CMR 28:00.

In situations of divorce, when there is shared custody, if the district is in receipt of signed consent to evaluate from either one of the parents, the district begins the evaluation process.

2.9 Early Childhood Evaluation Requests

Upon referral, Lowell will evaluate children who are two and a half years of age and who may be receiving services through an early intervention program. An initial evaluation will be conducted in adherence to the timelines described in Section 3.1 – If a Toddler/PreK student is referred for an evaluation, an Initial Evaluation will be completed in order to ensure that if such child is found eligible, special education services may begin promptly at age three depending on the date of the initial referral.

For evaluation requests received from Early Intervention Programs the district will follow the process outlined above in Section 2.4 – School Referral.

3.0 Evaluation Process

Evaluations of the student must be made in all areas of suspected disability in order to determine eligibility for Special Education. Eligibility must not be based on lack of reading or math instruction or on LEP (Limited English Proficiency).

Evaluations should be tailored to the specific referral questions for the individual

student and need to address whether or not there is a disability, and if the disability affects the student's learning.

Evaluations must provide information to determine present levels of academic achievement and related developmental needs. No single test should be used as the sole criterion for determining eligibility. Rather, a variety of techniques (both formal and informal assessments), including information provided by parents and the student where appropriate, observation of the student in the classroom, work samples/portfolios, interviews, and review of the record should be used.

3.1 Initial Evaluation

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

Once the ETC receives the signed evaluation consent form, the special education department will notify all members of the Team that they may begin their evaluations.

- Each member of the Team is responsible for scheduling and completing his or her assessment according to the time parameters established.
- Evaluation reports need to be available at least two working school days prior to the Team meeting.
- The District sends out a meeting invitation and attendance sheet at least ten school days prior to the scheduled meeting.

3.2 Required Assessments for an Initial Evaluation

- Assessments in all areas related to the suspected disability
- Educational assessment by a representative of the school district, including
- Educational Assessment (Part A)

- Teacher Assessment Form (Part B)
- A history of the student's educational progress in the general curriculum
Narrative description of the student's educational /developmental status.

Optional Assessments: The Team may recommend or a parent may request one or more of the following if the student is suspected of a need to support their academic progress:

- Specialist Assessment(s) - Speech/Language, Occupational Therapy, Physical Therapy, Social Skills, Continuous Supervision, Functional Behavioral Assessment
- Psychological
- Academic Assessment – these are not the same as “educational evaluation” and must be consented to separately. It is the practice of the Lowell Public Schools to include a review of all areas that may include a psychological evaluation if appropriate when requesting an academic assessment.
- Home Assessment - The Team should request this if there are significant concerns related to the home or family environment as they affect a student's school performance.
- Health Assessment - A comprehensive health assessment by a school nurse that identifies medical problems or constraints that may affect the student's education.

Evaluation Procedures: Team members should attempt to coordinate their assessments with the student's teacher(s) and other evaluators while adhering to evaluation timelines, so as not to over-test the child on any given day. Persons conducting assessments should make a good faith effort to evaluate the student at a time when they are able to obtain the most accurate representation of his or her ability.

The Evaluation Team Chairperson shall ensure that the assessments are completed within 30 school days of the parent's signed consent. If consent is

received within thirty (30) to forty-five (45) school working days before the end of the school year, the District will ensure that a Team meeting is scheduled so as to allow for the provision of the proposed IEP or written notice of the finding that the student is not eligible no later than fourteen (14) days after the end of the school year.

- Evaluators will be immediately notified by the ETC upon assignment that their report will require translation. This will assist evaluators in scheduling their assessments in an effort to assure ample time for translation. The Team meeting will be held within 45 school days to review the results for the evaluations and determine eligibility for special education.
- At least two days prior to the Team meeting, evaluation reports are made available to parents or guardians. Reports should clearly express the data as well as the findings from the evaluation sessions. Nationally normed, standardized tests are necessary for determining eligibility for special education.

3.3 Evaluation Reports

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

An eligibility determination needs to be made by the Team of qualified professionals and parents/guardians. The Team deciding on eligibility must rely on a variety of assessments when determining whether the student is eligible for special education. The Team must be sure that they have received parental input and have gathered sufficient data for making the eligibility determination. Information must be gathered in all areas of suspected disability.

Eligibility must not be based on lack of reading or math instruction or on English language learning needs.

3.4 Provision of Outside Evaluations

All efforts will be made to avoid duplication of assessments. If a decision is made to waive any assessment, the Evaluation Team Chair will send a request for Waiver of Assessments to the parent for signature with the Evaluation Consent Form.

Parents may at any time elect to have their child evaluated by an independent evaluator at private expense. When parents present the school with an outside evaluation report, if the student is already on an IEP, the Team must reconvene to consider the outside testing within 10 working school days of when the district receives the report. The parents/guardian must provide the Team with a complete copy of any relevant written report for consideration prior to the meeting in order for the Team to consider the recommendations.

If a student has not already been identified as being eligible for special education services and is not on an IEP, Lowell shall treat the receipt of the evaluation as a relevant academic document and should review it to determine educational impact. Lowell maintains its right and responsibility to perform an evaluation, if necessary and appropriate. The independent evaluation will be considered as part of Lowell's comprehensive review of all documents relevant to the student's educational performance.

The Team is required to consider the results of the independent evaluation. Consideration of an outside evaluation at any time does not replace the Lowell Public Schools responsibility for conducting an evaluation for determining special education eligibility. The Team will make recommendations, determine if additional testing is necessary, and if possible, determine eligibility for special education services. The Lowell Public Schools is dedicated to preventing any duplication of evaluations.

3.5 Re-Evaluations

A re-evaluation or Review of Existing Evaluation Data (REED) will be conducted for each student with a current IEP every three years, or more frequently if requested or recommended. A re-evaluation does not immediately result in additional testing. The team is required to Review Existing Evaluation Data (REED) that

includes all relevant formal and informal testing to make a decision as to what additional testing if any is needed to proceed. Re-evaluations occur not more frequently than once a year unless both parents and LPS agree that an evaluation is needed.

When a student is referred for a re-evaluation, existing evaluation data should be reviewed first. If no additional information is needed to determine whether the student continues to be eligible, the district may request that a parent waive particular types of assessment(s). The parent may consent to waive the assessment(s) or may choose to have the assessments completed regardless of the recommendation for waiver. When there are school-based recommendations for waived assessments, the ETC should contact a parent/guardian directly to discuss the waiver process.

If the district suspects that a student is no longer eligible for special education services based on observable and/or measurable progress, then a re-evaluation that includes formal testing in the area of need must occur to change the previous determination of eligibility. Special Education services or related services may not stop until a meeting is held, with the exception of graduation with a regular diploma or aging out. For those children, the DISTRICT must provide a summary of academic and functional performance, including recommendations on how to assist the child to meet postsecondary goals.

NOTE: All requirements mandated for Initial Evaluations, remain true for re-evaluations. Assessments and assessment reports must focus on the suspected disability as well as the student's current level of performance. Furthermore, all assessment reports must include educationally relevant accommodations and modifications that have been identified to ensure the student's involvement and progress in the general education curriculum.

3.6 Assessments Required for Suspected Specific Learning Disabilities (SLD) Determination

When a specific learning disability is found to be the primary disability impacting a student's ability to access the general curriculum, a specific set of forms must be

used to aid in this determination. These forms consist of a historical review and educational assessment, identification of the specific area(s) of concern and evaluation methods, an analysis of certain exclusionary factors, a mandatory observation form, and, finally, a team determination of eligibility that all Team members must sign.

3.7 Assessment Reports

All evaluation reports should be written in clear, parent-friendly language and be translated into the parent's primary language at the parent's request, if the primary language is not English. Evaluation reports should summarize and interpret results and diagnostic impressions, identify educationally relevant accommodations and/or modifications, and provide a recommendation based on the evaluation. This information will help the Team determine eligibility and identify appropriate services based on the student's present level of educational performance and areas of need arising from the student's disability.

An eligibility determination needs to be made by the Team of qualified professionals and parents. The Team deciding on eligibility must rely on a variety of assessment materials when determining whether the student is eligible for special education. The Team must be sure that they have attempted to obtain parent input and have gathered sufficient data for making the eligibility determination.

Each person conducting an assessment must send the ETC final, signed copies **at least two (2) school days** in advance of the Team meeting. This includes Educational Assessment Parts A & B. These reports must be submitted prior to the end of the third school day before the team meeting. For example, if a meeting falls on a Thursday, evaluations are due at the close of school on Monday. If a meeting falls on Tuesday, evaluations are due at the close of school on Thursday. The report must follow district formatting, using 12-point, Time New Roman Font and one-inch margins.

Once those assessment reports are sent to the ETC, he/she will notify the Parent that they are available, and the location thereof for pickup. If the assessment

reports are to be sent via email to the parent, it is recommended that they use a password protected viewer to ensure confidentiality.

When an evaluation by a district staff member is being translated, a copy of the evaluation should be emailed to the Special Education Office Administrative Assistants as a word document to facilitate the translation service.

3.8 Review of Existing Evaluation Data (REED) Procedure for Re-evaluations

Special Education Teams meet monthly to review data for all students who have upcoming reevaluations (between 60-90 days prior to the re-evaluation due date).

- Using the “Review of Existing Evaluation Data” process below, the Team will identify whether or not there is a need for additional data to be collected through formal re-evaluation assessment, in accordance with federal law 34 CFR Section 300.305(d) and Massachusetts law 603 CMR 28.07(2).

If the review of existing evaluation data reveals that no further data is needed to determine eligibility, the ETC contacts the parent/guardian to discuss the outcome of the review of data and gather input.

- If the parent/guardian is in agreement with the recommendation to waive the re-evaluation assessments, an N1 (Appendix C) is initiated explaining the waived re-evaluation and an IEP meeting is scheduled.
 - Include a copy of the recommendation/paperwork in the student’s file
- If the parent/guardian is not in agreement, ETC issues consent for requested assessments, and schedules an IEP meeting once consent is returned.
- The team’s recommendation to waive the re-evaluation should be noted in the N1 that accompanies the consent, and the paperwork should be included in the student’s file.

If the review of existing data reveals that more data is needed, the ETC contacts the parent and gathers further information, then issues consent for the needed assessments, documenting in an N1 which assessments are to be waived and which are to be conducted and why.

***Please note the following:**

-If the team suspects that the student may no longer be eligible for special education services, assessments in the identified area of need MUST occur.

-A student must have a current evaluation within 3 years of graduating from high school. These evaluations should be attached to the summary of performance for graduation.

-If a service is likely to be dropped as part of the meeting, an assessment in that area is needed.

3.9 Psychological Evaluations for Re-evaluations

After the ETC reviews the existing evaluation data (from the last evaluation and any assessments that have been completed within the last three years), she/he may do the following:

- Generate a list of referral questions for this student, gathering information from general and special education teachers, related service providers and parents;
- Determine, in collaboration with the psychologist, what testing is needed in order to answer referral questions.

At least **45 school days prior** to the 3-year re-evaluation date indicated on a student's IEP, the ETC will send out an Evaluation Consent Packet consisting of:

- A proposal to conduct a re-evaluation (N1)
- An evaluation consent form (N1a)

An evaluation process cannot begin until the school district receives signed consent to evaluate from parents. Please refer to Section 2.8 – Parent Does Not Submit Signed Parental Consent if the parent does not provide consent for the re-evaluation. Please refer to the Section 3.1 - Initial Evaluation for information pertaining to the process and procedure for an evaluation once consent is received.

3.10 “Private Evaluation”

When a parent submits to the school/school district an evaluation report for a student who is **NOT** currently receiving special education services, the designated building personnel (e.g., Principal, School Administrator, Guidance Counselor, etc.) shall contact the parents to either discuss concerns or to schedule a meeting with the classroom teacher. The purpose of the discussion should be to gather information about the parent’s concerns, with available supports in place or available through general education, and determine if a referral for a special education evaluation or 504 Accommodation Plan is being requested or would be appropriate. The ETC and/or Special Education Administrator should be notified of the receipt of the evaluation and be kept apprised of the results of the discussion or referral process.

For students already receiving special education services whose parent(s) submit private evaluations, the school district has **ten (10) school working days** in which to schedule a Team meeting to review and consider information and recommendations included in the report. The ETC should be notified immediately of the receipt of the private evaluation so that he/she can schedule the Team meeting.

If a parent is providing an outside evaluation during the three-year evaluation process, the district is still obligated to conduct its own REED to determine eligibility and/or need for additional information or evaluations. The ETC should consult with the parents as to the details so that the district does not duplicate the testing, thereby invalidating results of the later evaluation.

3.11 Independent Educational Evaluation

If a parent disagrees with an initial evaluation or re-evaluation completed by the school district, the parent may request an independent education evaluation (IEE). Parents may obtain an independent education evaluation at private expense at any time. If the parent requests an IEE at public expense, **the district must respond to the parent within five (5) school days**. In response, the district may either pay for the IEE (at public rates only) or request a determination from the

BSEA that the district's evaluation was comprehensive and appropriate. The ETC should immediately notify the Special Education Administration of any request for an IEE so that the appropriate response can be made and timelines followed. The parent's right to request an IEE is extended up to 16 months after an evaluation or reevaluation process has been completed.

Once the independent education evaluation (IEE) results or report is received by the district, the Team must convene to consider the results of this evaluation. The school district has **ten (10) school working days** in which to schedule a Team meeting to review and consider the information and recommendations included in the report. The ETC should be notified immediately of the receipt of the independent education evaluation report so that he/she can schedule the Team meeting.

3.12 Extended Evaluation

In order to consider an extended evaluation, the Team must have determined the student eligible for special education services.

- The Team found the student eligible for special education and developed a partial or full IEP but recommended further assessment. (Once the parent accepts the partial or full IEP, services must be implemented immediately).
- The Team found the student eligible for special education but recommended further assessment before developing an IEP.

The extended evaluation period shall not be used to allow additional time to complete the required assessments and should not exceed 40 school days (8 school weeks).

If the parent consents to or accepts the recommended extended evaluation, the Team shall document its findings and determine what evaluation time period is necessary and the types of information needed to develop an IEP, if appropriate. The Team may decide to meet at intervals during the extended evaluation, but in all cases shall reconvene promptly to develop or complete an IEP when the evaluation is complete- not to exceed 40 school days.

NOTE: An extended evaluation is not a placement and as such does not constitute a change of placement. It is recommended that before an extended evaluation is considered, that a special education administrator be consulted to ensure that the district complies with the DESE Administrative Advisory SPED 2019-2 in regards to extended evaluations. (See <http://www.doe.mass.edu/sped/advisories/2019-2.html>)

4.0 The Team Process

4.1 IEP TEAM

The following are mandated members of the IEP Team (individuals may serve in more than one role as appropriate):

- The student's parent(s)/guardian
- A district representative who has the authority to commit district resources
- At least one general education teacher who is familiar with the student (if the student is, or may be, participating in the general education environment)
- The student if age 14 or older within the IEP period
- If the student is participating in a special education program, a special education teacher or special education provider for the student
- At least one teacher/specialist trained in the area of the suspected disability

- An individual who can interpret evaluation results

Additionally, members may include:

- Other individuals who may be necessary to write an IEP for the child, as determined by the Special Education Director.

- When one purpose of the Team meeting is to discuss transition services, a representative of any public agency who may be responsible for providing or paying for transition services is invited to the Team meeting.
- When one purpose of the Team meeting is to discuss placement, a person knowledgeable about placement options.
- Other individual(s) who have knowledge or expertise regarding the student.
- Other individuals at the request of the student's parents.

The Team meeting is designed to incorporate school staff, parents and other invited personnel as a unified group to determine eligibility and/or develop an IEP for a particular child. Members of the Team attend the Team meeting unless:

- The parent and district agree to use alternative means, such as a video conference or a conference call, for any Team meeting OR:
- The parent and district agree, in writing, that the attendance of the Team member is not necessary because the member's area of the curriculum or related services is not being modified or discussed OR
- The district and the parent agree, in writing, to excuse a required Team member's participation and the excused member provides written input into the development of the IEP to the parent and the IEP Team prior to the meeting.

Team meetings are projected to last approximately one hour. If the Team feels that they have not covered all necessary facets of eligibility, IEP development and placement, the Team may agree to extend the meeting or reconvene to continue the conversation.

For an annual IEP, copies of the existing IEP may be brought forward as the foundation for creating the new IEP. Note: The word Draft must be written or stamped at the top of each page. At the end of the meeting, a Summary of Proposed IEP will be provided to parents.

If parents and district agree, amendments and revisions can be made via written

documentation without a formal Team meeting. Meeting attendance sheet listing all Team members participating in the planning of the amendment, as well as amendment forms and N-1, should be completed.

4.2 Parent Participation in Team Meetings

The Lowell Public Schools is dedicated to ensuring parental involvement in the Team process. Every effort will be made to ensure this participation. If a parent is unable to attend the Team meeting, the district will provide the parent/guardian with the opportunity to participate via conference call or teleconference.

Lowell Public Schools encourages parental involvement and sharing of information between district and parents to support the provision of appropriate services to its students. As used in these guidelines/procedures, the term “parent” includes biological and adoptive parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, foster parents, persons appointed as surrogate parents and adult students.

Lowell Public Schools shall afford the parents of a child with a disability an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provisions of FAPE (free appropriate public education) to the child. In the Lowell Public Schools, these meetings are IEP Team meetings.

When a meeting is scheduled parents will be:

- notified of the IEP Team meeting early enough that they will have an opportunity to attend; and
- notified of the purpose, time, and location of the meeting and who will be in attendance.

When the meeting is to address the IEP or placement, the parents will be:

- notified that the district or the parent may invite others who have knowledge or special expertise of the student and meetings shall be scheduled at a mutually agreeable time and place.

Generally, Lowell Public Schools expects that notice of an IEP Team meeting shall be provided ten (10) school days prior to the meeting unless waived by the parent.

The district shall take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents who are Deaf or Hard of Hearing or whose native language is other than English.

The staff person responsible for inviting the parents to meetings will keep documentation of the information provided and the methods used to notify the parents of the meeting. The district may proceed with the IEP or placement meeting if the district is not able to convince the parent/guardian to attend on the third (3rd) scheduled attempt. In this case, the district will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent and/or other means used to contact the parent.

- Efforts will be recorded on IEP under Document Efforts to obtain participation if a parent and/or student did not attend a meeting of provided input.
- Documentation will be kept in the student's special education file.

A meeting does not include informal or unscheduled conversations involving district personnel; conversations on issues such as teaching methodology, lesson plans, coordination of service provisions; or preparatory activities that district personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

4.3 Decision Making at Team Meetings

Team decisions are based on consensus, not majority votes. The Team must come to consensus regarding each component of the Eligibility Determination process, IEP development and placement decision. When disagreement arises, the Team must make a good faith effort to review available data, discuss differences and

agree on the decision as a group. If the Team still has not reached consensus on a component of the IEP after a good faith effort to address differences, it is the sole responsibility of the Team Chairperson to make the decision and proposal for the Team.

4.4 Eligibility Determination

If the student has one or more of the disabilities defined at 603 CMR 28.02(7) (see list below) and if, as a result of the disability(ies) the student is unable to progress effectively in the general education program without the provision of specially designed instruction, or is unable to access the general curriculum without the provision of one or more related services, the Team shall determine that the student is eligible. The Team must ensure that the student's inability to progress is a result of the disability(ies) and **NOT** a result of an inability to meet the school discipline code, limited English proficiency, social maladjustment, or lack of instruction in reading and math.

The Determination of Eligibility is based upon the examination of data, including information provided from the parent.

Determinations include:

- The student is eligible. If the student has one or more of the disabilities defined under 603 CMR 28:02 (7) and if, as a result of the disability (ies), the student is unable to progress effectively in the general education program without the provision of specially designed instruction, or is unable to access the general curriculum without the provision of one or more related services, the Team shall determine the student is eligible. If the Team determines the student is an eligible student, the Team shall develop an individual education program.
- The student is not eligible. If the Team determines that the child is not eligible, the Team Evaluation Chairperson shall record the reason for such finding, list the meeting participants and provide written notice to the parents of their rights in accordance to federal requirements within ten (10) days of the Team meeting.

As part of the Team process, a flow sheet (ED 1) is used to answer the three questions of eligibility. Listed on this form are the disability categories as well as questions of effective progress and the need for specially designed instruction.

If as the result of the Team meeting, the child is not found to be eligible for special education services, Notice of School District Refusal to Act (Form N2) needs to be completed.

As required by law, when the existence of a specific learning disability has been determined, it is necessary to document said disability. The Department of Elementary and Secondary Education has developed appropriate forms for the development of determination of SLD. (Please refer to Appendix D for SLD forms.)

Eligibility must not be based on lack of reading or math instruction or on English language learning needs.

4.5 Disability Categories

Team members should identify the type of disability from the list below before taking the next step in the eligibility process:

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

(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined below.

(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.

(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

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

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

Sensory Impairment – The term shall include the following:

- Hearing – The capacity to hear, with amplification, is limited, impaired, or absent and results in one or more of the following: reduced performance in hearing acuity tasks; difficulty with oral communication; and/or difficulty in understanding auditory- presented information in the education environment. The term includes students who are deaf and students who are hard-of-hearing.
- Vision – The capacity to see, after correction, is limited, impaired, or absent and results in one or more of the following: reduced performance in visual acuity tasks; difficulty with written communication; and/or difficulty with understanding information presented visually in the education environment. The term includes students who are blind and students with limited vision.
- Deaf-Blind – Concomitant hearing and visual impairments, the combination of which causes severe communication and other developmental and educational needs.

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

Emotional Impairment - As defined under federal law at 34 CFR §300.7, the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The determination of disability shall not be made solely because the student’s behavior violates the school’s discipline code, because the student is involved with a state court or social service agency, or because the student is socially maladjusted, unless the Team determines that the student has a serious emotional disturbance.

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

Physical Impairment – The physical capacity to move, coordinate actions, or perform physical activities is significantly limited, impaired, or delayed and is exhibited by difficulties in one or more of the following areas: physical and motor tasks; independent movement; performing basic life functions. The term shall include severe orthopedic impairments or impairments caused by congenital

anomaly, cerebral palsy, amputations, and fractures if such impairment adversely affects a student's educational performance.

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

Specific Learning Disability – Specific learning disability is defined as follows:

- General. The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.
- The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

4.6 Criteria for determining the existence of a specific learning disability:

A Team may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in one or more key areas if provided with learning experiences appropriate for the child's age and ability levels. If the Team finds that a child has a severe discrepancy between his/her intellectual ability and achievement in one or more of the following areas, the Team may determine that the child has a specific learning disability.

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skill
- Reading comprehension
- Mathematics calculation
- Mathematics reasoning

The District has authority to use a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures (See NCLB for definition of “scientific, research-based intervention”) Tiered Instructional Model (TIM)/Response to Intervention (RTI)).

Extra steps are required when a specific learning disability is suspected:

Federal regulation requires additional steps in the evaluation process if the Team suspects a student of having a specific learning disability. The District must take the following steps in such cases:

- At least one Team member other than the student’s teacher must complete a classroom observation of the student’s academic achievement.
- The Team Evaluation Team Chair with the assistance of the school psychologist, if necessary, must complete the required documents.
 - SLD Component 1
 - SLD Component 2
 - SLD Component 3
 - SLD Classroom Observation form
 - SLD Team Determination of Eligibility

- Team members must certify in writing whether the written report reflects their conclusion of a finding of a specific learning disability. Any individual who disagrees with the written report must submit a separate statement to express their differing conclusions.

The Team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of a visual, hearing, or motor impairment, an intellectual disability, emotional disturbance, or of

- environmental, cultural, or economic disadvantage.

4.7 Effective Progress

Teams evaluate whether a student is making effective progress in school. The Team must make a judgment on whether the student is making effective progress in the general education program. The general education program includes preschool and early childhood programs offered by the district, academic and non-academic offerings of the districts and vocational programs and activities.

To evaluate whether a student is making effective progress, the Team must determine whether the student has:

- Made documented growth, with or without accommodations, in knowledge and skills acquisition including social/emotional development, the learning standards set forth in the Massachusetts Curriculum Frameworks and the curriculum of the district;
- Made growth according to the chronological age, the developmental expectations and the individual educational potential of the child.

When considering if the student has made effective progress, the Team must specifically look at whether the disability(ies) is causal to an inability to make progress. Such a finding is pivotal in the eligibility determination. The law clearly states that students may not be determined eligible solely because of a need for reading or math instruction or because of limited English proficiency or social maladjustment.

Teams sometimes struggle in trying to decide if a student is making effective progress and look for specific guidelines to assist in making this important decision. Effective progress, however, is not easily translated to test scores, academic achievement, social skills or other individual or specific variables, but rather is an interrelated measure. Teams, therefore, should carefully review evaluation data and make student-centered decisions on this important issue.

Teams determine whether the lack of progress is a result of the disability. Teams must look at the evaluation results to see whether the lack of progress is a result of the disability or a result of other factors. Only if the Team determines the lack of progress is connected to a disability(ies) may the Team continue on to discuss a possible finding of special education eligibility.

According to state and Federal regulation, a student may not be found eligible solely because the student is unable to follow the school discipline code, has limited English proficiency, is considered socially maladjusted, or has lacked reading or math instruction due to absences from school or formalized instruction. These reasons may become part of the Team's deliberations, but the essential finding of the Team must be that the lack of progress is, at least in part, a result of one or more disabilities(ies).

If the Team determines that there is a disability, it must then ask a final question: Does the student require specially designed instruction in order to make progress?

4.8 Specially Designed Instruction

Specially Designed Instruction consists of modifications not regularly provided for students in the general education program. Specially designed instruction includes modifications that affect content, delivery of instruction, methodology and/or performance criteria and are necessary to assist the student in participating and learning.

Specially designed instruction is an absolute requirement for students found eligible for special education. Related services necessary to access the general curriculum are considered special education and may be provided alone, or in combination with specially designed instruction.

If the student only requires accommodations, then that student is not eligible for special education. General educators within the general education environment typically provide accommodations. Accommodations do not involve modifying the material content but do allow students to access curriculum.

4.9 Eligible for Special Education

If the evaluation Team determines that the student is eligible for special education services, an Individualized Education Program (IEP) must be developed. Whenever possible, the IEP can be developed in a single Team meeting, after the determination of eligibility (IEP1-8).

4.10 Not Eligible for Special Education

If as a result of an initial meeting, the Team determines that the student does 1) not have a disability, 2) not show a lack of progress or 3) does not require specially designed instruction, then the Team is required to make a Finding of No Eligibility (N2). All Teams should discuss regular education interventions in order to help the student access all aspects of the curriculum and is meeting any areas of need.

If as a result of a re-evaluation a student is found no longer eligible by the Team, but the parent is not in agreement with the decision, the end date of services must allow 30 days for the parent to seek resolution of their differences. End date of service may be adjusted to consider impact on schedules at the secondary level. End date should be clearly identified in the N1, Notice of Proposed Action form.

4.11 Parent Understanding of the Evaluation and Agreement

Upon completion of the evaluation Team meeting, the parent /guardian should be asked if they agree with the evaluation findings. Team members should check a parent's understanding of the evaluation data and their agreement with it. If parents disagree with a particular school assessment, parents may have a right to an Independent Educational Evaluation (IEE) at public expense, and must be provided with the letter informing them of the IEE process.

4.12 The Special Education Eligibility Flowchart

The Eligibility Flowchart has been designed to assist Teams in making eligibility determinations. The flowchart is a worksheet and not a notice/form. The worksheet becomes part of the student record but does not need to be mailed to parents with the Proposed IEP. This form should be completed and included in the packet sent to the Special Education Office.

If a student is found to have a disability, and does not require specially designed instruction in order to make progress, the student is not eligible for special education. Specially designed instruction includes modifications that affect content, delivery of instruction, methodology and/or performance criteria and are necessary to assist the student in participating and learning. *If the student only requires accommodations, then that student is not eligible for special education.* General educators within the general education environment typically provide accommodations. Preferential seating, pencil grip use, or cooperative learning strategies are some examples of these kinds of typical accommodations.

Accommodations do not involve modifying or altering the material content, but do allow students to receive information or demonstrate understanding in a more effective manner based on their individual needs. The District Curriculum Accommodation Plan (DCAP) is an important document and reference for additional information about general education supports and interventions, including best practice accommodations. The DCAP is available at each building.

4.13 Parent Disagrees with the Eligibility Finding

Parents have the right to appeal any eligibility determination to the Bureau of Special Education Appeals (BSEA) including a finding of no eligibility. Parents may contact the BSEA directly. Information regarding how to contact BSEA is included in the Notice of Procedural Safeguards sent to parents with the consent packet. Parents should be asked if they are satisfied with the evaluations completed by the school district. If parents disagree with the district's evaluation, they may have a right to an Independent Educational Evaluation (IEE). If the parent requests an IEE at public expense, within five (5) school days the district must either agree to

pay for the IEE (public rate setting only) or request a determination from the BSEA that the district's evaluation was comprehensive and appropriate. (See Section 3.11 - Independent Educational Evaluation).

4.14 INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)

The Lowell school district establishes the following procedures for an independent educational evaluation (IEE) at public expense:

“Parents may obtain an independent educational evaluation of their child by appropriate professionals at their own expense at any time. In addition, federal and state law provides parents with a procedure for obtaining public funding of an IEE if they disagree with the school district's evaluation. This IEE is to be conducted by a qualified examiner who is not employed by the responsible school district.”

In accordance with Massachusetts General Law C. 71B, s.3 and the regulations implementing that law, 603 CMR 28.04(5), parents are entitled to receive a publicly funded IEE under the following circumstances:

- The requested evaluation must be in an area that was assessed by the school district, and the request must be within sixteen (16) months from the date of that evaluation with which the parent disagrees. Parents may opt to have less than all the assessments already done, if they are satisfied with some of the assessments already completed. Should parents wish to request an independent evaluation that includes assessments not already done by the district, the District is not automatically required to pay for these assessments.
- A qualified person who is registered, certified, licensed or otherwise approved by the Commonwealth to conduct these assessments must conduct the evaluation. Documentation regarding these qualifications will be requested of the evaluator and required by the district. Additionally, the evaluator must abide by the rates set by the state agency responsible for setting such rates. These rates can be found at 114.3 CMR 30.00. Approval

of an evaluator's rates that are higher than that set by the state agency will be reviewed on a case-by-case basis.

When a parent has requested an IEE at the district's expense, they must provide in writing the following:

- What evaluation(s) they are dissatisfied with;
- A list of specific evaluations that are being requested; and
- The name, address and telephone number of the agency or individual chosen to complete the evaluation.

Upon receipt of the information above, the district will mail out the Response to Your Request for An Independent Educational Evaluation letter.

In order to determine whether or not a family is eligible for public funding for an IEE, the family's financial status must be determined. If the child is eligible for free or reduced lunch, the district must fund the evaluation in full. If the family is not eligible, the district is required to fund the evaluation on a sliding fee scale, according to the family income. The Sliding Fee Scale for Public Payment of Independent Educational Evaluation form is mailed to parents.

The district uses a standard form, outlining the requirements for requesting an IEE. If the family is either not eligible for public funding or refuses to provide the information to the district, or requests a publicly funded independent evaluation in an area not yet assessed by the district, a response must be provided to the parent within five (5) school days whether or not the district will fund the evaluation, and should the district decide to not fund the evaluation, the district must proceed directly to the BSEA. **Any requests by a parent for a publicly funded independent evaluation must be given to the Special Education Department immediately.** Once the independent evaluation has been completed, the Team must reconvene within ten school days to consider the results and make any necessary changes to the IEP.

4.15 Extended Evaluations

An Extended Evaluation is an option if the evaluations prove inconclusive: If the Team has found the student eligible, but the evaluation information is inconclusive, the Team may want to consider an Extended Evaluation. An Extended Evaluation may be used to gather further information needed to write an IEP. An Extended Evaluation may only be used if a parent agrees. Immediately following a Team meeting, at which an Extended Evaluation is proposed, a new Evaluation Consent Form must be sent to parents for any additional recommended assessments. Teams must be aware of the state regulatory restrictions placed on the use of the Extended Evaluation. Extended Evaluations cannot be used for the following purposes:

- to extend the evaluation timeliness for required assessments
- to deny programs or services to a student
- as a placement

The Team should write a partial IEP or full IEP in conjunction with an Extended Evaluation Form. This action will ensure, with parental acceptance of the IEP, that a student is not denied services determined necessary at a Team meeting. An Extended Evaluation may run from one to eight weeks. The Team may decide to meet during that evaluation period. However, the Team must reconvene as soon as the additional evaluation data is available in order to review assessment data and/or complete the writing of the IEP.

4.16 Confidentiality

All evaluation information is confidential and will only be shared by the school with people directly involved with your child, such as teachers and Team members. You must give written consent before the school may share this information with any other person or professional; this includes their provided release or the district Authorization for Release form.

5.0 Development of the IEP

Upon determining the student is eligible for special education, the Team shall develop an IEP. IEP development should begin with the student's vision, Transition Plan and parent concerns. The IEP should be developed using the evaluation data and current school performance data to guide the development of goals and

objectives for the student.

If an extended evaluation is needed due to insufficient information to develop an IEP, or if a parent is not satisfied with the evaluations and requests an Independent Evaluation, the Team may choose to write a partial IEP. If the Team writes a partial IEP, a parent may consent to the proposed partial program prior to completion of the full IEP. In such a case, the partial program shall be implemented immediately upon receipt of the signed partial IEP.

Annually, the IEP must be reviewed and updated to reflect the growth the student has made, and new goals need to be developed. Input from general educators, special educators, parents and related service providers needs to be included. Input from the student is required if the student is over 14 years old.

The Team should work together to develop the IEP. The Special Education Team Chairperson (the ETCs for Initials/Re-evaluations and the Liaisons for Annual Reviews) will facilitate the process. Key components of the IEP include:

- Parent Concerns
- Student Strengths and Key Evaluation Findings
- Vision Statement
- Present Level of Performance for General Ed. Curriculum and Other Areas of Education
- Accommodations
- Specially Designed Instruction
- Goals/Objectives
- Service Delivery
- Schedule Modification including Extended School Year (ESY)
- Transportation

- MCAS Accommodations
- Placement

5.1 Summary of Team Meeting Form:

Must be used to document the decisions made at the Team meeting. The District cannot come to a Team meeting with a completed IEP; however, the District may bring a draft IEP as reference for the Team's discussion. The Team, including parents, must work together to develop the IEP for the student. Parents should leave the meeting with a signed copy of the Summary of Team Meeting Form. When developing an IEP, the Team must develop appropriate services that meet the needs of the student based upon the area(s) of identified disability. All service determinations are to stem from the current performance levels of the student as originated in the disability area(s). The addition of a service that a student is not currently receiving should not be made in the absence of an evaluation that details disability-related data to support the need for such service.

Please note, for initial and re-evaluation meetings, each evaluator will be responsible for providing a summary of their evaluation in the IEP and provide a report for the ETC. In addition, the ETC is responsible for entering the MCAS results (or note not applicable) as well as the disability category.

An evaluation is required ***prior to ending an IEP service*** including consultation. The evaluation can be a combination of standardized assessments, curriculum-based and/or classroom-based assessment data.

5.2 High Quality Team Meeting Works Best If:

- The meeting remains focused on the student.
- Its members are knowledgeable about the District, special education law, and the student.
- All Team members are respected participants, giving and receiving information.

Encouraging parents to obtain reports two days prior to a meeting should ensure

that the Team discussion is more focused and can immediately start with a common base of information rather than a lengthy recitation of evaluation results. This strategy allows for more time to brainstorm and write the IEP itself enabling parents to leave the meeting with a more solid understanding of their child and how the school system plans to help their child improve.

The IEP should reflect the decisions made at the Team meeting and should serve as a contract between the school system and parent(s) which clearly communicates to parents the needs of their child, the steps the District will take to address these needs and the progress their child is expected to make during the IEP period.

The IEP does not serve as a guarantee of progress. However, IDEA-2004 clearly states that a District must make a good faith effort to assist the student in making progress towards the IEP goals.

Decision making at Team Meetings is based on consensus, not majority votes. The Team must come to consensus regarding each component of the Eligibility Determination process, IEP development and placement decision. When disagreement arises, the Team must make a good faith effort to review available data, discuss differences and agree on the decision as a group. If the Team still has not reached consensus on a component of the IEP after a good faith effort to address differences, it is the sole responsibility of the Team Chairperson to make the decision and proposal for the Team.

5.3 The IEP Should Serve to Focus on the Special Education Services

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

5.4 Parents and/or Students Need to Provide Input into IEP Development

Parent and/or student input becomes the first indicator for defining the IEP focus. The placement of this item as the first order of business is deliberate and in

keeping with the importance given to parent input in IDEA-2004.

Using the Vision Statement Questionnaire, parents are provided an opportunity to share their concerns regarding their child. The parent perspective is unique and important to the Team's work, as they have a view of the student that cannot be duplicated by even experienced evaluators.

5.5 Teams Should Keep a Whole Child Perspective

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

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

5.6 The General Curriculum Must Be Addressed in All Students' IEPs

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

Within Massachusetts, the general curriculum is defined as the Massachusetts Curriculum Frameworks in the following areas: English Language Arts, History and Social Sciences, Science and Technology and Mathematics.

Other curriculum areas can and should be discussed if the student's disability affects progress in those areas.

School districts must maintain high standards for children with disabilities. These standards should be consistent with the expectations for all students in the educational system.

General educators play a critical role in the Team process as the experts on the general education curriculum and classroom environment. Their participation in the Team process is required under Federal Regulation.

5.7 The IEP Must Address ALL Areas of Educational Need

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

Parents must leave the meeting with either a draft of a proposed IEP or a Team meeting summary, proposed goal areas, and proposed service delivery grid.

5.8 The IEP Must Include

- Parent and or Student Concerns
 - Focused, concise statement(s) addressing educational concerns for the student, as well as any social and emotional concerns that the parents or student may have.
- Student strength and key evaluation results
 - Type of disability in accordance with the definitions defined in the state and federal regulations
 - General education performance

- State or district assessment scores (brief summary of assessment data)
- Relevant information from any school or independent assessments
- Progress towards goals
- Team vision for the upcoming 1-5 years
 - A vision statement is required for all students. The character of the statement will change based on the age of the student.
 - The intent of the vision statement is to look forward to future goals, usually 1-5 years in the future. For younger students, periods of transition from one grade to the next or from elementary to middle school may provide a time focus for these statements. The Team steps back from the here and now to take a broader, long-range perspective as it looks to where this student is headed in the future. Knowing where the student is headed makes it easier for the Team to eventually determine what progress needs to be made this year.
 - **As the student becomes older and more involved in transition planning, the vision statement becomes the hopes and dreams of the student and not the parent and Team.** Also, the statement for the older student must conform to federal regulation and be based on the student's preference and interests and include desired outcomes in adult living and post-secondary and work environments.

IEP Present Levels A: General Curriculum

- General Curriculum Area(s) Affected by Student's Disability(ies):
 - Team determines which subject or subjects in the general curriculum areas that are affected by the student's disability.
- How does the disability(ies) affect progress in the curriculum area(s)?
 - Explanation of how the disability affects current performance and

progress in the general curriculum areas. This should not be a reiteration of the profile and should include all necessary classroom accommodations.

- Necessary accommodations
- These are developed by the service providers in conjunction with the general education teacher(s). NOTE: If the student is included with non-disabled peers, input from general education teachers is mandatory as they are responsible for the carry through on the accommodations. This only includes accommodations not identified as common practice through the District Curriculum Accommodation Plan (DCAP). **
- Accommodations are changes in course/test presentation, location, timing, student responses or other attributes that are necessary to provide access for a student with a disability to participate and which do not fundamentally alter or lower the standard of expectations.
- Types of specially designed instruction (modifications)
 - Team must consider how Content; Methodology/Delivery of Instruction will be modified from the general education resource.
 - Performance Criteria reflects the modification of the content of the performance or the test by the student.
 - This is **not an area of the IEP to list accommodations** (The “HOW” something is done).
 - Modifications address the “WHAT”. Modifications are changes in course/test presentation, location, timing, student responses or other attributes that are necessary to provide access for a student with a disability to participate BUT which also fundamentally alter and/or lower the standard of expectations.

IEP Present Levels B: Other Educational Needs

- General Considerations:

- The Team must ensure that it reviews the considerations listed on PLEP B. These lists are not exhaustive in nature. Therefore, the Team should describe other identified area(s) of educational needs that affect progress but may not be listed.

IEP Measurable Annual Goals

- Current performance levels
 - An accurate description of how the student is performing in the various areas of need are identified by the IEP and must convey sufficient information to provide clear levels of current functioning. Current performance levels and goals should relate directly to the previously written Present Level of Educational Performance.

Measurable annual goals

- The Team must connect current performance to measurable annual goals.
- Goals should relate directly to those areas where the student's disability affects performance and should reflect a focus on those areas that make the biggest difference in the student's performance.
- The IEP should be written with a direct connection between the current performance levels and the measurable annual goals. The current performance level states what the student can currently do and identify key stumbling blocks. The goals state what the Team believes that the student will accomplish by the end of the IEP period. The current performance levels become the starting points for determining the goals and the goals become the end points for student accomplishment for the IEP period.
- Goals are designed to provide reasonable educational benefit. The goals should be measurable. The objectives/benchmarks break the measurable annual goal into major milestones that the student is expected to reach within a specified amount of time. To help ensure measurability objectives/benchmarks may also have target behavior, conditions, and outcomes.

- Goals also address the data collection strategy for measuring and documenting progress.

IEP Service Delivery

- Break down of service provisions
 - Service Delivery must denote the type of service provider i.e., Special education teacher, /Occupational Therapist. If provided by a private vendor, the generic title (Occupational Therapist, Speech/Language) is still used.
 - A specific amount of time per cycle needs to be identified for all areas. "Ongoing as needed" is not acceptable.
 - All services, even services the Lowell School District provides by private vendors, need to be included on the service delivery grid as district services.

IEP Nonparticipation Justification/Schedule Modification

- The Team must justify nonparticipation in the general education program because the laws and regulations require inclusion as it looks to the Least Restrictive Environment (LRE), specifically IDEA 2004 34 CFR 300.114 (a)(2)(ii): "... removal of children with disabilities from the regular educational environment occurs only when the nature or severity is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."
- It is not a placement
- It is driven by the least restrictive environment (LRE)
 - To reinforce IDEA's strong preference for involvement in the general education environment, the law requires a clear statement justifying why removal is considered critical to the student's program and the basis for the Team's conclusion that education of the student in a less restrictive environment, with the use of supplementary aids and

services, could not be achieved satisfactorily.

- Teams must describe when a student's school day or year is modified (shorter or longer).
- Transportation is a related service. A recommendation for a student to receive transportation, as with other IEP decisions, relates back to the effect of the student's disability(ies) on their ability to travel to school in the least restrictive or typical manner. Does a student's disability impact their ability to travel as such?

IEP State or District-Wide Assessments

- The Team is responsible for deciding how all students will participate in state and district-wide assessments.
- All students participate in statewide testing with accommodations outlined in the IEP.
- Accommodations for statewide assessments must be consistent with accommodations students regularly receive in their curriculum.
- The district's IEP Teams designate how each student will participate and, if necessary, provide an alternate assessment

IEP Transition/Additional Information

- Transition information to include:
 - The anticipated graduation date
 - If applicable, a statement of interagency responsibilities or needed linkages, the discussion of rights at least one year before the age of majority, and a recommendation for Chapter 688
 - Document efforts to obtain participation if a parent and/or student did not attend or provide input
 - Other relevant IEP information not previously stated (i.e., translator

present, documentation of discussion that, if applicable, all protocols related to the Mass Bullying Prevention and Intervention law and Lowell Public Schools related policies will be followed).

Autism Spectrum Disorder: Whenever an evaluation indicates that a child has a disability on the autism spectrum disorder, which includes autistic disorder, Asperger's disorder, childhood disintegrative disorder, or pervasive developmental disorder not otherwise specified, as defined in the Diagnostic and Statistical Manual fifth edition (DSM-5, 5/18/2013), the IEP Team shall consider and shall specifically address the following: the verbal and nonverbal communication needs of the child; the need to develop social interaction skills and proficiencies; the needs resulting from the child's unusual responses to sensory experiences; the needs resulting from resistance to environmental change or change in daily routines; the needs resulting from engagement in repetitive activities and stereotyped movements; the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder; and other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.

5.9 Free and Appropriate Public Education (FAPE)

As defined by Federal regulations, the general curriculum is the curriculum used with non-disabled children. All students, regardless of the nature or severity of the disability or their educational setting, must have access to and progress in the general curriculum.

5.10 Least Restrictive Environment (LRE)

The Lowell Public Schools shall ensure that, to the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities, and that special classes, separate schooling, or other removal of children with special needs from the general education program occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

As the Team discusses placement, the least restrictive environment will be selected as it correlates with the student's needs. To the extent possible, students with disabilities will be educated with their non-disabled peers.

Teams should consider in-district settings as they relate to the student's needs. These settings include, the general education classroom, a learning center/resource room or separate classroom.

If a student's needs cannot be met within the public-school setting, an out-of-district placement may be explored. If the Team designates an out-of-district placement, the Team shall state the basis for its conclusion that education of the student in a less restrictive environment with the use of supplementary aids and services could not be achieved to provide the student with a free, appropriate public education in the least restrictive environment.

In most cases, the Team who wrote the IEP will decide the placement immediately after the IEP is developed. If the student's needs and corresponding services are complex and the Team is considering an initial out-of-district program or a different setting for a student currently in an out-of-district placement, a subsequent meeting might be scheduled to finalize the placement decision. In all cases, the parent continues to be an equal participant in the Team process.

5.11 Placement

The Team decision regarding a student's placement is made once the IEP is fully developed. It is based upon the individual needs of the particular student. The Team Determination of Placement page, (PL 1) should be included with the IEP. If a placement decision is not possible at the IEP meeting, a separate meeting must be held within ten school days to discuss the options available.

At the Team meeting, after the IEP has been developed, the Team shall consider the identified needs of the student, the types of services required, and whether such services may be provided in a general education classroom with supplementary aids and/or services or if necessary, after considering Least Restrictive Environment, in a separate classroom or school.

5.12 Students Privately Placed at Parent's Expense

Parents may choose to enroll a child in a private school at their own expense at any time. Massachusetts' special education law applies to all Lowell residents regardless of where they attend school. The school district must provide or arrange for evaluation, determine eligibility, propose an Individualized Education Program (IEP), and make services available to all eligible students who reside in the district, regardless of where they attend school. (Administrative Advisory SPED 2007-2: IDEA-2004 and Private School Students) Eligible students must be offered an IEP as developed by a Lowell IEP Team. Parents may decline special education services of the proposed IEP. The District has the responsibility to reconvene the Team to consider the IEP on an annual basis, even if services have been declined. The Team must review appropriate educational information and propose an IEP based upon student needs or propose to re-evaluate to determine eligibility for services.

5.13 Voluntary Termination from School Prior to Graduation or Age 22

Students eligible for special education services, who withdraw from Lowell Public Schools prior to graduation or reaching age 22, must be given the opportunity to access special education services in pursuit of their diploma. If at any time prior to their 22nd birthday, the student is interested in receiving special education services and working towards their diploma, they may contact the Lowell Special Education Department and request their file be activated. This information must be conveyed to eligible students at the time they withdraw from school, ideally through direct conversation. A letter confirming this information is mailed to the student with a copy placed in the Central Office file at the time they leave Lowell Public Schools.

5.14 Graduation Requirements for Special Education Students

In accordance with M.G.L. c. 71.s. 1, a student with a disability who requires special education is entitled to receive publicly funded special education until this student turns twenty-two or "attains a high school diploma or its equivalent," whichever comes first. To receive a diploma, all Lowell students, including those

receiving special education services, must meet the graduation requirements as outlined in the Lowell High School Course of Studies book. Furthermore, the students must either earn a scaled score of at least 240 on the grade 10 MCAS English Language Arts and Mathematics tests or earn a scaled score between 220 and 238 on these tests and fulfill the requirements of an Educational Proficiency Plan (EPP). Students must also earn a scaled score of at least 220 on one of the high schools MCAS Science and Technology/Engineering tests: Biology, Chemistry, Introductory Physics, or Technology/Engineering.

Transition Services/Transition Planning

Transition elements are incorporated throughout the IEP for a more integrated approach to transition planning. Transition planning is required under Federal law and becomes a major Team focus when a student reaches fourteen years of age.

The vision statement aids Team Members in determining the student's transition needs that may be reflected on PLEP A and B. Transition goals should be developed with transition services recorded on the service delivery grid. As a student approaches graduation, the Team must also consider the student's graduation status, the need for a Chapter 688 referral and the involvement of adult service agencies. As the student nears or reaches age seventeen, the Team must discuss the transfer of rights at age of majority. These last items would be documented under Additional Information. In the event a student does not attend the Team meeting prior to the student's seventeenth birthday, written notification will be sent to both the parent(s) and student explaining the transfer of rights options at age eighteen.

The transition plan should be written as an outcome-oriented statement that includes adult life, post-secondary and work environment desires.

The Massachusetts Department of Elementary and Secondary Education has provided a transition planning worksheet for assisting Teams with post-secondary planning (Appendix E). This form is not an IEP form, rather a document whose content is directly linked to the IEP vision and guided by the identified needs of

the student. Some components of the transition plan will be addressed in the IEP. Upon graduation, students receive a summary of performance based on the transition plans and their high school course of studies.

Determination of Transition Services

- The Team discusses the student's transition needs annually, beginning no later than when the student is 14 years old, and documents its discussion on the Transition Planning Form.
- The Team reviews the Transition Planning Form annually and updates information on the form and the IEP, as appropriate.
- For any student approaching graduation or the age of 22, the Team determines whether the student is likely to require continuing services from adult human service agencies. In such circumstances, the administrator of special education makes a referral to the Bureau of Transitional Planning in the Executive Office of Health and Human Services in accordance with the requirements of M.G.L.c. 71B, §§12A-12C (known as Chapter 688).
- In cases where the IEP included needed transition services and a participating agency, other than the school district, fails to provide these services, the Team reconvenes to identify alternative strategies to meet the transition objectives.
- The district ensures that students are invited to and encouraged to attend part or all of Team meetings at which transition services are discussed or proposed.

If the child requires services or courses necessary to reach the goals, IEPs must have measurable post-secondary goals related to training, education, employment, and as necessary, independent living. If the student is to turn 14 years of age during a given IEP period, transition planning should commence at the time of the Team meeting even if the child is not yet 14 years of age.

What are “Transition Services?”

Transition services mean a coordinated set of activities:

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

When are Transition Plans Required?

Beginning at age 14, a student’s IEP should include a statement of the transition service needs of the child under the applicable components of the child’s IEP. The statement should focus on the child’s course of study and include a statement of interagency responsibilities or any needed linkages. Note: if a student is to turn 14 during the course of an IEP period, then transition planning should begin with that IEP, even if the student is not yet age 14.

Who Plans Transition Services?

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

Discussion about needed transition services must take place at Team meetings for all students age 14. All necessary services will be recorded in the appropriate sections of the IEP.

5.15 Age of Majority

Massachusetts has established 18 as the age of majority. At that age, all students are considered adults and competent to make their own decisions. This right extends to every student with a disability who is receiving special education services.

At least one year before a student's 18th birthday, Lowell Public Schools must inform the student and the parents of the transfer of rights at age 18 (Age of Majority letter/form- Appendix F). In the IEP, there should include a statement that the student and parents have been informed of this transfer of rights. Parents will continue to receive written notices but will no longer have decision-making authority unless one of the following occurs:

- Parents receive guardianship of the student from the court;
- A Student elects to share decision-making with the parents or other adults, including allowing them to co-sign the IEP; this choice must be made in the presence of the Team and documented in writing; or
- A Student elects to delegate decision-making to the parents or other adult; this choice must be made in the presence of the Team and documented in writing.

Teams should distribute the Lowell 'Age of Majority' forms to students and parents on or before the 17th birthday. By the 18th birthday, students must choose an option on page 2 of the 'Age of Majority' packet. If, at this time, students choose to take sole responsibility for their special education decisions, they must complete the choice at the bottom of page 2, identifying if they wish to continue their special education services.

5.16 College Testing Information

The College Board has recently changed its eligibility requirements for testing accommodations. Districts and parents are reporting that the College Board is rejecting many requests for accommodation(s) because the documentation supporting the request is not sufficient under its new eligibility standards. As a

result, parents and students are asking Districts to conduct additional evaluations or eligibility assessments to support students' requests for accommodations.

What is the District's responsibility to provide supporting documentation to the College Board when a student has requested accommodations on College Board tests (e.g., PSAT/NMSQT, SAT or AP)?

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

In some cases, the College Board is asking that the student provide documentation of specific additional assessments or updated assessment information that the District does not need in order to deliver appropriate special education services to the student. The District is not obligated to provide or pay for updated or additional assessments to support a student's request for accommodation on College Board examinations, if such assessment information does not already exist and is not necessary for the appropriate special educational program for the student at the time of the request. The parent is responsible for paying for additional assessments that are needed for the sole purpose of supporting the student's request for accommodation on the College Board examinations.

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

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

the parent of the decision.

5.17 Continuum of Special Education Services

Lowell Public Schools provides a broad array of services for children and youth identified with disabilities from the ages of three through twenty-two. State and federal special education laws and regulations, namely The Individuals with Disabilities Education Act (IDEA), govern the referral, evaluation and placement procedures. Lowell Public Schools is committed to the goal of providing an appropriate education for students with needs in the least restrictive environment. Below are the range of special education programs and services offered by the Lowell Public Schools.

Special Education Programs and Services

Substantially Separate Classrooms

Substantially separate classrooms serve students who require a highly modified curriculum in separate classrooms rather than in general education programs. Each classroom is composed of up to twelve students with special education needs. In each classroom there is a certified special education teacher assistant. Additional classroom aides and/or assistants are assigned as required for individual students. Specialists' services include, but are not limited to, speech/language therapy, occupational therapy, physical therapy, adaptive physical education, and ABA therapy. Depending upon the set educational goal(s), services may be provided through in-class and/or pullout model.

Resource Room

The resource room serves students who are placed in general education settings with mild to moderate disabilities. A certified special education teacher and/or instructional assistant work with groups composed of no more than eight students. Educational instruction is provided consistent with the service recommendations of the student's IEP. Support may be provided for reading, math, written language, organizational and/or other education needs. Chosen instructional methodologies vary but meet student needs and curriculum goals,

which are aligned with the Massachusetts Curriculum Frameworks.

Grade Level Inclusion Classrooms

Inclusion classrooms serve students with moderate disabilities who are placed in general education classrooms. At the kindergarten level, one full-time teacher with dual certification and one full-time assistant make up the instructional staff. Some kindergarten classrooms may have additional part-time assistants or aides. Instruction is modified for all students as indicated by their educational plans or learning needs. In grades one through five, one full-time certified general education teacher leads each classroom. Additional classroom aides are assigned as required for individual students. Other related services providers work in both a small group or individual pullout model and a push-in (inclusion) model to deliver services. The program's aim is to provide academic, behavioral and social support to students with identified disabilities within the general education setting. Academic groupings are identified by skill level for all students at every grade level, with special educators leading content instruction in reading, math, and writing to students identified as needing the most structured and differentiated methodologies. Pre- and post-assessments in every academic unit offer the opportunity to "reset" the groupings and move students to the level of instruction that most closely matches their skill level and recommended instructional strategies. Both general and special education students may be placed in groups led by general education or special education staff, depending on their learning needs. In addition, special educators work with classroom teachers to modify and support the curriculum. Chosen instructional methodologies vary but are designed to respond to student learning plans and curriculum goals, which are aligned with the Massachusetts Curriculum Frameworks.

5.18 Related Services

Sec. 300.34. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation,

early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and/or school nurse services, social work services in schools, and parent counseling and training.

All required related services are available to students as agreed to within their Individualized Educational Programs within their assigned schools. Dependent upon the set educational goal(s), services may be provided through an in-class and/or pullout model.

5.19 Assistive Technology

LPS understands and appreciates that today's technologies have the ability to dramatically change the lives of students with disabilities, enabling them to access the curriculum, participate in learning activities alongside their peers, personalize their learning, and achieve their full potential. An understanding of assistive technologies and accessibility will help school personnel make informed decisions when they evaluate students' needs. Better still, this knowledge will help schools develop educational environments and programs that can meet the needs of *all* students, regardless of whether they have disabilities. It is with this goal in mind that this publication was developed

If the team determines the student would benefit from the use of assistive technology devices and services then an appropriate evaluation in the student's customary environment should be conducted in accordance with the Individuals with Disabilities Education Act. When considering technology teams must address the following:

- An evaluation that includes a functional evaluation of the student in the student's customary environment
- Instructional needs of the student that address the student's educational goals, social needs, environmental realities, and practical concerns

- Purchasing of appropriate technology which assumes that the Team will consider
- the appropriate selection, design, fitting, customizing, adapting, applying, maintenance, repairs and replacing equipment as needed.
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs
- Training for students and parent/guardians
- Training or technical assistance for: professionals (including those providing education or rehabilitation services); employers; other individuals who provide services to eligible students; those who employ eligible students; or those who are otherwise substantially involved in the major life functions of the eligible students.
- Ongoing evaluation of technology use and equipment.

The district will ensure that appropriate devices are secured for students who have qualified and have demonstrated a need within their IEP for assistive technology. LPS will include a process that provides an annual review of the technology provided to ensure that it continues to meet the needs of the student.

5.20 Special Transportation

If the Team determines the student's disability requires specialized transportation arrangements in order to access special education services, the Team shall note in the student's IEP the requirement for such services. In such circumstances, transportation is a related service and the determination for need should be made as a data driven decision linked to the student's identified area of disability with respect and consideration of the least restrictive environment for the student. A goal should also be identified to address independence and progress toward inclusion of transportation with typical peers. This can occur at any type of Team meeting and the determination to provide transportation should be revisited annually. Once the team has determined the need for transportation, the ETC

should complete the IEP Special Considerations form and submit it to the Special Education Office.

If a program is not offered as part of a student's neighborhood school, the student will be provided transportation to the appropriate school but this is not considered specialized transportation. On IEP Transportation Page (IEP 6) check "no" and explain that the student is accessing services in a non-neighborhood school.

5.21 Out of District Placements

Students requiring a more restrictive setting may be placed in out of district settings that range from public programs in other districts to collaborative settings to private special education schools. Placements are made on an individual basis and determined by the Team in accordance with State and Federal regulations to provide students with a free and appropriate public education (FAPE) in the least restrictive environment (LRE).

5.22 IEP Amendments

The Individualized Education Program (IEP) Amendment is designed to be a stand-alone document or to be used in conjunction with other IEP pages. The form should be used for minor IEP adjustments that do not change the type of placement.

The explanation of a proposed change should include the IEP section(s) that the change will affect. Team members might choose to attach an IEP page to the amendment to help clarify the recommended adjustment. For instance, if an IEP goal is being altered, the goal page with the reworded goal should be attached or if service delivery is being altered, the service delivery grid, with the adjusted services should be attached. Attach the Administrative Data sheet to the amendment before sending it to the Team Evaluation Chairperson for signature. A placement change should not be reflected in an amendment, but rather a revised IEP.

5.23 Progress Reports

The Progress Report is designed to report the progress of each IEP goal individually. Service providers must comment on whether they anticipate the student being able to meet the goal by the end of the IEP period. If they believe that the student will be unable to meet the goal, that must be indicated in the Progress Report and a Team Meeting must be held to amend the IEP. Multiple copies of the form should be used as required to report on each and every IEP goal. Progress reports must answer two questions for each goal: (1) What is the student's progress toward the annual goal and (2) is the progress sufficient to enable the student to achieve the goal by the end of the IEP period? Completed progress reports are sent to the Parent and the Special Education Office for filing. Progress reports may be reviewed for content and frequency by the Director of Special Education.

As noted above, Progress Reports are required to be sent to parents at least as often as parents are informed of non-disabled children's progress. At the preschool and elementary school, progress reports are sent twice a year. In the middle schools, progress reports are sent three times a year. In high school, four times a year. For students placed in an out of district program, progress reports are sent four times a year to parents. A Team meeting does not take the place of a written progress report.

5.24 Extended School Year (ESY)

ESY refers to special education and related services beyond the normal calendar year for students with disabilities. Eligibility for ESY is determined by examining two global criteria: regression/recoupment and non-regression. These criteria should be considered for every student using the following factors:

- The student is likely to significantly lose critical skills or fail to recover these skills within a reasonable time as compared to typical students (regression/recoupment).
- The nature and severity of the student's disability (non-regression).

- The student's progress in the areas of learning is crucial to attaining self-sufficiency and independence from caretakers (non-regression).
- The student's stereotypical, ritualistic, aggressive or self-injurious interfering behaviors prevent the student from receiving some educational benefits from his/her program during the school year (non-regression).
- Other special circumstances identified by the IEP Team such as: The ability of the student to interact with nondisabled students; the areas of the student's curriculum that need continuous attention; the student's vocational needs; and/or the availability of alternative resources (non-regression).

ESY is officially discussed and determined at a child's annual IEP meeting. School staff will complete screenings and/or collect data to help make individual recommendations. Throughout the school year school staff may be asked for ESY projections. Projections are used only for planning. They are not definitive and do not replace the need for individual student IEP Team decisions.

Early in the school year, a Team may not be able to make a determination for ESY services if the student is new to the staff. In that event, the Team may wish to delay this decision until later in the year. In most cases ESY determination should be made no later than March (using the regression data collected following the Thanksgiving, December, and February school breaks); however, in cases where there continues to remain a question regarding regression, the Team may use the student's return from April vacation to document the existence or non-existence of regression. In the circumstances of the "non-regression" criteria, ESY decisions should be made no matter how early in the school year an annual review meeting is held.

5.25 State/District Wide Assessment Accommodations

Teams continue to be responsible for deciding how all students will participate in state and district-wide assessments. However, if no assessments are planned during a particular IEP period, the Team should note that no testing would occur and leave the remainder of the page blank. All students participate in state and

district wide assessments with accommodations outlined in the IEP. Testing accommodations outlined on IEP must be consistent with accommodations students generally receive in their curriculum as listed in PLEP A. Students who require alternative assessments will continue to be evaluated through the MCAS-Alt (See Section 5.5 – MCAS Alternative Assessments) until otherwise advised by the Massachusetts Department of Elementary and Secondary Education.

5.26 MCAS Alternative Assessments

For students taking MCAS Alts, parents must be notified annually that their student’s achievement will be measured based on different achievement levels than the standard MCAS test. Participation in the MCAS Alt may also delay or affect the student earning a high school diploma. Each year at the student’s initial, annual review or re-evaluation Team meeting, the liaison must have the MCAS Alt discussion with the parent and provide him/her with a copy of the MCAS Alt Parent Notice (Appendix G). The MCAS Alt discussion should be documented in the Additional Information section of the IEP and on the N1.

This does not apply to “grade-level” or “competency” MCAS Alts.

6.0 Proposing IEPs

6.1 Processing the Proposed IEP for Distribution to Parents

Once IEP packets are completed, the appropriate administrator or designee will review and sign the IEP. The appropriate individual will then be responsible for mailing two (2) copies of the IEP to the home. It is the Team’s responsibility to submit the IEP packet in a timely manner in order for the school district to meet the required IEP timelines.

When the parent(s) receives a Team Meeting Summary (Appendix H) at the conclusion of the Team meeting, the school district has **two (2) calendar weeks** to send the Proposed IEP and Placement to the parent. The Team must allow time for the Special Education Office to process and mail home copies of the IEP, so the IEP must be submitted to the Special Education Office within **five (5) school days**

of the Team meeting when parent(s) receive a Team Meeting Summary.

When the parent(s) does not receive a Team Meeting Summary at the conclusion of the Team meeting, the school district must provide the parents with a proposed IEP and Placement as soon as possible and not more than **three (3) to five (5) school days** after the Team meeting has been held. If, in the unusual situation where a parent *requests* the completed IEP within three to five school days of the Team meeting, the district must comply, regardless of whether it has provided a Team Meeting Summary. In both cases, the Team must allow time for the Special Education Office to process and mail home copies of the IEP, so the IEP must be submitted to the Special Education Office within **two (2) school days** of the Team meeting.

An IEP checklist titled IEP Checklist/Cover Sheet (Appendix-I) has been created to guide team chairpersons on the compilation of the IEP packets to be submitted to the Special Education Office for processing. The IEP Checklist/Cover Sheet **MUST** be completed in full by the team chairperson. IEP packets must include all necessary components in the listed order outlined on the checklist when they are submitted for processing.

6.2 Implementation of the IEP

No later than **thirty (30) calendar days after receipt** of the proposed IEP and proposed placement, the parents shall:

- Accept or reject the IEP in whole or in part;
- Request a meeting to discuss the rejected portions of the IEP; or,
- If mutually agreed upon, accept a revised proposal; and, accept or reject the proposed placement

If parents have not responded to the IEP within thirty (30) calendar days, the liaison notifies the Special Education Office and a second notice is sent home with another copy of the IEP as well as the signature pages. The liaison may also attempt to send a copy of the IEP as well as signature pages home with the student. In cases where the liaison sends home a copy of the IEP for signature, the

liaison must notify the Special Education Office so the additional attempt can be documented in the student's file. If the parents have not responded to the second notice after fifteen (15) calendar days, the liaison notifies the Special Education Office and a third notice is sent home. If parents have not responded after the third attempt after ten (10) calendar days, the IEP is filed as rejected with the BSEA by the Special Education Office.

6.3 Receipt of Signed IEPs

The Special Education Office immediately stamps the signature and placement pages. The Special Education Office's Administrative Assistant will change the IEP status in EasyIEP. If an IEP is rejected, in whole, or in part, the signature page and placement page will be immediately date stamped and submitted along with the Administrative date page to the BSEA **within five (5) school days** of receipt by the district.

Upon parental response to the proposed IEP and proposed placement, the school district shall implement all accepted elements of the IEP without delay. For students younger than three years old, the school district shall implement all accepted elements of the IEP at age three (3) years old.

The school district cannot delay implementation of the IEP due to lack of classroom space or personnel. Teams must provide as many of the services on the accepted IEP as possible and shall immediately inform the parent in writing of any delayed services, reasons for delay, actions that the school district is taking to address the lack of space or personnel and offer alternative methods to meet the goals on the accepted IEP. Upon agreement from a parent, the school district shall implement alternative methods immediately until the lack of space or personnel issues are resolved.

6.4 Receipt of Partially Rejected and Fully Rejected IEPs

When an IEP has been rejected in full, the IEP status will appear in EasyIEP as Rejected. When it is rejected in part, the IEP status will appear in EasyIEP as Partially Accepted. The Special Education Office will immediately provide the ETC, who will share with the Team, a copy of the parent's response. This enables Team

members to know which parts of the IEP have been accepted and can be implemented. Should Team members have questions regarding implementation, they should IMMEDIATELY contact the ETC. If questions still remain, the ETC will contact the Assistant Director of Special Education for clarification.

The Team Chairperson can revise the IEP to address the partial or full rejection if the Team Chairperson believes those changes are appropriate (See Section 8.5 – IEP Revisions). Otherwise, the Team Chairperson will schedule a reconvene meeting to address the parent’s concerns within ten (10) school days of receiving the partially or fully rejected IEP.

6.5 Amendments

At times it is necessary to amend an IEP. An amendment can be conducted via phone contact or email with the parent(s). An amendment cannot extend the length of the IEP, nor can an amendment change placement, which includes adding or removing services. An unsigned, rejected, and partially rejected IEP cannot be amended – any changes made to an unsigned IEP are considered “Revisions” to a proposed IEP and should be marked accordingly (See 8.5 – IEP Revisions). An N1 is always included with an amendment.

6.6 IEP Revisions

Once a Team meeting has been held and a proposed IEP has been sent to parents for response, a Team may revise or further develop the proposed IEP with parent agreement and input. The type of meeting and dates on the administrative page would not change. The updated N1 should **clearly state** that the IEP has been revised with the date of the Team meeting or parent contact as well as who precipitated the revision. Details of why and how the IEP was revised should be noted in the N1. Once the parents respond to the proposed revised IEP, the district will follow the policy outlined in Section 8.2 -Receipt of Signed IEPs.

6.7 Declining Special Education Services

If, after accepting IEP services, a parent chooses to decline those services, the

parents should be provided with a Termination of Services Form and the Declining of Special Education Services letter. Once this form is signed and received, it should be sent to the Special Education Office.

6.8 Students New to Lowell Public Schools

When a student enrolls in Lowell Public Schools with an IEP from another in-state school district, the district will implement comparable services without delay. The IEP Team should reconvene within four (4) to six (6) school weeks to discuss the student's transition into Lowell Public Schools and propose any necessary updates to the student's IEP.

When a student enrolls in Lowell Public Schools with an IEP from an out-of-state school district, the district will implement comparable services without delay. Upon enrollment, the district will seek consent to re-evaluate the student's needs and determine eligibility for special education services.

7.0 Progress Monitoring

7.1 Progress Monitoring/Progress Reports

Developing well written and meaningful progress reports starts with well written goals that include a statement of current performance, a goal statement, and objectives or benchmarks. Teams should use the current performance section as the starting point based on what the student is currently able to do. The goals are the end points and the objectives or benchmarks are the steps between the starting and end points. Data should be included in the current performance so progress can be clearly measured between the current performance and the benchmarks.

Progress reports should reflect, in measurable terms, the student's progress toward the annual goal and whether the progress is sufficient for the student to achieve the annual goal by the end of the IEP period.

Progress reports must be sent to the parents at least as often as parents of nondisabled children are informed of their children's progress (in conjunction with report cards). In Lowell, the frequency of reporting is as follows:

By federal regulation, progress reports must answer the following two questions for each goal:

- What is the student's progress toward the annual goal?
- Is the progress sufficient to enable the student to achieve the annual goal by the end of the IEP period? Team members should respond to the mandated questions by following these steps when writing their progress reports:
 - Specify what the student has been working on
 - List what the student has achieved
 - Use measurable language where appropriate (i.e., John is greeting his peers upon arrival to school in 90% of measured opportunities)
 - Indicate any stumbling blocks to progress and how the Team is responding (i.e., what refinements are or will be used to support the student's progress)
 - Project whether the student will reach the annual goal if progress continues at its current pace

Progress reports may prompt the Team to amend an IEP. If a lack of expected progress continues past the first progress report and subsequent in-class refinements, the Team should reconvene. The Team must discuss if the IEP and related goals are appropriately developed to provide the student with an opportunity to receive meaningful benefit from the educational experience necessary for FAPE. Team should determine if the student's lack of progress is disability-related.

If a student is making more progress than projected, progress reports may make recommendations on next steps. Sometimes it may be appropriate to amend the IEP to add additional annual goals or adjust the expectations.

7.2 Mailing Home and Filing Progress Reports

Each term the district must provide parents with notice on the student's progress towards meeting his/her IEP goals. The Progress Reports must be mailed or sent home **at the same time as** report cards. Liaisons are responsible for finalizing and printing two copies of each Progress Report for students on their caseload. One copy to be mailed/sent home and one copy sent to the Special Education Office for filing and translating if necessary. Progress Reports for the students on their caseload.

Progress Reports sent to the Special Education Office must be sorted by languages. Use the Progress Report Cover Sheet (Appendix J) to identify whether or not translation is required and if so, what language. Please use a different cover sheet for each language. For example, if some Progress Reports need to be translated into Spanish and others translated into Arabic, send three different packets with a different cover sheet for each: (Packet 1= No translation required, Packet 2 = Translate into Spanish, and Packet 3 = Translate into Arabic.).

7.3 Retention of Students with IEPs

When the school administration first considers a student with an IEP for possible retention, the school principal or designee will notify the school's ETC. The student's IEP Team must reconvene to discuss the appropriateness of the student's IEP, whether the potential retention means the student is not making adequate progress toward IEP goals and if so, whether failure to make adequate progress is disability-related. Discussion should be documented with an N1 and if necessary, an updated IEP.

8.0 Student Discipline Procedures

8.1 Disciplining Students with Disabilities

In *Honig v. Doe*, 559 IDELR 231 (EHLR 559:231) (U.S. 1988), the U. S. Supreme Court prohibited certain disciplinary actions that result in a change of placement for a student with a disability (one receiving special education and related services under the IDEA). Generally, a student with a disability cannot be subjected to a

disciplinary change of placement if his/her misconduct was caused by, or was directly and substantially related to, his/her disability. A disciplinary change in placement occurs when a student is suspended in excess of ten (10) consecutive school days or subjected to a pattern of short-term suspensions in excess of ten (10) cumulative school days which constitutes a pattern of removal. If the misconduct includes bringing a weapon or drugs to school, if the student has inflicted serious bodily injury on another person, or if he/she otherwise poses a danger to him/herself or others, then different rules governing removal from school will apply. In all events, suspension of more than ten (10) school days is subject to special rules and limitations when the student is disabled under either the IDEA or Section 504. Further, districts must continue to provide a free appropriate public education to IDEA eligible students with disabilities who have been suspended for more than ten (10) school days or expelled.

Outlined below are the procedural protections and disciplinary proceedings that pertain to these situations. Beyond the basic due process rights afforded to all students:

- The Individuals with Disabilities Education Improvement ACT (IDEA) and Section 504 of the Rehabilitation Act impose additional procedural requirements when excluding students with disabilities for disciplinary reasons.
- Students with IEPs **or** 504 Plans **or** any student whom the District had reasons to suspect, prior to the incident giving rise to the disciplinary action, might be eligible for special education are entitled to the additional procedural protections.
- A Manifestation Determination **must** be conducted prior to any removal constituting a disciplinary change of placement.
- Functional Behavioral Assessment (FBA) **must** be conducted along with the possible development or review of a Behavioral Intervention Plan (BIP).
- An FBA is required **only** after determining that the conduct was a manifestation of the student's disability or when found to be appropriate by

the Team.

- A Manifestation Determination **must** be held within ten (10) school days of any decision to impose discipline that would result in a **change of placement** to determine whether the conduct giving rise to discipline was a manifestation of the student's disability. As a best practice, a Manifestation Determination should occur prior to any discipline proceedings which may result in the student being suspended for more than ten (10) school days.
- Provision of services/FAPE (Free Appropriate Public Education) **must** be provided to IDEA– eligible students as of the **eleventh (11th) cumulative day of removal**.

If the behavior is **not** a manifestation of the student's disability:

- The principal **may** impose sanctions applicable to all students.
- The principal **must** provide FAPE, as determined by the IEP Team, for students on IEPs as of the eleventh (11th) day of removal.
- There is **no** obligation to provide FAPE for 504 students although they have the right to an opportunity to make academic progress during the period of exclusion in accordance with M.G.L. c.76, §21.
- Stay Put Rights: A student remains in disciplinary placement pending expiration of the disciplinary sanction **or** until a decision from a Hearing Officer. If the behavior **is** a manifestation of the student's disability:
 - The student returns to school prior to the eleventh (11th) day, **unless** the conduct meets the criteria for a unilateral removal, the school district obtains parental consent, **or** there is a Hearing Officer's order, **or** a temporary restraining order (TRO) has been issued.
 - A student with a disability may be placed in an Interim Alternative Educational Setting (IAES) only upon the recommendation of the Team and the consent of the parent/guardian, or the student if he/she is eighteen (18) years or older. Under certain specific circumstances, a student may be

unilaterally placed in an IAE by his/her Team.

- A student **can** be unilaterally removed, regardless of manifestation determination, to an IAES for **up to forty-five (45) school days** for:
 - Possession of a dangerous weapon on school premises or at a school-sponsored or school-related event.
 - Possession or use of illegal drugs on school premises or at a school sponsored or school related event.
 - Solicitation of a controlled substance on school premises or at a school- sponsored or school related event.
 - Causing serious bodily injury.
- The 45-day IAES **must**:
 - Enable the student to participate in the general curriculum, progress toward the goals in the IEP, and receive the special education and related services contained in the IEP.
 - Provide services and modifications designed to address the behavior that gave rise to the removal and to prevent the behavior from recurring.
 - **End** at the conclusion of the forty-five (45) school day period **and** the student shall be returned to his/her previous placement **unless** the parent/guardian/student consents to an extension of the IAES **or** an Order is obtained authorizing the student's continued removal. The district will comply with all state and federal statutes regarding the discipline of students with special needs. For more detailed information regarding these laws and regulations see the Parents' Notice of Procedural Safeguards, the Individuals with Disabilities Education Improvement Act of 2004. (IDEIA) (PL: 108-446), Section 615, and Section 504 of the Rehabilitation Act of 1973. 33

9.0 Request for Services

Whenever a request for additional services is made, the liaison should contact the ETC who, in turn, will determine the appropriate course of action.

- Request for Translation/Interpreter Services:

Whenever a family requires translation and/or interpreter services and building-based options are not available, the ETC will initiate the process for obtaining translation services by contacting the Special Education Office at least two (2) calendar weeks prior to the meeting date.

- Request for Duplicate Records:

If a request for special education records is received at the school level, the school principal or designee should contact the Special Education Office. Documents will be made available within ten (10) calendar days of receipt of the request. One copy is provided at no charge, but additional copies are provided at a cost of \$0.05 a page.

9.1 Release of Information

In order to protect confidentiality of students, when communicating with private service providers of students, or releasing records, the district requires that parents sign a Consent for Release of Information form (Appendix K).

9.2 Parent Request for Observations

The Lowell Public Schools collaborates with parents to provide timely response to requests received for observation of their children's current or proposed special education programs. The parent or his/her designated private evaluator or educational consultant may conduct observations. Lowell will provide an opportunity for observation of sufficient duration and extent to enable evaluation of the child's performance in his/her current program or to evaluate a proposed program's ability to enable the child to make effective progress.

The ETC will notify the building principal and Special Education Administration of any requests for observation. In order to assist in timely scheduling, **the ETC (or**

the Assistant Director of Special Education’s designee) will contact the identified observer directly within seven (7) school days of parental request for observation to discuss the purpose, duration and potential dates of the observation.

Prior to the observation occurring, the ETC will send home the completed Observation Consent Form and the Confidentiality Agreement (Appendix L) which must be signed by the parent, observer and building principal. The parent must also provide permission to communicate with the observer by signing a Consent for Release of Information.

A designated school staff member will accompany the observer during the observation period. Given the ongoing responsibility of teachers, therapists and other staff to serve students, they will not be available for conversation during or immediately before/after the observation period. All efforts should be made to limit the impact on instruction and operation of the classroom. **No audio or video recordings are permitted during the observation.**

The district does not generally schedule observations for certain portions of the year such as during state testing or during the first few weeks of school. In addition, because it may not be possible to accommodate all requests during the last few weeks of school, parents are urged to submit any observation request as early as practicable in the school year. In addition, school staff retain their right and obligation to restrict program observation where necessary to protect the safety of a child or the integrity of the program. The District also expects all observers to avoid disclosing any personally identifiable or confidential information they might obtain during the course of an observation (except about students being observed, in which case it will be used consistent with the parent’s authority and direction).

9.3 Home-Hospital Educational Services

A student with a documented medical condition who has been or is expected to be confined to a home or hospital for a minimum of fourteen (14) school days during any school year is eligible to receive home or hospital educational services.

When a student is hospitalized, the hospital usually contacts the Special Education Office directly to arrange for tutoring. Building personnel should contact the Special Education Office, if the hospital has not done so already.

For students to be eligible for home-hospital educational services, the student's physician or nurse practitioner must complete a Physician's Statement for Temporary Home or Hospital Education, SPED 28R/3, form (Appendix M) or an equivalent signed statement in accordance to requirements outlined in 603 CMR 28.03(3)(c). The notice must include: (1) the date the student was admitted to a hospital or was confined to home, (2) the medical reason(s) for the confinement, (3) the expected duration of the confinement; and (4) what medical needs of the student should be considered in planning the home or hospital education services.

The home-hospital educational services provided will be coordinated by the Special Education Office with the building administration. The tutoring services will be provided with sufficient frequency to allow the student to continue his or her educational program, as long as the services do not interfere with the medical needs of the student.

For students who attend private special education schools or collaboratives at Lowell's expense, that specialized school is responsible for providing tutoring during home-hospital periods, at their expense, as long as the student remains enrolled in that school.

If, in the opinion of the physician, a special education student is expected to remain at home, in the hospital or in a pediatric nursing home for medical reasons for more than sixty (60) days, the Special Education Administration or the ETC will convene a Team meeting to amend the existing IEP or develop a new IEP suited to the student's unique circumstances.

A parent/guardian of a general education student who is currently not attending school due to a medical condition may request a special education evaluation to determine if the student's medical condition meets special education eligibility requirements.

The school district needs to provide sufficient frequency of tutoring to enable the

student to keep up in her/his courses of study and minimize educational loss. This is determined on an individual basis. One hour per day is often adequate in the 1:1 tutoring situation, but the amount must be determined based on individual needs and the medical condition. Home-hospital educational services should not interfere with medical needs.

Students enrolled in private school at parent expense are also eligible for home-hospital tutoring through the public school *only* if they also qualify for special education services. (At times, this may involve conducting an initial evaluation for a student.) The Physician's Statement for Temporary Home or Hospital Education, SPED 28R/3, form or an equivalent signed statement requirement also applies to students enrolled in private school at the parent expense.

9.4 Parent and/or Student is Represented by an Attorney

If the parent and/or student is represented by an attorney, and said attorney plans to attend any meeting as outlined by this handbook or by 603 CMR 28:00, then the district reserves its rights to have its attorney present at said meeting. If the staff member was not informed that the parent/student would be bringing an attorney, then the staff member should contact their supervisor to determine whether the meeting can continue or whether said meeting should be delayed and/or rescheduled to allow for the district's attorney to attend the meeting as well.